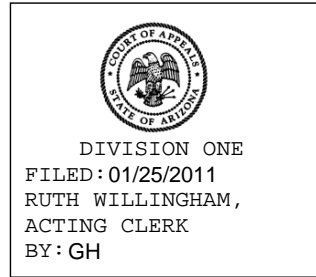


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 09-0777
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
RONALD LEIGH GLOVER,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. No. CR2009-116542-002 DT

The Honorable Edward O. Burke, Judge

AFFIRMED

Thomas Horne, Arizona Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals/Capital Litigation Section
Melissa M. Swearingen, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Spencer D. Heffel, Deputy Public Defender
Attorneys for Appellant

D O W N I E, Judge

¶1 Ronald Leigh Glover ("defendant") challenges the denial of his suppression motion. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY¹

¶2 On March 5, 2009, Detective Benson and other officers conducted surveillance of a suspected drug "stash house." Detective Benson followed a Dodge Charger ("Dodge Charger 1") driven by co-defendant Alfonso Saunders from the stash house to a hotel, where Saunders parked across the street. Saunders crossed the street and entered a hotel room that "a bunch" of people were seen entering and leaving.² At one point, two females left the hotel room, crossed the street, and drove away in Dodge Charger 1. Officers followed the vehicle. Saunders then left the hotel room and got into an identical Dodge Charger ("Dodge Charger 2")³; detectives followed the vehicle, but lost it when Saunders made a u-turn.

¶3 Later that day, officers spotted Dodge Charger 2, which was one of three vehicles leaving the same hotel parking lot. The three vehicles followed each other.⁴ Officers stopped

¹ In reviewing the denial of a suppression motion, "we consider only the evidence presented at the suppression hearing and we view that evidence and reasonable inferences therefrom in the light most favorable to upholding the trial court's ruling." *State v. May*, 210 Ariz. 452, 454, ¶ 4, 112 P.3d 39, 41 (App. 2005).

² Police observed co-defendant Christopher Thompson at the hotel talking on a cell phone. Detectives also saw defendant at the hotel but did not believe he was involved at the time.

³ Dodge Charger 2 was identical except it had an Arizona license plate.

⁴ The other two vehicles were a red Pontiac and a Dodge Durango. Officers saw Saunders driving the red Pontiac earlier

Dodge Charger 1 for a traffic violation and found eleven bales of marijuana in the trunk (approximately 200 pounds). After receiving this information, Detective Benson ordered officers to stop the other vehicles. Co-defendant Thompson was driving Dodge Charger 2, and defendant was the passenger. Officers handcuffed the two men and had them sit on the curb. Officers searched Dodge Charger 2 and found a FedEx package and two black suitcases in the trunk, one of which contained a large sum of money. The FedEx package was addressed to Saunders and contained \$25,000 in cash. All of the stopped vehicles were rental cars.

¶4 Defendant was charged with conspiracy to commit possession of marijuana for sale, a class 2 felony, sale or transportation of marijuana, a class 2 felony, possession of marijuana for sale, a class 2 felony, and money laundering in the second degree, a class 3 felony. Before trial, defendant joined in co-defendant Thompson's motion to suppress. After a hearing, the trial court denied the motion, finding "the traffic stops and subsequent vehicle searches and the search of the FedEx [sic] envelope were lawful." After a jury trial, defendant was convicted of conspiracy to commit possession of marijuana

that day from the suspected stash house. At that time, police stopped the Pontiac and found \$8000, but no drugs. Saunders and the passenger were released. The police also recognized the Dodge Durango from earlier in the evening.

for sale, possession of marijuana for sale, and money laundering. The trial court sentenced defendant to two mitigated 4 year terms of imprisonment on counts 1 and 3 and a mitigated 2.5 year term on count 4, all to run concurrently, with credit for presentence incarceration.

¶15 Defendant filed a timely notice of appeal. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031, 13-4033(A).

DISCUSSION

¶16 Defendant contends the trial court erred by denying his suppression motion because "the police did not have reasonable suspicion that Thompson, the driver of the [Dodge Charger 2] had committed a criminal offense." In reviewing a motion to suppress, we defer to the trial court's factual determinations, but we review *de novo* its ultimate legal conclusions. *State v. Box*, 205 Ariz. 492, 495, ¶ 7, 73 P.2d 623, 626 (App. 2003). We will not disturb a trial court's ruling on a motion to suppress absent clear and manifest error. *State v. Gulbrandson*, 184 Ariz. 46, 57, 906 P.2d 579, 590 (1995). Clear and manifest error "is really shorthand for abuse of discretion." *State v. Jones*, 203 Ariz. 1, 5, ¶ 8, 49 P.3d 273, 277 (2002).

