STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellant,	UNPUBLISHED May 29, 2001
v	No. 229625 Isabella Circuit Court
CRYSTAL STARR MARK, Defendant-Appellee.	LC No. 00-009318-FH

Before: McDonald, P.J., and Smolenski and K.F. Kelly, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendant's motion to suppress evidence, and dismissing the case without prejudice. We reverse the trial court's order and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. Basic Facts and Procedural History

Defendant was a passenger in a car driven by her sister. An officer stopped the car for a traffic violation. The driver was arrested for driving with a suspended license. A search of the driver's person revealed marijuana. After completing the arrest and search of the driver, the officer asked defendant and another passenger to exit the car. The officer's stated plans were to conduct a search of the car incident to the arrest of the driver, and to conduct patdown searches of defendant and the other passenger because he believed that they might be carrying weapons. Prior to conducting any search, the officer asked defendant if she had drugs or weapons on her person. Defendant responded in the affirmative, and surrendered two bags of marijuana. She was charged with possession of marijuana, second offense, MCL 333.7403(2)(d); MSA 14.15(7403)(2)(d); MCL 333.7413(2); MSA 14.15(7413)(2).

Defendant moved to suppress the evidence on the ground that her Fourth Amendment right to be secure from unreasonable searches and seizures was violated. The trial court granted the motion and dismissed the case, finding that the officer had no reasonable basis for concluding that a patdown search of defendant and the other passenger was warranted.

II. Motion to Suppress

Plaintiff argues that the trial court erred by granting defendant's motion to suppress the evidence and by dismissing the case. We agree. Accordingly, we reverse the trial court's order and remand for further proceedings consistent with this opinion. We review a trial court's findings of fact on a motion to suppress for clear error, and review the ultimate decision de novo. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997).

An officer may stop a vehicle for a traffic violation. *People v Laube*, 154 Mich App 400, 407; 397 NW2d 325 (1986). An officer who makes a traffic stop may require any passengers to exit the vehicle pending completion of the stop. The Fourth Amendment right of a passenger to be free from unreasonable seizure is not violated under these circumstances. *Maryland v Wilson*, 519 US 408, 412-415; 117 S Ct 882; 137 L Ed 2d 41, 46-48 (1997). The brief detention of a person in a public place for the limited purpose of determining whether a crime has been committed, does not violate the Fourth Amendment as long as the officer can articulate a reasonable suspicion on which to base the detention. To demonstrate reasonable suspicion, the officer must articulate specific facts which, when taken together with the reasonable inferences drawn therefrom, warrant the intrusion. *Terry v Ohio*, 392 US 1, 21; 88 S Ct 1868; 20 L Ed 2d 889 (1968). An investigatory stop must be justified by a particularized suspicion, based on some objective manifestation, that a person has been, is, or is about to be engaged in criminal activity. *People v Shabaz*, 424 Mich 42, 54; 378 NW2d 451 (1985).

In this case, the officer made a valid traffic stop incident thereto, the officer had the right to require defendant and the other passenger to exit the vehicle. The officer did not unreasonably seize defendant's person by doing so. *Maryland*, *supra*. The officer's stated reasons for removing defendant and the other passenger from the car were to allow him to conduct both a search of the car incident to the arrest of the driver, and a patdown search of the occupants. A search of the car would have been valid. *People v Fernengel*, 216 Mich App 420, 424; 549 NW2d 361 (1996).

However, a patdown search of defendant's person, had one occurred, would have violated her Fourth Amendment rights. The officer's stated reason for planning a search was that he believed that persons in the company of one found in possession of drugs often carry weapons. While deference should be given to the experience of law enforcement officers and their assessments of criminal modes and patterns, *People v Nelson*, 443 Mich 626, 636; 505 NW2d 266 (1993), a mere hunch is not sufficient to give rise to a reasonable suspicion. *People v LoCicero (After Remand)*, 453 Mich 496, 505; 556 NW2d 498 (1996). Under the totality of the circumstances, the officer lacked a reasonable suspicion that defendant was involved in illegal activity. *Terry*, *supra*. Here, the officer merely asked defendant if she possessed any drugs or weapons. An officer may approach a person in a public place and ask that person questions. The person is not required to answer, but any answer given may be used against the person. *Shabaz*, *supra*, 56-57. Had defendant declined to answer the officer's question, he would have had no basis for conducting a patdown search. *LoCicero*, *supra*. However, because she answered the question and surrendered the marijuana, the evidence could be used against her. Suppression of the evidence constituted error.

Reversed and remanded. We do not retain jurisdiction.

/s/ Michael R.Smolenski
/s/ Kirsten Frank Kelly

I concur in result only.

/s/ Gary R. McDonald