

[Cite as *State v. Taylor*, 2010-Ohio-2926.]

IN THE COURT OF APPEALS OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO :
 Plaintiff-Appellee : C.A. CASE NO. 23507
 vs. : T.C. CASE NO. 08CR3230
 ZURI TAYLOR :
 Defendant-Appellant :

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O P I N I O N

Rendered on the 25th day of June, 2010.

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GRADY, J.:

{¶ 1} Defendant, Zuri Taylor, appeals from his convictions for possession of three illegal drugs, in violation of R.C. 2925.11(A). Taylor was convicted on his pleas of no contest, following the trial court's denial of his Crim.R. 12(C)(3) motion to suppress evidence. Taylor was sentenced to a two-year prison term. He filed a timely notice of appeal.

ASSIGNMENT OF ERROR

{¶ 2} "THE TRIAL COURT ERRED WHEN IT OVERRULED APPELLANT'S MOTION TO SUPPRESS."

{¶ 3} Evidence introduced at the suppression hearing demonstrates that Taylor threw a tissue to the ground that was seized by officers who were following him. When they opened the tissue, officers discovered rocks which they recognized as crack cocaine. Taylor was arrested. A search of Taylor's person incident to his arrest yielded the other drugs that form the basis of his convictions.

{¶ 4} Taylor raises several issues concerning the circumstances that caused officers to suspect that he was selling drugs, which led them to follow Taylor out of a motel, prompting Taylor to throw the tissue containing crack cocaine to the ground when he saw the officers. However, whether the trial court erred when it denied Taylor's motion to suppress is resolved by several relevant exceptions to the prior warrant requirement the Fourth Amendment imposes on searches and seizures.

{¶ 5} First, because he voluntarily abandoned the tissue and the crack cocaine it contained, Taylor lacks standing to object to its warrantless seizure by officers. *State v. Freeman* (1980), 64 Ohio St.2d 291.

{¶ 6} Second, Taylor was not seized for purposes of the Fourth

Amendment until the officers discovered crack cocaine inside the tissue they seized, because officers did not either by a use of physical force or a show of authority restrain Taylor of his liberty until and after they discovered drugs inside the tissue. *United States v. Mendenhall* (1980), 446 U.S. 544, 100 S.Ct. 1879, 64 L.Ed.2d 497.

{¶7} Third, discovery of the drugs in the tissue presented probable cause for Taylor's arrest, which authorized the officers to perform the warrantless search of his person that yielded the additional drugs that form the basis of Taylor's convictions. *Draper v. United States* (1959), 358 U.S. 307, 79 S.Ct. 329, 3 L.Ed.2d 327.

{¶8} The trial court did not err when it denied Taylor's motion to suppress the evidence that police seized. The assignment of error is overruled. The judgment of the trial court will be affirmed.

DONOVAN, P.J. And BROGAN, J., concur.

Copies mailed to:

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Hon. Connie S. Price