

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL DAVID DARLAND,

Defendant-Appellant.

UNPUBLISHED

July 9, 1996

No. 188880

LC No. 95008791-FH

Before: Markey, P.J., and McDonald and M. J. Talbot*, JJ.

PER CURIAM.

The people appeal as of right from an August 29, 1995, circuit court order granting defendant's motion to suppress in this action in which defendant was charged with two felony counts of carrying a concealed weapon in a motor vehicle and one misdemeanor count of possession of a loaded firearm in a motor vehicle, violations of MCL 750.227; MSA 28.424 and MCL 750.227c; MSA 28.424(3), respectively. We reverse.

The trial court clearly erred in granting defendant's motion to suppress. *People v Burrell*, 417 Mich 439; 339 NW2d 403 (1983). Search of an automobile without a warrant is reasonable where the automobile legitimately has been stopped by a police officer and the police officer has probable cause to conduct the search. *People v Martinez*, 187 Mich App 160; 466 NW2d 380 (1991), vacated on other grounds 439 Mich 986; 483 NW2d 868 (1992). In this case the stop of the vehicle was legitimate. The officer had probable cause to believe a misdemeanor had been committed in his presence, either the misdemeanor of stalking, MCL 750.411h(2); MSA 28.643(8)(2), or traffic violations.¹ Although probable cause is insufficient to make a misdemeanor arrest without a warrant, it is sufficient to make a stop to acquire additional information "to confirm or refute" a belief that a misdemeanor was committed in the officer's presence. *People v Ward*, 73 Mich App 555; 252 NW2d 514 (1977). Additionally, once the officer approached the vehicle and saw the nine millimeter magazine in his plain view on the floorboard of the back seat, it was reasonable for him to conclude the felony of possessing an unlicensed weapon in a motor vehicle had been committed or was in the process

* Circuit judge, sitting on the Court of Appeals by assignment.

of being committed. See *People v Williams*, 45 Mich App 623; 207 NW2d 176 (1973). The seizure and search were proper.

Reversed.

/s/ Jane Markey

/s/ Gary R. McDonald

/s/ Michael J. Talbot

¹In determining there was no “reasonable suspicion” to stop the vehicle, the trial court erred in focusing on the officer’s state of mind rather than the objective circumstances. *People v Arterberry*, 431 Mich 381; 429 NW2d 574 (1988); Gillespie, *Michigan Criminal Law & Procedure* (2d ed), Search & Seizure, § 5.04.20, pp 77-81.