

OPINION

This Court has been called upon to address various issues concerning the detention of the Defendants, Moe and Curly, as well as the seizure of evidence connected with their alleged offenses.

The first issue we must discuss is whether Officer Jones properly pulled over the Chevy Malibu. In this case, the applicable rule is that a traffic stop is justified when an officer has reasonable suspicion that criminal activity is afoot or that a traffic violation has occurred. Given that the vehicle appeared to be “too low”, Officer Jones would have had reason to turn on his siren with flashing lights to detain the Malibu. In conclusion, even though he followed the vehicle for two miles and it appears that this was a “pretense” stop, Jones’ action was proper.

The next issue in this chronology concerns Jones’ conduct in ordering the driver and passenger out of the vehicle, his use of a bullhorn, and his commands to the occupants to put their hands on the hood of the vehicle. The general rule is that officers may order occupants out of a vehicle and take measures to promote officer safety. While Jones’ conduct appears overly dramatic, since Jones was outnumbered and it was evening, his actions are appropriate.

According to the facts, with their hands on the hood, Officer Jones frisked both of the Defendants. As long as Jones can articulate reasonable suspicion that the subjects were armed or dangerous, then the Terry “pat-down” was justified. The fact that both men were wearing bulky coats at night and Jones was outnumbered two to one provides enough support for this Court to conclude that his limited pat-down search was reasonable.

During the pat-down, Jones felt a hard object in Curly’s pocket. The rule of law permits an officer to remove what could possibly be a weapon from the clothing for further inspection. In this case, Jones took the hard object from Curly’s coat, shook it and realized that there was another object inside. The object inside may have also been a weapon so, therefore, Jones properly opened it. The arrest of Curly at this point is justified since Jones was able to immediately identify the bracelet as stolen property and Jones had sufficient probable cause. Curly’s motion to suppress the bracelet will be denied. Moe has no standing to contest the seizure of the bracelet.

The next issue concerns whether Jones had a right to search the passenger compartment even though the driver did not give consent. The applicable rule is that a search incident to the arrest of Curly should be undertaken and the consent of the driver is irrelevant. As such, Jones can search all areas that were immediately accessible to Curly just before or at the time of the arrest. In effect, this involves the entire passenger compartment of most vehicles. Here, Jones discovered pictures in an area where he was permitted to search, i.e., under the driver’s floorboard. Since Moe was driving the vehicle when it was detained, Officer Jones would have had enough probable cause to arrest Moe as a participant in the jewelry heist. Furthermore, the motion to suppress the photographs must be denied.

The next issue for the Court to address is whether the recording of the conversation between Moe and Curly in the patrol car must be suppressed. The rule is based on society's expectation of privacy. It can be assumed that a reasonable person would be aware that conversations inside a police vehicle, as in a police interrogation room, would be recorded. Since the officer had arrested both Moe and Curly by this time, an issue may arise as to whether Miranda warnings were required. However, these conversations were voluntary and were not made by Jones' interrogation techniques. Consequently, the tape recordings of both Defendants will be admissible.

With regard to the search of the vehicle at the station house, the rule is that, during an inventory search, the entire vehicle may be searched, depending on the guidelines issued by the particular police department. Since Jones' police department allowed for such a complete search, the seizure of the safety deposit key was permissible as long as it represented evidence of a crime. In this case, it is difficult to imagine how Jones could establish probable cause to believe that the key was evidence of any crime at the time that he seized it.

Assuming, however, that Jones were able to point to specific facts and circumstances which led him to believe that the key was evidence of a jewelry heist, his entry into the safety deposit box was quite improper. Even though consent was given by the bank manager to open the box, the bank manager did not have the power to give such consent. In effect, the safety deposit box belonged to Moe as long as he was up to date with his rental fees. In order to properly search through Moe's effects, Jones should have obtained a search warrant since no exceptional circumstances existed otherwise. In conclusion, any items seized from the safety deposit box must be suppressed.
