

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

ERIKA TUCKER,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2053 EDA 2013

Appeal from the Judgment of Sentence of June 21, 2013  
In the Court of Common Pleas of Delaware County  
Criminal Division at No(s): CP-23-CR-0007427-2012

BEFORE: FORD ELLIOTT, P.J.E., OLSON AND STABILE, JJ.

MEMORANDUM BY OLSON, J.:

**FILED JULY 15, 2014**

Appellant, Erika Tucker, appeals from the judgment of sentence entered on June 20, 2013. We affirm.

On appeal, Appellant claims that the suppression court erred when it denied her pre-trial motion to suppress. In reviewing such a challenge, this Court "must consider only the evidence of the prosecution and so much of the evidence of the defense as remains uncontradicted when read in the context of the record as a whole." ***Commonwealth v. Eichinger***, 915 A.2d 1122, 1134 (Pa. 2007) (internal citations omitted). Viewed in this manner, the facts determined by the suppression court are as follows:

1. On May 25, 2012 at approximately 7:30 a.m., Detective Quartepella of the Darby Borough Police Department went to Appellant's [Philadelphia residence] to serve an arrest warrant[.]

2. Along with Detective Quartapella that day was Detective Pitts, also of the Darby Police Department. At the said location they met several police officers from the city of Philadelphia and two [] FBI agents from the Philadelphia FBI Office.
3. At least six [] law enforcement officers all together were on the scene, at the times relevant to the issues raised by Appellant.
4. Detective Quartapella spoke with the Appellant's sister about the whereabouts of [the subject of the arrest warrant] and was told that he was not present by said sister. Said sister, however, pointed to the Appellant [], as she was walking up to the house. Detective Quartapella understood that the Appellant [] was the girlfriend of [the subject of the arrest warrant].
5. [The subject of the arrest warrant] was also the father of Appellant's baby.
6. While standing in front [of Appellant's residence,] Detective Quartapella asked the Appellant if she knew the whereabouts of [the subject of the arrest warrant] and the Appellant told him "no."
7. Because of all the "hooting, hollering and screaming" that was occurring at the scene, Detective Quartapella asked the Appellant if she would accompany him back to the Darby Borough Police Station to speak with him about [the subject of the arrest warrant].
8. Detective Quartapella believed that because of the way the Appellant's family was acting and because of all the "hooting and hollering", that conducting an interview of the Appellant at the residence was not the appropriate place to conduct such interview.
9. Notwithstanding the fact that Detective Quartapella advised her that she did not have to accompany him back to the police station, the Appellant agreed to go with the police back to Darby Borough Police Station.
10. The Appellant sat in the back of the [p]olice car and was transported back to the Darby Borough Police Station.
11. The Appellant was not handcuffed.

12. Back at the Darby Borough Police Station, Detective Quartapella accompanied the Appellant into the "processing area" of the station.
13. Detective Quartapella took her "demographic information", *i.e.* her height, weight, social security number in said processing area. This information was willingly provided by the Appellant.
14. The Appellant was not handcuffed and sat on a bench while at the police station.
15. While at the police station, Detective Quartapella asked the Appellant if she had any weapons on her or if she had anything in her handbag that he should know about.
16. The Appellant admitted she had a bag of marijuana in her handbag.
17. Detective Quartapella asked the Appellant for permission to search her handbag. She said that permission was granted.
18. Three [] small bags of marijuana were found in said handbag.
19. Detective Quartapella told the Appellant that at the present time he was not intending to "put a case" on her but that he simply wanted some information about [the subject of the arrest warrant], her boyfriend. The Appellant told Detective Quartapella that she would call him with any information she had about [the subject of the arrest warrant].
20. The Appellant was told she was free to leave the police station, but was also advised that "if she didn't cooperate you know I [(Detective Quartapella)] offered her an opportunity to help herself out."
21. Detective Quartapella, also told her that if she "failed to come through" that he would file a Criminal Complaint (that he had on that same day May 24, 2012) charging her with possession of marijuana. Detective Quartapella held onto the Criminal Complaint to see if the Appellant would call with information about [the subject of the arrest warrant].
22. When the Appellant did not call Detective Quartapella, the Criminal Complaint that he prepared on May 24, 2012 was taken to the Magisterial District Judge for approval and signature on June, 1 2012.

23. The conversation between Detective Quartapella and the Appellant concerning the marijuana took place in the interview office of the Darby Borough Police Department that is on the other side of the building from the processing room.
24. The Appellant was never handcuffed while she was in the Darby Borough Police Station.
25. The arrest warrant [] which prompted the trip to [Appellant's residence] was issued out of the City of Philadelphia and dated May 22, 2012. The charges were forgery and access [device] fraud involving credit card(s) that were associated with [a] home invasion in Darby Borough.
26. It was for this reason that Detective Quartapella and Detective Pitts accompanied the Philadelphia Police Department on May 24, 2012 on their visit to [Appellant's residence.]
27. There was no warrant for the Appellant at the time Detective Quartapella spoke with her outside of [Appellant's residence] and asked if she would return to the Darby Borough Police Station to speak with him about [] her boyfriend.

Trial Court Opinion, 1/15/14, at 2-4 (internal citations omitted).

On June 21, 2013, the suppression court credited the testimony of the Commonwealth's witnesses and denied Appellant's pre-trial motion to suppress. Following a bench trial on the same day, the trial court found Appellant guilty of possession of marijuana for personal use.<sup>1</sup> The trial court sentenced Appellant to time-served to 30-days incarceration. Appellant received credit for time served from August 9 to August 15, 2012. The court also imposed a \$100.00 fine and a \$100.00 mandatory cost assessment.

---

<sup>1</sup> 35 P.S. § 780-113(a)(31)(i).

Appellant filed a timely notice of appeal on July 18, 2013 and now raises the following claim for our consideration:<sup>2</sup>

The [suppression c]ourt erred in denying the suppression motion filed in this matter since the small amount of marijuana was seized by the police from [Appellant's] purse as a direct result of the police detaining her without the requisite probable cause or reasonable suspicion.

Appellant's Brief at 11.

"Once a motion to suppress evidence has been filed, it is the Commonwealth's burden to prove, by a preponderance of the evidence, that the challenged evidence was not obtained in violation of the defendant's rights." **Commonwealth v. Wallace**, 42 A.3d 1040, 1047-1048 (Pa. Super. 2012) (*en banc*); **see also** Pa.R.Crim.P. 581(H). "When reviewing a challenge to a [suppression] court's denial of a suppression motion, our standard of review is[] limited to determining whether the suppression court's factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct." **Commonwealth v. Delvalle**, 74 A.3d 1081, 1084 (Pa. Super. 2013) (citation omitted). "[O]ur scope of review is limited to the factual findings and legal conclusions of the suppression court." **In re L.J.**, 79 A.3d 1073, 1080 (Pa. 2013) (citation omitted).

---

<sup>2</sup> Both Appellant and the trial court have complied with Pa.R.A.P. 1925.

“As we have explained, the Fourth Amendment to the United States Constitution and Article I, Section 8 of [the Pennsylvania] Constitution protect citizens from unreasonable searches and seizures. To safeguard these rights, courts require police to articulate the basis for their interaction with citizens in three increasingly intrusive situations.” ***Commonwealth v. Clemens***, 66 A.3d 373, 378 (Pa. Super. 2013) (internal alterations, quotation marks, and citation omitted).

We have described three types of police/citizen interactions, and the necessary justification for each, as follows:

The first of these is a mere encounter (or request for information) which need not be supported by any level of suspicion, but carries no official compulsion to stop or respond. The second, an investigative detention, must be supported by reasonable suspicion; it subjects a suspect to a stop and period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of arrest. Finally, an arrest or custodial detention must be supported by probable cause.

***Commonwealth v. Williams***, 73 A.3d 609, 613–614 (Pa. Super. 2013) (internal alteration, quotation marks, and citation omitted). On a motion to suppress, the burden is on the Commonwealth to prove, by a preponderance of the evidence, that the evidence seized from Appellant was legally obtained. ***See Commonwealth v. Howard***, 64 A.3d 1082, 1087 (Pa. Super. 2013), *appeal denied*, 74 A.3d 118 (Pa. 2013) (citation omitted).

Appellant contends that the suppression court erred in denying her motion to suppress because the police lacked reasonable suspicion and probable cause when they detained her in front of her residence.

Specifically, Appellant argues that she was not engaged in criminal activity when officers confronted her at her residence and thereafter took her to police headquarters for questioning. Appellant also notes that the officers “arrived in force with the intent to conduct official business.” Appellant’s Brief at 13. Because the actions of the police were “coercive and intimidating,” Appellant asserts that, “[u]nder the totality of the circumstances, it is clear that the conduct of the police left [her] with the distinct impression that she was not free to dismiss their directives to accompany them back to headquarters and be interviewed.” ***Id.***

Notwithstanding Appellant’s subjective belief, we are satisfied that an objectively reasonable person in her situation would not have felt compelled to accompany the officers to the police station. Hence, the suppression court correctly concluded that the interaction between Appellant and the officers constituted a mere encounter and never ripened into an investigative detention, much less a custodial arrest.

To distinguish a mere encounter from an investigative detention, this Court has previously explained:

[A]n investigative detention occurs when a police officer temporarily detains an individual by means of physical force or show of authority for investigative purposes... In other words, in view of all the circumstances, if a reasonable person would have believed that he was not free to leave, then the interaction constitutes an investigatory detention.

***Commonwealth v. Cauley***, 10 A.3d 321, 325 (Pa. Super. 2010) (internal citations and quotations omitted).

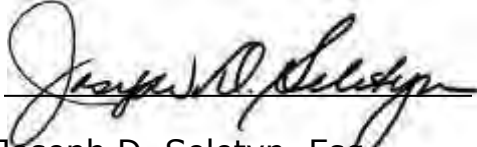
At the time of Appellant's interaction with the police, the officers had an arrest warrant for Appellant's boyfriend for offenses related to a local home invasion. The officers cited the arrest warrant as the reason for their presence at Appellant's residence. They also explained that they sought to speak with Appellant to gather information relating to the whereabouts of her boyfriend. Although several officers were present, the circumstances overwhelmingly suggest that they were gathered to arrest Appellant's boyfriend, not to coerce or intimidate Appellant into accompanying them to the police station. Also, Appellant was never physically restrained. After a loud and disruptive atmosphere developed in front of Appellant's residence, the officers determined that the location was not conducive to collecting information. Thus, the officers asked Appellant if she would consent to return with them to the stationhouse. At that time, the police advised Appellant that she was free to refuse to accompany them. Although the officers informed Appellant that she was not obligated to return to the station, Appellant still agreed to accompany them. Based upon the totality of circumstances, the suppression court correctly concluded that a reasonable person would not have felt pressured to accompany the police to the station. Therefore, the suppression court properly denied Appellant's motion to suppress.



J-S33021-14

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 7/15/2014