

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

AARON LASHAWN STUCKEY,
a/k/a AARON LAWSHAWN STUCKEY,

Defendant-Appellee.

UNPUBLISHED

September 21, 1999

No. 214551

Muskegon Circuit Court

LC No. 98-038371 AR

Before: Cavanagh, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

Defendant was charged with possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v). The district court excluded the evidence as the fruit of an illegal search, and the circuit court affirmed the district court's decision. Plaintiff appeals by leave granted the circuit court's order excluding the evidence and dismissing the case. We reverse, but for reasons different than those argued in plaintiff's brief.

The parties agree on the essential facts. A police officer pulled defendant over when, after checking the license plate of the car defendant was driving, the officer discovered that the car belonged to a woman who had at least two outstanding warrants. After the officer pulled defendant over, defendant got out of the car and walked toward the officer. Because defendant was male, it was immediately obvious that he was not the person for whom the warrants had been issued. However, the officer discovered that defendant did not have a driver's license, arrested him, and searched the car. In the course of that search, the officer found a quantity of crack cocaine.

The district court and circuit court excluded the drugs and dismissed the charges because the purpose of the stop was to find the woman named in the warrants. The lower courts reasoned that once the officer determined that the driver was not the person named on the outstanding warrants, he had no right to detain defendant any further. Consequently, they found that the request for defendant's license came during an unconstitutional seizure. For the reasons discussed below, we disagree.

We review de novo the issue of whether a seizure was reasonable under the Fourth Amendment. *People v Bloxson*, 205 Mich App 236, 245; 517 NW2d 563 (1994).

The legality of the initial stop is not at issue here. Temporary investigative detentions must be supported by a reasonable, articulable suspicion that criminal activity may be afoot. *People v LoCicero, After Remand*, 453 Mich 496, 501-504; 556 NW2d 498 (1996). “A valid investigatory stop must be justified at its inception and must be reasonably related in scope to the circumstances that justified interference by the police with a person’s security.” *People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996). Knowledge that the person who owned the car had outstanding warrants justified the investigatory stop here.

Furthermore, the search of the car was justified as a search incident to an arrest. Under *New York v Belton*, 453 US 454; 101 S Ct 2860; 69 L Ed 2d 768 (1981), a lawful custodial arrest of the driver or occupant of a motor vehicle justifies a search of the vehicle incident to the arrest. See *People v Miller (On Remand)*, 128 Mich App 298, 305; 340 NW2d 858 (1983). The search of a vehicle is valid even if the driver is no longer in the vehicle when it was searched and even if the arrest was for a misdemeanor. *People v Waddell*, 132 Mich App 171; 347 NW2d 13 (1984). Defendant was arrested for driving without a license. However, it was the fact that defendant did not have a driver’s license that led to his arrest and the subsequent search of the car. Defendant was not initially detained based on any suspicion that he had committed a crime, so the question becomes whether the officer had any basis on which to request defendant’s license. If the request for the license was proper, then defendant’s arrest was proper, and the evidence was properly seized.

Viewing the totality of the circumstances, the officer’s request for defendant’s license was reasonably related in scope to the circumstances that justified the initial stop. *Champion, supra*. It was reasonable that the officer request defendant’s identification, knowing that the owner of the car was a female. Furthermore, it was reasonable that the officer briefly question defendant to determine whether his use of the vehicle was authorized. Finally, it was reasonable that the officer would request defendant’s identification before identifying the passenger. Because the passenger was a female, the passenger could have been the woman for whom the warrants had been issued. Nothing in the record suggests that during the time defendant was detained the officer was not diligently pursuing an investigation that was likely to confirm or dispel his suspicions quickly. See *People v Chambers*, 195 Mich App 118, 123; 489 NW2d 168 (1992). The scope of the detention was reasonable; thus, the arrest was not unlawful on the basis that it resulted from an unlawful seizure. Consequently, the drugs were properly seized during a search incident to a valid arrest.

Reversed. We do not retain jurisdiction.

/s/ Joel P. Hoekstra

/s/ Hilda R. Gage