

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

MARTEL RILEY WIGGINS,

Defendant-Appellee.

UNPUBLISHED

September 30, 2004

No. 247433

Wayne Circuit Court

LC No. 03-000664-01

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

The prosecutor appeals as of right from a circuit court order of dismissal entered after the court granted defendant's motion to suppress evidence. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's factual findings in a suppression hearing are reviewed for clear error, but its ultimate ruling on the motion to suppress is reviewed de novo. *People v Garvin*, 235 Mich App 90, 96; 597 NW2d 194 (1999). The application of the exclusionary rule is a question of law that is reviewed de novo. *People v Custer*, 465 Mich 319, 326; 630 NW2d 870 (2001).

The police had reasonable suspicion for conducting a traffic stop of the vehicle in which defendant was riding. The vehicle had a cracked windshield and the driver and front seat passenger were not wearing seat belts as required under MCL 257.710e(3). *People v Williams*, 236 Mich App 610, 612; 601 NW2d 138 (1999). During an investigatory stop, a police officer may conduct a limited patdown search for weapons if he has a reasonable suspicion based on specific and articulable facts that the person detained is armed. *Custer, supra* at 328. If the investigatory stop involves an automobile, the police may also search the passenger compartment of the vehicle for weapons if they have an articulable and objectively reasonable belief that the defendant may be dangerous. *People v Gewarges*, 176 Mich App 65, 69-70; 439 NW2d 272 (1989).

A defendant's furtive gestures alone do not establish probable cause to search. *People v Howell*, 394 Mich 445, 447; 231 NW2d 650 (1975). However, a defendant's furtive behavior and a police officer's experience are properly considered factors for establishing reasonable suspicion. See *People v Champion*, 452 Mich 92, 99; 549 NW2d 849 (1996); *People v Yeoman*, 218 Mich App 406, 411; 554 NW2d 577 (1996); *People v Laube*, 154 Mich App 400, 410; 397 NW2d 325 (1986). As the police officers exited their vehicle, defendant was seen reaching into

his pocket and placing something between his seat and the center console. Such actions created reasonable suspicion to believe that defendant was potentially dangerous and justified the officer's limited search of the vehicle. Therefore, the trial court erred in granting defendant's motion to suppress.

Reversed and remanded for further proceedings consistent with this opinion. Jurisdiction is not retained.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood