

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JULY TERM 2006

FRANCISCO ARISMENDY CABA,

Appellant,

v.

Case No. 5D05-3242

STATE OF FLORIDA,

Appellee.

\_\_\_\_\_ /

Opinion filed September 1, 2006

Appeal from the Circuit Court  
for Osceola County,  
Frank N. Kaney, Senior Judge.

James S. Purdy, Public Defender, and  
Susan A. Fagan, Assistant Public  
Defender, Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General,  
Tallahassee, and Rebecca Roark Wall,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

GRIFFIN, J.

The trial court properly denied appellant, Francisco Arismendy Caba's ["Caba"], motion to suppress. As officers were sitting in an area known for being an "open area drug market," they observed someone drop Caba off, where he paced as if waiting for someone to approach. This behavior was consistent with previous drug transactions observed by officers. One of the officers heard Caba speaking to a resident, who told Caba to go away, that he was not a drug dealer. A second officer heard Caba ask, "Do

you have anything?,” or say, “I’m looking for something,” or words to that effect. The totality of these circumstances supported a reasonable suspicion on the part of the officers that Caba was soliciting the sale of drugs.

Having a well-founded suspicion that Caba wanted to buy some form of controlled substance from a resident, the officers were entitled to approach Caba to investigate. They were also entitled to seize the crack pipe that Caba quickly “abandoned” by taking it out of his pocket and throwing it into the street. Having retrieved an item they recognized as a crack pipe, the officers then had probable cause to arrest Caba and to search him incident to his arrest.

AFFIRMED.

PLEUS, C.J. and LAWSON, J., concur.