

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 1:18CR003-B-S

JUSTIN HARRINGTON DARRELL

ORDER

This cause comes before the court upon the defendant Justin Harrington Darrell's motion to suppress evidence. The court held an evidentiary hearing on the motion which included testimony of the arresting officer and other evidence. Upon due consideration of the motion, briefing, and applicable authority, as well as the evidence presented at the hearing, the court finds that the motion is not well taken and should be denied.

On September 13, 2017, Alcorn County Sheriff Deputy Shane Latch and Farmington Police Officer Mike Billingsley attempted to serve an arrest warrant on a female at a house in Alcorn County, Mississippi. When the officers arrived at the house, a black Camaro automobile was parked in the driveway. Defendant Darrell exited the vehicle upon the officers' arrival and began walking toward the back of the house and potentially out of the officers' field of vision. Officer Billingsley ordered Darrell to stop, but Darrell ignored the command and continued walking, increasing his speed. Billingsley again ordered Darrell to stop and come back to him, and Darrell complied. Darrell was carrying a brown paper bag containing a bottle of whiskey which was handed over to Billingsley. Deputy Latch stayed with Darrell as Billingsley went to the door of the house to execute the arrest warrant. Latch then noticed that Darrell had two knives attached to his belt in plain view and called Billingsley back over. Darrell complied with Deputy Latch's instruction to hand over the knives. Latch then performed a pat-down and

discovered a loaded pistol in Darrell's right front pocket as well as a substance believed to be methamphetamine in another pocket. The officers placed Darrell under arrest after they discovered he is a convicted felon. The defendant was subsequently indicted by the grand jury on one count: felon in possession of a firearm in violation of Title 18 U.S.C. § 922(g)(1).

The government concedes that Darrell was subjected to a *Terry* stop. In *Terry v. Ohio*, 392 U.S. 1 (1968), the Supreme Court held that "where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous," the officer may briefly stop the suspicious person and make reasonable inquiries aimed at confirming or dispelling his suspicions. *Id.* at 30. The showing required to demonstrate this reasonable suspicion is considerably less than that necessary to prove probable cause. *U.S. v. Rideau*, 969 F.2d 1572, 1574. The Fourth Amendment requires only some minimal level of objective justification for the officer's actions, measured in the light of the totality of the circumstances. *Id.* (citing *United States v. Sokolow*, 490 U.S. 1, 6-8 (1989)). Courts have also recognized that trained, experienced officers may perceive danger where an untrained observer would not. *Id.* at 1574-75. For example, "officers are not required to ignore the relevant characteristics of a location in determining whether the circumstances are sufficiently suspicious to warrant further investigation." *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000).

In the present case, Deputy Latch testified that Darrell not only ignored Officer Billingsley's instruction to stop, Darrell began walking faster – not stopping until the second command. The court finds that the officers had reasonable suspicion to believe that criminal activity was afoot – namely that Darrell may have been attempting to warn the female resident of the house of the impending execution of the arrest warrant against her, which would be a

violation of Miss. Code § 97-9-103. The court also finds that it was reasonable for these prudent officers to believe that Darrell could be armed and dangerous and that the protective search they conducted was legitimate, especially under the totality of the circumstances, as Deputy Latch testified that the house in question was a “known drug house,” that he knew of multiple arrests which had been made at the house, and that he himself had made a number of those arrests.

For the foregoing reasons, the court finds that the defendant’s motion to suppress evidence is not well taken, that it should be, and the same is hereby, **DENIED**.

SO ORDERED AND ADJUDGED this, the 23rd day of August, 2018.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.

UNITED STATES DISTRICT JUDGE

1 know if it's an admission, but he agreed that he was not free
2 to leave.

3 MR. LEARY: That's correct. If -- if the -- step one
4 was did they have articulable suspicion to stop him. If they
5 didn't -- if they did not have reasonable articulable
6 suspicion, then the search is bad. I would say yes. If they
7 had reasonable articulable suspicion to stop him, when he turns
8 around and they see the knives, now they've got reasonable
9 articulable suspicion to search him at that point.

10 So I would say, yes, I would agree with Your Honor.
11 Did they have reasonable articulable suspicion to say "stop,"
12 or should those officers just let him go around the back of the
13 house? That's -- that's what's before the Court.

14 And I would just respectfully say that these cases
15 we're required to view under the totality of the circumstances,
16 and under the totality of the circumstances, with this being a
17 drug house, I would say that what the officers did was entirely
18 legitimate.

19 Thank you, Judge.

20 THE COURT: All right. If this situation existed in
21 which -- in a different locale, that is, if the officers saw
22 the defendant on the streets of Corinth, and when they drove up
23 in their cars, the defendant got out of his car and started
24 walking away, they would have no -- the Court is of the opinion
25 the officers would have had no grounds to order him to stop.

1 But where this case is different and -- is because of
2 the locale and the circumstances of the case; that they were at
3 a known drug house to make an arrest for a criminal -- of a
4 criminal; that -- that the defendant got out of his car when
5 the officers arrived in their marked cars and started walking
6 away; and when ordered to stop, walking away faster.

7 The Court's of the opinion they had reasonable grounds
8 to suspicion that he was up to no good. So under these
9 circumstances, the Court is of the opinion that the seizure
10 under *Terry* was legal, and the motion to suppress the evidence
11 is denied.

12 All right. Gentlemen, thank you very much.

13 MR. LEARY: Thank you, Judge.

14 THE COURT: We'll be in recess for ten minutes.

15 (CONCLUDED AT 2:35 P.M.)

16
17
18
19
20
21
22
23
24
25