

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2014-CA-000514-MR

CHARLES CHURCH

APPELLANT

v. APPEAL FROM MUHLENBERG CIRCUIT COURT  
HONORABLE BRIAN WIGGINS, JUDGE  
ACTION NO. 13-CR-00301

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: DIXON, JONES AND NICKELL, JUDGES.

DIXON, JUDGE: Charles Church entered a conditional guilty plea to charges of first-degree trafficking in a controlled substance (morphine), second-degree trafficking in a controlled substance (hydrocodone), being a persistent felony offender (first-degree), possession of drug paraphernalia, carrying a concealed deadly weapon, and possession of marijuana. Following his plea, the Muhlenberg

Circuit Court rendered a final judgment imposing an aggregate sentence of ten years' imprisonment. Church now appeals the circuit court's denial of his motion to suppress evidence. Finding no error, we affirm.

On December 5, 2013, Wade Griggs, a narcotics officer with the Muhlenberg County Sheriff's Department, arranged for a confidential informant (CI) to purchase drugs from an individual the CI referred to as "Church." Officer Griggs reviewed text messages between the CI and Church discussing the type and quantity of drugs the CI wanted to purchase. The CI and Church planned to meet in the Uncle Lee's parking lot. Church indicated he would be driving a pewter color Blazer and that he would have one hundred pills to sell. Officer Griggs provided the CI with \$600 in marked bills and watched from nearby as the CI entered Church's vehicle for four to five minutes and then returned to his own vehicle. The CI left the parking lot and drove to Kroger, two blocks away, to wait for Officer Griggs. Church left the parking lot and turned onto a side street where Officer Griggs stopped Church's vehicle. Officer Griggs obtained Church's identification as backup officers arrived at the scene. Officer Griggs left Church to wait with the backup officers for approximately ten minutes while Officer Griggs met with the CI at Kroger. The CI confirmed that the transaction had occurred and gave Officer Griggs the pills purchased from Church. Officer Griggs then returned to Church's vehicle, where a search revealed additional drugs, a knife, and the \$600 in marked bills.

Church was arrested and subsequently indicted by a Muhlenberg County Grand Jury.<sup>1</sup> Church filed a motion to suppress the evidence seized during the traffic stop, and the court held an evidentiary hearing. The court denied the suppression motion; thereafter, Church entered a conditional guilty plea to the charges in the indictment. This appeal followed.

Church asserts he was impermissibly stopped and detained by the police without probable cause; accordingly, Church contends the contraband from the subsequent consensual search should have been suppressed.

On appellate review of a suppression ruling, we review the findings of fact for clear error, bearing in mind the discretion vested in the trial court to assess witness credibility and draw reasonable inferences from the testimony. *Pitcock v. Commonwealth*, 295 S.W.3d 130, 132 (Ky. App. 2009). Thereafter, “the ultimate legal question of whether there was reasonable suspicion to stop or probable cause to search is reviewed *de novo*.” *Commonwealth v. Banks*, 68 S.W.3d 347, 349 (Ky. 2001), citing *Ornelas v. United States*, 517 U.S. 690, 691, 116 S. Ct. 1657, 1659, 134 L. Ed. 2d 911 (1996).

In *Baltimore v. Commonwealth*, 119 S.W.3d 532 (Ky. App. 2003), this Court explained:

In the seminal case of *Terry v. Ohio*, [392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968),] the Supreme Court held that a brief investigative stop, detention and frisk for weapons short of a traditional arrest based on reasonable

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<sup>1</sup> Church was indicted on first-degree trafficking (morphine), second-degree trafficking (hydrocodone), first-degree persistent felony offender, possession of drug paraphernalia, carrying a concealed deadly weapon, and possession of marijuana.

suspicion does not violate the Fourth Amendment. *Terry* recognized that as an initial matter, there must be a seizure before the protections of the Fourth Amendment requiring the lesser standard of reasonable suspicion are triggered. A police officer may approach a person, identify himself as a police officer and ask a few questions without implicating the Fourth Amendment. A seizure occurs when the police detain an individual under circumstances where a reasonable person would feel that he or she is not at liberty to leave. Where a seizure has occurred, if police have a reasonable suspicion grounded in specific and articulable facts that a person they encounter was involved in or is wanted in connection with a completed felony, then they may make a *Terry* stop to investigate that suspicion.

*Id.* at 537-38 (footnotes and quotation marks omitted).

Church contends the court's finding that it took Officer Griggs ten minutes to meet with the CI and return to the scene of the traffic stop was not supported by substantial evidence. We disagree.

Officer Griggs was the only witness at the suppression hearing. He testified that he confirmed the buy with the CI and returned to the traffic stop in ten minutes. The trial court was entitled to conclude the officer's testimony was credible. *Pitcock*, 295 S.W.3d at 132. We believe the trial court's findings of fact were supported by substantial evidence; consequently, those findings are conclusive.

Next, we address whether the trial court correctly applied the law to its findings of fact. "In determining whether the requisite reasonable and articulable suspicion exists, the reviewing court must examine the totality of the circumstances to see whether the officer had a particularized and objective basis

for the suspicion.” *Commonwealth v. Marr*, 250 S.W.3d 624, 627 (Ky. 2008). A court cannot evaluate the factors relied on by the officer in isolation; rather, the court is obligated to consider the entirety of the officer’s “observations and give due regard to inferences and deductions drawn by [him] from [his] experience and training.” *Baltimore*, 119 S.W.3d at 539. Furthermore, despite Church’s argument to the contrary, we view the conduct of the officer objectively, without regard to his subjective intentions. *Ohio v. Robinette*, 519 U.S. 33, 38, 117 S. Ct. 417, 420-21, 136 L. Ed. 2d 347 (1996).

In its order denying the motion to suppress, the trial court stated, in relevant part:

In the case before this Court it is clear that Officer Griggs had a reasonable articulable suspicion that criminal activity was afoot. His confidential informant provided him with information concerning an individual who was willing to provide drugs and corroborated his statements with text messages. The fact that any name could have been assigned to that contact in the confidential informant’s cellular phone is irrelevant. The confidential informant (1) provided text messages detailing when and where drugs were to be purchased; (2) a vehicle arrived at the prearranged time and place and (3) the confidential informant entered and exited the vehicle in a five-minute time frame.

The Supreme Court of Kentucky has stated that ‘due deference must be given to the reasonableness of inferences made by police officers.’ *Bauder [v. Commonwealth]*, 299 S.W.3d 588, 592 (Ky. 2009)], (citing *Commonwealth v. Whitmore*, 92 S.W.3d 76, 79 (Ky.2002)). While there are multiple innocent reasons why a person would enter and exit a vehicle in a parking lot in a short span of time, the background facts available to Officer Griggs, along with his knowledge and

expertise as a narcotics investigator certainly yield inferences that serve to create the requisite suspicion to justify a seizure of the defendant.

In short, Officer Griggs had much more than a ‘hunch.’ Reasonable suspicion existed and his reasons for such suspicion were both articulable and observable.

After careful review, we agree with the trial court’s legal analysis. The totality of the circumstances indicate Officer Griggs permissibly stopped Church based on the officer’s reasonable and articulable suspicion that Church was engaged in narcotics trafficking. The trial court properly denied the motion to suppress evidence.

For the reasons stated herein, the judgment of the Muhlenberg Circuit Court is affirmed.

ALL CONCUR.

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