

STATE OF LOUISIANA

\*

NO. 2002-KA-0595

VERSUS

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COURT OF APPEAL

NOEL CEASER

\*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 418-910, SECTION "B"  
Honorable Patrick G. Quinlan, Judge

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**Judge Steven R. Plotkin**

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(Court composed of Chief Judge William H. Byrnes III, Judge Steven R. Plotkin, Judge Miriam G. Waltzer)

Harry F. Connick  
District Attorney  
Leslie Parker Tullier  
Assistant District Attorney  
619 South White Street  
New Orleans, LA 70119

**COUNSEL FOR PLAINTIFF/APPELLEE**

William R. Campbell, Jr.  
LOUISIANA APPELLATE PROJECT  
700 Camp Street  
New Orleans, LA 70130

**COUNSEL FOR DEFENDANT/APPELLANT**

**AFFIRMED.**

The issue in this appeal is whether the trial court erred in denying the defendant's motion to suppress the evidence.

**PROCEDURAL HISTORY**

Noel Caesar and Gene Jones were charged by bill of information with possession of cocaine. Defendant pled not guilty at arraignment. On February 2, 2001, a hearing was held on defense motions. The trial court denied defendant's motion to suppress the evidence and found probable cause. On March 8, 2001, defendant waived his right to trial by jury. The trial court found defendant guilty of attempted possession of cocaine. Through counsel, defendant waived all sentencing delays. The State filed a multiple offender bill of information, and defendant admitted the allegations of the bill. The trial court sentenced defendant to fifteen months at hard labor with credit for time served.

Defendant filed an application for post-conviction relief in 2001-K-1778 in which he challenged the constitutionality of the search and seizure. In the interests of judicial economy, this Court ordered the trial court to grant defendant an appeal.

## **STATEMENT OF FACTS**

On November 8, 2000, Officer Kevin Ricks and his partner Antonius Charles observed two males walking on Columbus Street near the intersection of North Robertson Street. One of the men, Gene Jones, appeared to be intoxicated as he was staggering as he walked in the middle of the street. The officers stopped both men, placed them on the vehicle and checked them for weapons. A crack pipe was recovered from Jones. The officers ran the men's names through the motion data terminal computer and discovered that the defendant was wanted for a municipal attachment. Caesar was handcuffed and placed in the vehicle. Caesar was carrying a book bag or backpack. Officer Ricks searched the bag before putting it in the vehicle to check for contraband or weapons. Officer Ricks discovered a small cellophane bag containing powdered cocaine in the bag.

## **ERRORS PATENT**

A review of the record for errors patent reveals none.

## **ASSIGNMENT OF ERROR**

Defendant contends that the trial court erred in denying the motion to suppress the evidence because the initial stop of the defendant exceeded

constitutional limits. He argues that the officers lacked reasonable suspicion to justify an investigatory stop pursuant to La. C.Cr.P. art 215.1. The State suggests that the evidence was properly admitted under the “attenuation doctrine.” This doctrine is an exception to the exclusionary rule because the evidence was seized after the defendant was arrested pursuant to an outstanding arrest warrant. *See State v. Hill*, 97-2551 (La.11/6/98), 725 So.2d 1282; *State v. Marin*, 2001-0787 (La. App. 4 Cir. 1/09/02) 806 So.2d 894; *State v. Perez*, 99-2063 (La. App. 4 Cir. 9/15/99), 744 So.2d 173. A review of the transcript from the hearing reflects that the trial court made the same determination.

In *Hill*, even though the officers may have conducted an impermissible *Terry* stop, no evidence was recovered during the search. The court ruled that once the officers discovered there were outstanding warrants issued for the defendant's arrest, the officers could arrest him and lawfully seize any evidence found in a search incident to arrest. The Court noted that although there may have been a "temporal proximity" between the initial stop and the subsequent search, the discovery of the outstanding warrants was an intervening circumstance, which dissipated the “taint of an initial impermissible encounter.” *Hill* at p. 5, 725 So.2d at 1285. In the instant case, the evidence was not seized until after the officers learned of the

outstanding warrant. Thus, the trial court properly admitted the evidence.

## **CONCLUSION**

For the foregoing reasons, we find that the trial court did not err in admitting the evidence. The discovery of the municipal attachment provided a basis for defendant's arrest and subsequent search of his bag.

Therefore, the defendant's conviction and sentence are affirmed.

**AFFIRMED.**