IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-060870 TRIAL NO. B-0509023
Plaintiff-Appellee,	:	*JUDGMENT ENTRY.*
vs.	:	
CHRISTOPHER POTTER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

On August 25, 2005, Sheriff Sergeant Peter Enderle received a radio dispatch stating that the CVS store on the corner of Galbraith Road and Colerain Avenue had been robbed. The robber had indicated to the victim that he had a weapon, but no weapon had been shown. The initial description of the suspect was a black male with a thin build and a mustache, wearing a black shirt, white shoes, and a baseball cap. The robber had last been seen heading west on Galbraith Road. Enderle knew from his years of experience as a peace officer that a robber would sometimes park a getaway car near the scene of the robbery. He pulled into the parking lot of the Woodgrove Apartments, about three or four blocks west of the CVS store on Galbraith Road. A blue minivan was in the middle of the parking lot. A man walked around the van and got into the passenger side. The van then pulled into a parking space.

---

1 See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Enderle shined his spotlight on the van and noticed that the driver, defendant-appellant Christopher Potter, matched the description of the robber in several respects. Enderle asked Potter to get out of the van, and he patted Potter down for weapons. Enderle felt a "big bulge" in Potter's pocket and asked what it was. Potter said that it was money. Enderle knew from police broadcasts that an undetermined amount of money had been taken in the CVS robbery. Enderle said, "I'm going to reach in your pocket and pull that stuff out." Potter answered, "Sure, go ahead." Enderle pulled out a wad of money folded around a bag of marijuana. Enderle also pulled two baggies of crack cocaine out of Potter's pocket. Potter was placed under arrest. The robbery victim was brought to the scene. The victim stated that while Potter closely resembled the suspect, he was not the robber.

Potter was charged with possession of cocaine. He filed a motion to suppress evidence that the trial court overruled. Potter pleaded no contest and was found guilty. He has appealed.

Potter's sole assignment of error alleges that the trial court erred in overruling his motion to suppress evidence. Potter first alleges that the stop and detention were illegal. He argues that the police had no reasonable, articulable suspicion that he was engaged in criminal activity. Further, Potter argues that even if the initial stop was justified, the continued detention was improper. Potter also argues that Enderle was not justified in reaching into his pocket because the bulge Enderle felt was clearly not a weapon.

An investigative stop must be supported by "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion."[2] "The standard is objective: would the facts available to the officers at the

---

[2] See *State v. Andrews* (1991), 57 Ohio St.3d 86, 565 N.E.2d 1271, quoting *Terry v. Ohio* (1968), 392 U.S. 1, 88 S.Ct. 1868.

moment of the seizure have warranted an individual of reasonable caution in the belief that the action taken was appropriate?"[3] The validity of an investigative stop is determined by looking at the totality of the circumstances.[4] In reviewing a police officer's actions, a court must give due weight to the officer's training and experience, and must view the evidence as those in law enforcement would understand it.[5]

Enderle received a radio dispatch about the CVS robbery. He knew from experience that a robber would sometimes park a getaway car near the scene. He knew that the robber had been last seen heading in the direction of the parking lot. Enderle observed Potter and his passenger in the parking lot engaged in somewhat suspicious behavior. Potter matched the description of the robber in various respects. These facts gave Enderle a reasonable, articulable suspicion that Potter was engaged in criminal activity.

Enderle knew that the robber had implied to the victim that he had a gun. Enderle had a reasonable suspicion that Potter may have been armed, and he was justified in patting down Potter for weapons. Enderle felt the wad of money in Potter's pocket. He knew that an undisclosed amount of money had been taken in the robbery, further enhancing his reasonable suspicion of criminal activity. Enderle testified that Potter consented to his pulling out the wad of money. The trial court believed Enderle's testimony.

Under the totality of the circumstances, Enderle's actions were proper. The assignment of error is overruled.

Therefore, the judgment of the trial court is affirmed.

---

[3] See *State v. Lopez*, 166 Ohio App.3d 337, 2006-Ohio-2091, 850 N.E.2d 781, citing *State v. Andrews*, supra, and *State v. Black* (Dec. 31, 1998), 1st Dist. No. C-970874.
[4] See *State v. Freeman* (1980), 64 Ohio St.2d 291, 414 N.E.2d 1044.
[5] See *State v. Andrews*, supra; *State v. Lopez*, supra.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., SUNDERMANN and **WINKLER, JJ.**

RALPH WINKLER, retired, from the First Appellate District, sitting by assignment.

To the Clerk:

Enter upon the Journal of the Court on November 7, 2007

per order of the Court _____.

Presiding Judge