NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JANUARY TERM, A.D. 2004

THE STATE OF FLORIDA,	**	
Appellant,	**	
vs.	**	CASE NO. 3D02-2211
DAVID EUGENE MIKE,	**	LOWER TRIBUNAL NO. 01-23842
Appellee.	**	

Opinion filed February 18, 2004.

An Appeal from the Circuit Court for Miami-Dade County, Bertila Soto, Judge.

Charles J. Crist, Jr., Attorney General, and John D. Barker, Assistant Attorney General, for appellant.

Bennett H. Brummer, Public Defender, and Shannon P. McKenna, Assistant Public Defender, for appellee.

Before COPE, GODERICH and SHEVIN, JJ.

SHEVIN, Judge.

The State of Florida appeals an order granting defendant's motion to suppress evidence. We reverse.

David Mike was arrested and charged with burglary of an unoccupied conveyance and grand theft. Mike filed a motion to suppress contending that the officer did not have a well-founded suspicion of criminal activity when she detained him. At the evidentiary hearing, the officer testified that she was driving past a County park during the afternoon when she noticed three men, including Mike, transferring items from a van into a pickup truck. The vehicles were properly parked. She stated that this activity did not raise her suspicion. Nearby, the officer observed a woman squatting who appeared to be urinating; she decided to return to the park and advise the woman to use a restroom. She did not see the woman after she made a u-turn and stopped her car in the driveway exit of the parking lot. Mike and a woman exited the pickup truck and approached the officer's car. The woman told the officer that they were doing lawn maintenance at the park. She also stated that they had cut down a limb from a nearby tree. The officer became suspicious as she could not observe a ladder, the woman was dressed in a t-shirt, shorts and pink slippers, and Mike was not wearing a County uniform. At that time, the officer asked the woman and Mike to return to the truck and to remain there; the officer testified that she began an investigation. The investigation revealed stolen property in the truck that had been taken from the van. The trial court granted the suppression motion ruling that the

officer relied on the attire of Mike and the woman and that those facts did not support the stop.

On appeal, the state argues that the officer’s observation of the transferring of items from the van to the pickup truck, together with the woman’s apparent lie as to the reason they were in the park, provide sufficient facts to support the stop. We agree. “In reviewing an order granting a suppression motion, the trial court’s factual findings will be upheld if they are supported by competent substantial evidence. . . . The evidence, and all reasonable inferences therefrom, must be construed in the light most favorable to upholding the trial court’s decision. In determining whether the seizure was illegal this court must make a de novo determination.” State v. Taylor, 826 So. 2d 399, 402 (Fla. 3d DCA 2002)(citations omitted). The trial court’s findings of fact are supported by competent substantial evidence. However, a de novo review leads this court to conclude that the stop was not illegal. In determining whether “there were ample grounds to give the police officers a founded suspicion of criminal activity, we look at the cumulative impact of the circumstances perceived by the officers.” State v. Gil, 780 So. 2d 297, 299 (Fla. 3d DCA 2001)(quoting Kehoe v. State, 521 So. 2d 1094, 1096 (Fla. 1988)).

Here, the woman who was with Mike told the officer a suspicious story as to their presence in the park: she said they were doing lawn maintenance. However, their attire was not

consistent with performing lawn maintenance at a park: the woman was wearing a t-shirt, shorts and slippers, and Mike was not wearing a County uniform. The officer reasonably concluded that the woman had given a false story and began an investigation. The state correctly argues that transferring items from the van to the pickup truck, although seemingly innocent, may be considered in determining whether there was reasonable suspicion that criminal activity was afoot. See United States v. Arvizu, 534 U.S. 266 (2002)(all circumstances are pertinent in determining reasonable suspicion). As this court stated in Hernandez v. State, 784 So. 2d 1124, 1127 (Fla. 3d DCA 1999), "[t]his type of activity and parking arrangement might be unremarkable in the daytime. . . ." Here, however, the additional factor of the woman's inconsistent story to explain their presence in the park supported the officer's common sense determination that they may have been involved in criminal activity. Although any factor may be susceptible to an innocent explanation, Arvizu, 534 U.S. at 273, the factors considered together provided the officer with reasonable suspicion justifying further investigation. See State v. Gonzalez, 682 So. 2d 1168 (Fla. 3d DCA 1996); M.E.S. v. State, 804 So. 2d 537 (Fla. 2d DCA 2002); State v. Gandy, 766 So. 2d 1234 (Fla. 1st DCA 2000).

Accordingly, we reverse the suppression order.

Reversed and remanded.