NO. COA01-2

NORTH CAROLINA COURT OF APPEALS

Filed: 19 March 2002

STATE OF NORTH CAROLINA,

v. Robeson County
No. 97 CRS 22535

KENDRICK LAMONT CAMPBELL

Appeal by defendant from judgment entered 3 October 2000 by Judge Russell J. Lanier, Jr. in Robeson County Superior Court. Heard in the Court of Appeals 26 November 2001.

Attorney General Roy Cooper, by Assistant Attorney General John P. Scherer, II, for State.

Public Defender Angus B. Thompson, II, by Assistant Public Defender Ronald H. Foxworth, for defendant.

BIGGS, Judge.

This appeal arises from the trial court's denial of defendant's motion to suppress evidence obtained as a result of an investigatory stop. Based on the reasons herein, we affirm the trial court.

The evidence presented at the suppression hearing tended to show the following: On 31 October 1997, Officer Barbara Jacobs, of the Lumberton Police Department, was investigating complaints in an area of drug activity known as "The Hill". She had received

several complaints from a confidential informant and concerned neighbors that a female named Angie Hunt would allegedly make calls from a pay phone at Ogie's Laundromat to a drug dealer for drugs. The complaints further stated that after the call, a car would pull up to Hunt's house, park in the backyard with its lights off and conduct a drug sale. The informant had spoken with Officer Jacobs on several occasions pertaining to this activity.

After receiving this information, Officer Jacobs observed Hunt on 31 October 1997, make a phone call from the laundromat and return to her residence where she stood in her backyard in the dark. She further observed a green vehicle pull up to Hunt's residence with its lights turned off and park in her backyard. Hunt approached the vehicle and conducted a transaction. Officer Jacobs, however, testified that the "hand-to-hand" transaction was not included in her report.

Once the vehicle left Hunt's residence, Officer Jacobs followed it and shortly thereafter made a vehicle stop. She approached defendant on the passenger side of the vehicle while another officer, approached the driver's side. She observed a small bag of marijuana in defendant's right hand and subsequently placed him under arrest. Incident to the arrest, defendant was searched whereby cocaine was discovered on his person. Defendant was thereafter charged with felonious possession with the intent to sell and deliver a controlled substance in violation of N.C.G.S. § 90-95(a)(1) (1999).

On 17 December 1997, defendant filed a motion to suppress the

evidence seized as a result of the stop as well as statements made alleging that such evidence was obtained as a result of an illegal detention, search, and seizure.

On 3 August 1998, defendant was indicted for felonious possession with intent to sell and deliver cocaine arising out of the earlier charge. On 14 October 1999, the motion to suppress was heard. The trial court entered an order in open court denying the motion to suppress and found that the officer had a reasonable and articulable suspicion to stop the vehicle and search defendant.

On 3 October 2000, approximately one year after the hearing on the motion to suppress, defendant entered a plea of guilty to the offenses set forth above pursuant to a negotiated plea while reserving his rights to appeal pursuant to N.C.G.S. § 15A-979(b) (1999). Defendant entered notice of appeal in open court.

On appeal, defendant asserts that the trial court erred in denying his motion to suppress the evidence seized pursuant to a vehicular stop, in that the police officers lacked reasonable and articulable suspicion to justify such a stop. We disagree.

In reviewing the trial court's denial of a motion to suppress, this Court must determine:

> whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law.

State v. Cooke, 306 N.C. 132, 134, 291 S.E.2d. 618, 619 (1982) (citations omitted). While the trial court's factual findings are

binding if sustained by the evidence, the court's conclusions based thereon are reviewable *de novo* on appeal. *State v. Mahaley,* 332 N.C. 583, 423 S.E.2d. 58 (1992), *cert. denied,* 513 U.S. 1089, 130 L. Ed. 2d 649 (1995).

It is well established that police officers may conduct a brief investigatory stop of a vehicle without probable cause when justified by specific, articulable facts which would lead a police officer to "'reasonably [] conclude in light of his experience that criminal activity may be afoot.'" *State v. Battle,* 109 N.C. App. 367, 370, 427 S.E.2d. 156, 158 (1993) (quoting *Terry v. Ohio*, 392 U.S. 1, 30, 20 L. Ed. 2d 889, 911 (1968)). A minimal level of objective justification, although something more than an "unparticularized suspicion or hunch," is the sole requirement for such a stop. *United States v. Sokolow,* 490 U.S. 1, 7, 104 L. Ed. 2d 1, 10 (1989) (citation omitted).

In determining on appeal whether the standard of a "reasonable" and "articulable" suspicion, *id.*, has been met, a reviewing court "must examine both the articulable facts known to the officers at the time they determined to approach and investigate the activities of the [suspects] . . . and the rational inferences which the officers were entitled to draw from those facts." *State v. Thompson,* 296 N.C. 703, 706, 252 S.E.2d 776, 779 (1979). The foregoing circumstances are to be viewed as a whole "'through the eyes of a reasonable and cautious police officer on the scene, guided by his experience and training.'" *Id. (*quoting *U.S. v. Hall,* 525 F.2d 857, 859 (D.C. Cir. 1976)*; see also, State*

v. Watkins, 337 N.C. 437, 446 S.E.2d 67 (1994) (police officers may draw inferences based upon personal experiences).

In the case *sub judice,* the following circumstances provided a sufficient basis for drawing a reasonable inference "that criminal activity was afoot"; thus, warranting the investigative stop: Officer Jacobs' six years of experience in "drug work"; her prior knowledge of the noted connections between "The Hill" and drug activity; personal observations of events identical to the descriptions given by the informant and the neighbors; her familiarity with the informant; and her witnessing what she believed to be a"hand to hand" transaction.

The totality of the facts and circumstances arising during the police officers' investigation of the vehicle in which defendant was a passenger provided objective justification beyond a mere hunch to support a "common sense conclusion[]," *United States v. Cortez*, 449 U.S. 411, 418, 66 L. Ed. 2d 621, 629 (1981), "that criminal activity may [have] be[en] afoot." *Battle,* 109 N.C. App. at 370, 427 S.E.2d. at 158 (citation omitted).

We conclude that the stop was supported by a reasonable and articulable suspicion and thus was lawful. Accordingly, we hold that the trial court did not err in denying defendant's motion to suppress.

Affirmed.

Chief Judge EAGLES and Judge MARTIN concur.

Report per Rule 30(e).