STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

        Plaintiff-Appellant,

v

ANTONIO LAMONT TRAILER,

        Defendant-Appellee.

UNPUBLISHED
December 19, 2006

No. 262355
Wayne Circuit Court
LC No. 05-001695-01

PEOPLE OF THE STATE OF MICHIGAN,

        Plaintiff-Appellant,

v

ANDRE DEJUAN GULLEDGE,

        Defendant-Appellee.

No. 262356
Wayne Circuit Court
LC No. 05-001695-03

PEOPLE OF THE STATE OF MICHIGAN,

        Plaintiff-Appellant,

v

DEMETRI SANJUAN BAKER,

        Defendant-Appellee.

No. 262357
Wayne Circuit Court
LC No. 05-001695-02

Before: Jansen, P.J., and Sawyer and Bandstra, JJ.

PER CURIAM.

In Docket Nos. 262355, 262356, and 262357, the prosecution appeals as of right the trial court's orders of dismissal for defendant Antonio Lamont Trailer,[1] defendant Andre DeJuan Gulledge[2] and defendant Demetri Sanjuan Baker.[3] We reverse.

On appeal, the prosecution argues that the trial court's order suppressing the evidence was improper. We agree. We review the trial court's factual findings on a motion to suppress evidence for clear error, but review the trial court's conclusions of law and ultimate decision on a motion to suppress evidence de novo. *People v Garvin,* 235 Mich App 90, 96-97; 597 NW2d 194 (1999).

Both the United States and Michigan Constitutions protect against unreasonable searches and seizures. US Const, Am IV; Const 1963, art 1, § 11; *People v Bolduc*, 263 Mich App 430, 437; 688 NW2d 316 (2004). The lawfulness of a search or seizure depends upon its reasonableness. *Id.* The search of an individual is reasonable if the search is performed incident to a lawful arrest. *People v Eaton*, 241 Mich App 459, 463; 617 NW2d 363 (2000).

Here, after the police officers initially stopped and searched defendants as part of a narcotics investigation, the officers checked defendants' names in the LEIN system and discovered they had outstanding warrants. The officers then formally arrested defendants, and the subsequent search of defendants incident to their arrest revealed the contraband at issue. At the evidentiary hearing, the trial court found that because the officers' initial detention of defendants amounted to an illegal arrest, the subsequent discovery of defendants' names, which led to the discovery of their outstanding warrants, was improper. Thus, the court held that the evidence should be suppressed because it was discovered as a result of information acquired from the initial arrest, which was illegal.[4]

The trial court's order suppressing the evidence was improper. "[W]here the police have unlawfully stopped or detained a citizen and then discover that the person detained is the proper subject of a lawful arrest on grounds other than the original illegal stop, the police may make the

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[1] Trailer was charged with possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv), as a second habitual offender, MCL 769.10.

[2] Gulledge was charged with possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), as a second habitual offender, MCL 769.10.

[3] Baker was charged with possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv), as a second habitual offender, MCL 769.10.

[4] The prosecution concedes that the initial detention of defendants was improper, but fails to challenge the trial court's finding that this initial stop amounted to an arrest. Notwithstanding this, although the trial court based its ruling on whether defendants were free to leave, the detention was actually akin to an investigative stop rather than arrest given that the police planned to release defendants after their LEIN system check, which was part of their brief investigation. See *People v Chambers,* 195 Mich App 118, 123; 489 NW2d 168 (1992) (as long as police are diligently pursuing their investigation to confirm or dispel their suspicions, a suspect may be detained as part of an investigative stop).

arrest and any evidence obtained as a result of the lawful arrest is admissible." *People v Lambert*, 174 Mich App 610, 618; 436 NW2d 699 (1989).

In the instant case, although the police unlawfully detained defendants, the police arrested defendants after they checked defendants' names in the LEIN system and discovered outstanding traffic warrants for their arrest. Therefore, regardless of the illegality of the initial stop, the police discovered that defendants were subject to lawful arrests on different grounds than the initial stop thereby making the evidence obtained as a result of defendants' arrests admissible. *Lambert*, *supra* at 618. Thus, the trial court's order suppressing the evidence discovered as a result of defendants' lawful arrest was improper.

We note that the trial court's holding hinges on the argument that the officers exploited the primary illegality of the initial detention in learning defendants' names. However, all evidence is not " 'fruit of the poisonous tree' simply because it would not have come to light 'but for the illegal actions of the police.' The question which must be asked [to determine whether evidence must be excluded] is whether the evidence has been procured by an exploitation of the illegality of the police or instead by means sufficiently distinguishable to be purged of the primary taint." *People v Jones*, 66 Mich App 223, 230; 238 NW2d 813 (1975), quoting *Wong Sun v United States*, 371 US 471; 83 S Ct 407; 9 L Ed 2d 441 (1963).

Here, the officers did not exploit the initial detention of defendants, who were loitering in the store, in learning their names. Rather, the officers learned defendants' names during the course of their investigation just as they had learned Gulledge's name during the course of their investigation on the previous day before ejecting him from the store for loitering. Thus, the discovery of defendants' names was not the "fruit of the poisonous tree," and the trial court's orders suppressing the evidence were improper.

Reversed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Richard A. Bandstra