

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

VICTORIA McNEIL,)	
)	
Appellant,)	
)	
v.)	Case No. 2D06-4123
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed May 30, 2008.

Appeal from the Circuit Court for Manatee
County; Edward Nicholas and Diana
Moreland, Judges.

James Marion Moorman, Public Defender,
and William L. Sharwell, Assistant Public
Defender, Bartow, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Dale E. Tarpley,
Assistant Attorney General, Tampa,
for Appellee.

NORTHCUTT, Chief Judge.

Victoria McNeil pleaded no contest to possession of cocaine, reserving her right to appeal the denial of a dispositive motion to suppress. We conclude that the motion should have been granted. Therefore, we reverse McNeil's conviction, rendering moot the sentencing issue also raised on appeal.

McNeil was a passenger in a stolen car that was stopped by the Manatee County Sheriff's Office. The car's driver and one passenger fled; McNeil and two other occupants stayed behind. A deputy patted McNeil down and discovered cocaine in her groin area. At the suppression hearing, the deputy testified that she did not ask for consent to search McNeil. Nor did the deputy assert that she believed McNeil to be armed and dangerous. Rather, she testified to a general concern for officer safety because "there are a lot of weapons out on the streets."

Standing alone, a valid stop does not give officers authority to search an individual for weapons. D.L.J. v. State, 932 So. 2d 1133, 1135 (Fla. 2d DCA 2006). Instead, the officer must have a reasonable belief that the individual is armed and dangerous. Id.; Premo v. State, 610 So. 2d 72 (Fla. 2d DCA 1992); see also § 901.151, Fla. Stat. (2006). Routine patdown searches based on general concerns for officer safety are not constitutionally permitted. D.L.J., 932 So. 2d at 1135 (citing Hunt v. State, 700 So. 2d 94, 95 (Fla. 2d DCA 1997)). Here, the deputy did not have a reasonable belief that McNeil was armed and dangerous. Therefore, the patdown for weapons was not permissible, and the circuit court erred in denying the motion to suppress.

Reversed and remanded for McNeil's discharge.

WHATLEY and DAVIS, JJ., Concur.