

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2008-KA-1279**  
**VERSUS** \*  
**JACOB WILSON** \* **COURT OF APPEAL**  
\* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**

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**APPEAL FROM**  
**CRIMINAL DISTRICT COURT ORLEANS PARISH**  
**NO. 458-773, SECTION "J"**  
**Honorable Darryl A. Derbigny, Judge**

\* \* \* \* \*

**Judge Dennis R. Bagneris, Sr.**

\* \* \* \* \*

(Court composed of Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr.,  
and Judge Terri F. Love)

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**MARCH 25, 2009**

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**AFFIRMED**

The Appellant, Jacob Wilson, appeals his sentence and conviction charging him with possession of heroin and possession of ecstasy. We affirm the judgment of the district court.

### **Statement of the Case**

Wilson failed to appear for arraignment on May 9, 2005 and May 23, 2005 because he was not served. On June 15, 2005, he entered a not guilty plea. Because he tested positive for drugs, he was remanded to the criminal sheriff. On July 13, 2005, a release was issued, and Wilson was ordered to begin weekly drug testing. He failed to appear for his scheduled drug test on August 8, 2005, and a *capias* was issued for his arrest. He also failed to appear for a subsequent status hearing. Wilson was arrested on March 31, 2007. He appeared before the court on April 12, 2007, and a release was issued; a hearing on motions was scheduled for June 21, 2007. On that day, he failed to appear, and a *capias* was issued for his arrest. His bond was forfeited on July 10, 2007.<sup>1</sup> Wilson appeared in court on October 16, 2007. The *capias* was recalled, and a release was issued. Wilson's trial that was scheduled for December 5, 2007 was continued because an officer did not appear. His trial was continued on January 16, 2008 and February 25, 2008 because other trials were in progress. The state was granted a continuance on April 8, 2008, and on May 27, 2008, Wilson was not brought into court. On June 19, 2008, a jury found him guilty as charged. He was sentenced on July 18, 2008 to serve five years at hard labor on each count, to run concurrently. A multiple bill of information was filed as to count one. A hearing on the multiple bill was scheduled for January 12, 2009.

The defendant was granted an appeal on July 28, 2008.

### **Facts**

On August 21, 2004, Sergeant Warren Keller and his partner Officer Bobby Haar were on proactive patrol in a marked police vehicle. At approximately 9:00 p.m., they were at the corner of Chef Menteur Highway and Downman Road,

<sup>1</sup> The forfeiture was rescinded on January 18, 2008.

where they observed a green Chevy Blazer run a red light. The officers activated the lights and siren on the police vehicle and pursued the Blazer on Chef Menteur Highway. The driver of the Blazer complied by pulling along side the road. Sergeant Keller approached the driver's side of the Blazer while Officer Barr approached the passenger side of the vehicle.

For safety reasons, Sergeant Keller used his flashlight to illuminate the interior of the Blazer. The sergeant observed Wilson holding his shirt up and placing something into the waste band of his shorts. Fearing that Wilson was armed, the sergeant ordered him out of the vehicle and to display his hands. Wilson complied, and he was told to turn around and place his hands on top of the Blazer. As he was turning, Sergeant Keller observed a white napkin fall from the bottom of Wilson's shorts. After conducting a pat down search of Wilson, the sergeant retrieved the napkin from the ground. Inside the napkin Sergeant Keller found a folded piece of aluminum foil; inside the foil was a powdery substance that the sergeant recognized through his experience as heroin. Also inside the napkin was a green tablet that the sergeant recognized as ecstasy. Wilson was then arrested and advised of his rights. Officer Haar issued a citation to Wilson for running the red light and for not wearing a safety belt.<sup>1</sup>

Wilson testified that he had just exited the high rise in New Orleans East and turned onto Chef Menteur Highway. He observed the police vehicle near an apartment building. When he passed, the police activated the lights on the vehicle and stopped him for no apparent reason. The officer asked him for proof of insurance, his driver's license, and vehicle registration. After Wilson gave the

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<sup>1</sup> While the sergeant dealt with the defendant, Officer Haar dealt with a passenger in the defendant's vehicle. The passenger was arrested on outstanding warrants.

officer the information he requested, the officer returned to the police vehicle. A moment later, the officer asked him to exit the vehicle. He was then handcuffed and placed in the back of the police vehicle. Wilson denied having any drugs. He also admitted to prior convictions.

#### **Errors Patent**

A review of the record reveals no error patent.

#### **Assignments of Error**

Wilson has raised two assignments of error that have not been preserved for review.

By his first assignment of error, Wilson argues that the district court erred by failing to suppress the evidence. La. C.Cr.P. Art. 703 provides that failure to file a motion to suppress evidence prevents the defendant from objecting to its admissibility at trial. Furthermore, La. C.Cr.P. Art. 841 provides that an irregularity or error cannot be availed of after verdict unless it was objected to at the time of the occurrence. Because no motion to suppress was filed and no objection was made at trial, the issue of the admissibility of the evidence has not been preserved for review. State v. Washington, 556 So. 2d 81 (La. App. 4 Cir. 1989).

By his second assignment of error, Wilson asserts that he was prosecuted four years after his alleged crime in violation of his constitutional rights. He argues specifically that the time limitations for prosecution contained in La. C.Cr.P. arts. 578, 579 and 580 as applied post-Katrina violate the 5<sup>th</sup> 6<sup>th</sup> and 14<sup>th</sup> Amendments and the Equal Protection Clause of the United States Constitution. However, because no pretrial motion to quash was filed raising this claim, the issue has not been preserved for review. La. C.Cr.P. art. 581.

**Decree**

For the reasons stated above, we affirm the convictions and sentences of Jacob Wilson.

**AFFIRMED**