STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED December 15, 2009
v	No. 287514 Macomb Circuit Court
RICHARD WALTER VANDERDONCKT, Defendant-Appellant.	LC No. 08-001341-FH

Before: Talbot, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Defendant Richard Walter Vanderdonckt appeals by leave granted from his conditional guilty plea to one count of possession of a controlled substance less than 25 grams, MCL 333.7403(2)(a)(*v*). Defendant pleaded guilty on the condition that he could appeal the denial of his motion to quash and motion to suppress evidence. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

On December 18, 2007, as part of an investigation of known drug houses, a police task force conducted surveillance on a house in Detroit that was a location for the sale of narcotics. At 2:00 p.m., Ferndale Police Officer Timothy Andre, a member of the task force, observed a car arrive at the house. The passenger exited the vehicle and went to the back of the house for two or three minutes before returning. Police officers subsequently stopped the vehicle and discovered drugs. There was testimony suggesting that an occupant of the vehicle had stated that he had purchased the drugs from the house under surveillance.

Approximately 30 minutes later, Andre observed a green minivan arrive at the house under surveillance. Andre saw defendant, who was a passenger in the van, go to the back of the house and return two or three minutes later. Andre did not see the driver leave the vehicle, enter the house, or exchange anything with defendant. Andre called out his observations by radio and followed the vehicle to a restaurant parking lot, where defendant exited the minivan and entered a dark-colored Plymouth. Andre continued to follow both vehicles and called out the location of the vehicles on his police radio to other officers until he lost track of the vehicles in traffic. At that point, another officer continued to follow the vehicles and called out the location of the vehicles by radio until uniformed officers in a marked police car stopped the vehicles.

Utica City Officers Kenneth Hunt and Kurt Sharrow, who were in uniform, and several undercover officers stopped defendant's Plymouth. Hunt and Sharrow did not see defendant

commit a crime or traffic offense firsthand; they made the stop based on the radio information that defendant had been seen at a drug house.

The officers approached the Plymouth with their weapons drawn. Hunt and Andre testified that the undercover officers spoke with defendant and that defendant stated that drugs were in his dashboard. The officers then searched defendant's vehicle and discovered heroin in a container located in the area below the dashboard. Sharrow field-tested the contents of the container and the results were positive for heroin.

At the preliminary hearing, the district court rejected defendant's challenge to the stop and search and bound defendant over for trial. The circuit court denied defendant's motion to quash and motion to suppress the heroin evidence and determined that the stop and search were valid because there was evidence that defendant committed a crime.

We review the circuit court's ruling on a motion to quash de novo to determine whether the district court abused its discretion in binding defendant over for trial. *People v Jenkins*, 244 Mich App 1, 14; 624 NW2d 457 (2000). We review the circuit court's factual findings on the motion to suppress for clear error. *People v Williams*, 472 Mich 308, 313; 696 NW2d 636 (2005). However, we review the circuit court's ultimate ruling de novo because the trial court's "application of constitutional standards regarding searches and seizures to essentially uncontested facts is entitled to less deference." *Id.*

To determine whether the evidence should be suppressed, we must first consider whether the stop and search of defendant's vehicle was valid. The Fourth Amendment provides,

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [US Const, Am IV.]

An exception to the probable cause requirement exists when "there is articulable suspicion that a person has committed or is about to commit a crime." *People v Shabaz*, 424 Mich 42, 57; 378 NW2d 451 (1985), citing *Terry v Ohio*, 392 US 1; 88 S Ct 1868; 20 L Ed 2d 889 (1968). Under certain circumstances, a law enforcement officer may approach and temporarily detain a person for investigative purposes even if there is no probable cause to support an arrest: "A brief detention does not violate the Fourth Amendment if the officer has a reasonably articulable suspicion that criminal activity is afoot." *People v Jenkins*, 472 Mich 26, 32; 691 NW2d 759 (2005).

> In order for law enforcement officers to make a constitutionally proper investigative stop, . . . [t]he totality of the circumstances as understood and interpreted by law enforcement officers, not legal scholars, must yield a particular suspicion that the individual being investigated has been, is, or is about to be engaged in criminal activity. That suspicion must be reasonable and articulable, and the authority and limitations associated with investigative stops apply to vehicles as well as people. [*People v Nelson*, 443 Mich 626, 632; 505 NW2d 266 (1993).]

"There is no bright line rule to test whether the suspicion giving rise to an investigatory stop was reasonable, articulable, and particular. Common sense and everyday life experiences predominate over uncompromising standards." *Nelson*, *supra* at 635-636. "Reasonable suspicion entails something more than an inchoate or unparticularized suspicion or 'hunch,' but less than the level of suspicion required for probable cause." *People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996). Furthermore, "the absence of apparent innocent behavior has never been a requirement for the suspicion required to make an investigatory stop." *Nelson*, *supra* at 632.

In this case, the officers had a reasonable, articulable, and particularized suspicion for stopping defendant. Andre had seen defendant enter and exit a known drug house in a manner that was consistent with that exhibited during another drug buy at the house. Andre then followed the vehicle, saw defendant enter another vehicle, and communicated information to the other officers by police radio concerning defendant's recent activities at the drug house and the vehicle that defendant was currently in. After receiving this information, the arresting officers stopped defendant's car. By observing defendant briefly enter and exit a drug house in a manner typical of a drug transaction at the house, Andre had a reasonable, articulable, particularized suspicion that defendant had been engaged in an illegal drug transaction. The arresting officers, reasonably relying on their fellow officers' communications indicating that defendant had engaged in activity consistent with a drug transaction, also had a reasonable, articulable, particularized suspicion for making an investigatory stop of defendant's car. Accordingly, the investigatory stop was valid.

In addition, any evidence arising from the officers' search of the vehicle is admissible. "[I]f probable cause exists to believe a car contains contraband, the Fourth Amendment permits police to search the vehicle without more." *People v Kazmierczak*, 461 Mich 411, 422; 605 NW2d 667 (2000). "Probable cause exists when the facts and circumstances warrant a person of reasonable prudence to believe that the evidence of a crime or contraband sought is in a stated place." *People v Harmelin*, 176 Mich App 524, 534; 440 NW2d 75 (1989), aff'd *Harmelin v Michigan*, 501 US 957; 111 S Ct 2680; 115 L Ed 2d 836 (1991).

In this case, probable cause existed. Andre had seen defendant enter and then leave a drug house, be driven to his car, and then drive off. It is reasonable to assume that since defendant had recently visited a drug house, he might have drugs on his person or in his car. Further, when defendant was stopped, he admitted that he had drugs in the car. Accordingly, the officers had the necessary probably cause to believe that the vehicle contained contraband and, therefore, their search of the vehicle was constitutional.[1]

[1] Defendant also challenges the admissibility of his statement made to the officers during the investigative stop, arguing that the officers did not read defendant his rights. However, defendant fails to provide any authority to support his position, and we need not consider it further. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

Affirmed.

/s/ Michael J. Talbot
/s/ Peter D. O'Connell
/s/ Alton T. Davis