¶17 The Fourth Amendment prohibits unreasonable searches and seizures. *Terry v. Ohio*, 392 U.S. 1, 9 (1968). Under the Fourth Amendment, an investigatory stop is permissible if supported by reasonable suspicion of criminal activity. *State v. Rogers*, 186 Ariz. 508, 510, 924 P.2d 1027, 1029 (1996). Whether police officers have reasonable suspicion of criminal activity is a mixed question of law and fact. *Id.* Evidence derived from an investigatory stop that is not based on reasonable suspicion is "fruit of the poisonous tree" and must be suppressed. *State v. Richcreek*, 187 Ariz. 501, 506, 930 P.3d 1304, 1309 (1997).

¶18 Reasonable suspicion is a lower standard than probable cause and arises from "specific, articulable facts which, together with objective and reasonable inferences, form the basis for suspecting that the particular person detained is engaged in criminal activity." *United States v. Garcia-Camacho*, 53 F.3d 244, 246 (9th Cir. 1995) (citation omitted); *State v. Ramsey*, 223 Ariz. 480, 484, ¶¶ 17-18, 224 P.3d 977, 981 (App. 2010); see also *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (reasonable suspicion is based on the totality of the circumstances such that officers can demonstrate "a particularized and objective basis for suspecting legal wrongdoing"). We consider "[s]uch objective factors as the suspect's conduct and appearance, location, and surrounding

circumstances, such as the time of day, and taking into account the officer's relevant experience, training, and knowledge." *State v. Fornof*, 218 Ariz. 74, 76, ¶ 6, 179 P.3d 954, 956 (App. 2008).

¶19 In the case at bar, the totality of circumstances gave rise to a reasonable suspicion that the occupants of Dodge Charger 2 were involved in illegal drug activity. Detective Benson, who had worked in narcotics for roughly seven years, testified that characteristics of out-of-state drug purchaser organizations include the involvement of multiple individuals with various orchestrated roles; they typically drive rental cars; it is common to find these individuals with large amounts of cash. The detective knew co-defendant Saunders had been stopped after going from the suspected stash house and that officers found \$8000 in the red Pontiac. Later that day, detectives saw Saunders again at the suspected stash house, but this time in a different rental vehicle, Dodge Charger 1. Detectives followed Saunders from the stash house to the hotel, where they observed more suspicious behavior. Two women left in Dodge Charger 1, and Saunders then left in his third rental vehicle of the day, Dodge Charger 2. See *State v. O'Meara*, 198 Ariz. 294, 296, ¶¶ 11-12, 9 P.3d 325, 327 (2000) (looking at the totality of the circumstances in evaluating reasonable suspicion

and determining multiple car switching among other suspicious behavior creates reasonable suspicion).

¶10 After officers found eleven bales of marijuana in Dodge Charger 1, they stopped the three caravanning vehicles, which included the red Pontiac and Dodge Charger 2, both of which had been driven by Saunders that day. The fact that defendant was not identified as being involved earlier does not negate the reasonable suspicion that the car defendant was in was participating in illegal activity. Detective Benson opined that individuals involved in these activities typically do not include "non-participants" or people "just riding along for the fun of it." Although Detective Benson did not personally stop Dodge Charger 2, reasonable suspicion established by the collective knowledge of all law enforcement personnel involved made this a lawful investigatory stop. See *State v. Peterson*, 171 Ariz. 333, 335, 830 P.2d 854, 856 (App. 1991) (back-up officer may presume instigating officer acting on proper determination of probable cause); see also *Box*, 205 Ariz. at 496, ¶ 12, 73 P.3d at 627 (holding officer may stop a vehicle for violations observed and reported by another officer); *State v. Chavez-Inzunza*, 145 Ariz. 362, 364, 701 P.2d 858, 860 (App. 1985) (officers could stop defendants under collective knowledge doctrine even when information was relayed by radio).

¶11 Defendant also contends the evidence found in Dodge Charger 2's trunk should have been suppressed.⁵ We disagree. As a passenger, defendant is entitled to challenge the legality of the stop and the seizure of his person, but not the subsequent search of the common areas of the vehicle. *State v. Gomez*, 198 Ariz. 61, 62, ¶ 5, 6 P.3d 765, 766 (App. 2000). Both suitcases and the FedEx envelope were found in the common areas of the vehicle. Moreover, defendant has not asserted a proprietary or possessory interest in the rental car or the property seized, which might accord him standing to challenge the vehicle search. *See Rakas v. Illinois*, 439 U.S. 128, 148 (1978).

CONCLUSION

¶12 The trial court did not err in denying the motion to suppress. The judgment of the superior court is affirmed.

/s/

MARGARET H. DOWNIE, Judge

CONCURRING:

/s/

DANIEL A. BARKER, Presiding Judge

/s/

MICHAEL J. BROWN, Judge

⁵ Defendant also argues his "statements to detectives" should be suppressed. It is unclear to what statements defendant is referring; he neither cites the record nor develops his argument. Our review of the suppression hearing transcript reveals no statements made by defendant to officers.