

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

WALTER J. JONES,

Defendant-Appellee.

UNPUBLISHED

June 6, 2000

No. 221181

Wayne Circuit Court

LC No. 99-002219

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion to suppress evidence and dismissing drug possession charges. We affirm.

Charges against defendant arose out of the traffic stop of a vehicle in which he was a passenger. The officer testified at the evidentiary hearing that he stopped the car because the license plate tag was obstructed. After the driver stated he would take care of the problem, the officer ran a LEIN check on the driver and passenger, which came up clear. The officer then conducted a canine search of the car, and the dog gave a positive alert at both the driver's and passenger's doors. A subsequent interior canine search of the vehicle revealed two rocks of cocaine in a pack owned by defendant. The trial court granted defendant's motion to suppress finding that there was no probable cause for the canine search.

This Court reviews for clear error the trial court's findings of fact in deciding a motion to suppress evidence, but we review de novo the trial court's ultimate decision regarding a motion to suppress. *People v Goforth*, 222 Mich App 306, 310; 564 NW2d 526 (1997).

"[P]robable cause means that a fair probability exists that contraband or evidence of a crime will be found in a particular place." *People v Clark*, 220 Mich App 240, 243; 559 NW2d 78 (1996). "The determination whether probable cause exists to support a search, including a search of an automobile without a warrant, should be made in a commonsense manner in light of the totality of the circumstances." *People v Garvin*, 235 Mich App 90, 102; 597 NW2d 194 (1999).

A canine alert is at least as reliable as many other sources of probable cause, and is reliable enough to create a fair probability that contraband is present. *Clark, supra*. “Even so, where the use of the dog is itself the result of illegal conduct by the officers, the fruits of the canine sniff, the evidence obtained through the dog’s detection, must be suppressed.” *Id*.

Here, the officer gave no explanation for his initial canine search of the vehicle. The reason for the stop had already been resolved, and a LEIN check revealed no problems. The officer continued to detain the occupants and conducted a canine search of the vehicle, without probable cause to do so. The trial court could reasonably conclude under the totality of the circumstances that the search was improper, and thus suppress the evidence.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra