

STATE OF LOUISIANA
VERSUS
DONETRA R. COLEMAN

*** NO. 2001-KA-0112**
*** COURT OF APPEAL**
*** FOURTH CIRCUIT**
*** STATE OF LOUISIANA**

MCKAY, J. DISSENTS

I respectfully dissent from the majority’s opinion. I find no error in the trial court’s denial of the defendant’s motion to suppress the evidence and would affirm the defendant’s conviction and sentence.

In the instant matter, the defendant asserts that the search was based on an illegal arrest. Here the officers were conducting an investigation and arrest when the defendant interjected herself and began questioning the officers. The defendant by way of authority references State v. Walker, 32-342 (La. App. 2 Cir. 9/24/99), 747 So.2d 133. In that case our colleagues in the Second Circuit held that the police officers’ reasonable suspicions did not rise to the level of probable cause to arrest because there was no evidence of trespassing in a parking lot which had no prohibition to trespassing posted. The instant case can be distinguished in that the defendant was walking in the Guste Public Housing Development when she engaged the police officers while they were conducting a police investigation. She could not provide personal identification, nor could she identify the person she claimed to have been visiting or the address. Also in support of her argument the defendant references State v. Parker, 97-1994 (La. App. 4 Cir. 12/9/98), 723 So.2d 1066, in which this Court held that the defendant was illegally detained and suppressed the evidence. The police officers testified that the stop was made pursuant to a “rule” prohibiting a person from being in the Lafitte Housing Development without permission

from a resident. In Parker this “rule” was never fully established either by testimony or evidence. By similarity, in the case *sub judice*, the evidence of a “rule” on trespassing for the Guste Public Housing Development was also never clearly established. Nevertheless, with that being said, the defendant interjected herself into a police investigation and began questioning the officers. The defendant made the first contact. The officers determined that given their experience and the actions of the defendant, they had reasonable suspicion, which rose to the level of probable cause to arrest the defendant for trespassing. Pursuant to this arrest the contraband was discovered in her waistband. She was then informed that she was under arrest for cocaine and drug paraphernalia. Given the totality of the circumstances, the officers had probable cause to arrest the defendant for this violation and could search her and lawfully seize the contraband.