

NOT FOR PUBLICATION

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	CASE NO. SX-12-CR-025
Plaintiff,	)	
	)	DRIVING UNDER THE INFLUENCE OF
	)	AN INTOXICATING LIQUOR; DRIVING
V.	)	WITH A BLOOD ALCOHOL CONTENT OF
	)	.08 PERCENT OR MORE
	)	
BARRY A. HALL,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant's unopposed Motion to Suppress.¹ For the reasons that follow, that Motion will be denied.

This case stems from an incident that allegedly occurred on January 14, 2012. On that date, Police Officer Ralston Wright and his partner were sitting in their marked vehicle in the parking lot of Patrick Sweeney Police Headquarters, in Frederiksted, St. Croix, in anticipation of going on patrol. While seated there, Officer Wright witnessed Defendant as he drove into the parking lot, parked, and exited his car, staggering on his way out. After noticing a strong odor of alcohol on Defendant, Officer Wright asked Defendant if he had been drinking, and Defendant responded "Yes Officer, I had four beers."

Upon hearing this information, Officer Wright administered three field sobriety tests of the horizontal gaze nystagmus test, walk and turn test, and one leg stand test. During these tests, Defendant stated "Officer, I know am [sic] drunk." After failing all three sobriety tests, Defendant was placed under arrest for driving under the influence of an intoxicating liquor.

¹ Defendant filed the instant motion on February 29, 2012. As of the date of this Memorandum Opinion, the People have not responded, and therefore are deemed to have waived their right to do so.

Defendant filed the instant motion, claiming that Defendant had been detained, interrogated, and examined without having a basis for reasonable suspicion. Defendant further states that a person stumbling or staggering upon exiting a vehicle is not a sufficient basis to constitute reasonable suspicion of intoxication, and that Defendant was arrested on speculation.²

While Defendant is essentially correct that mere stumbling does not give rise to probable cause, the facts of this case show that the Police Officers relied on more than a mere stumble. It is beyond dispute that both Officers observed the Defendant operate his vehicle as he drove into the Patrick Sweeney Police headquarters. Moreover, Officer Wright noted in his Affidavit that the Defendant approached him and his partner and spoke to them. Further, the Officers, through their experience and training in law enforcement, smelled a strong odor of alcohol on Defendant, and thereafter asked, not interrogated, whether Defendant had been drinking. After receiving a response in the positive, the Officers were well within their rights to administer the three field sobriety tests. After failing all three tests, the police had reasonable suspicion to detain the Defendant. At this point, Defendant was transported to the Ancilmo Marshal Command Police Station for booking, was advised of his Miranda Rights, after which he consented to a chemical test of the alcohol content of his blood, which showed a reading of .153%. This Court notes that the Police followed the standard established in *United States v. Arvizu*, 534 US 266 (2002), which defined the police power to stop, detain, and search a suspected criminal:

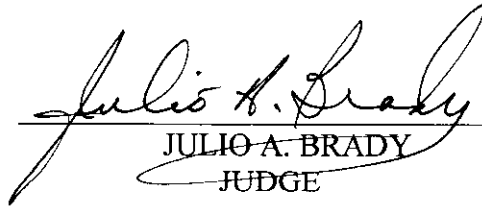
Because the “balance between the public interest and the individual’s right to personal security” tilts in favor of a standard less than probable cause in such cases, the Fourth Amendment is satisfied if the officer’s action is supported by reasonable suspicion to believe that criminal activity “may be afoot.” [In] mak[ing] reasonable-suspicion determinations, [Courts] must look

² Defendant failed to cite any applicable statute or case law for these positions except naming the Supreme Court case of *Miranda v. Arizona* (without a citation), which this Court concludes is irrelevant to the facts of this case.

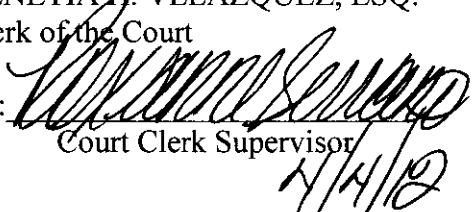
at the “totality of the circumstances” of each case to see whether the detaining officer has a “particularized and objective basis” for suspecting legal wrongdoing. This process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that “might well elude an untrained person.” Although an officer’s reliance on a mere “hunch” is insufficient to justify a stop, the likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard... [A Court’s decision] to “clearly delimit” an officer’s consideration of certain factors to reduce “troubling...uncertainty,” also runs counter to our cases and underestimates the usefulness of the reasonable-suspicion standard in guiding officers in the field. *Id.* at 273-275 (internal citations omitted).³

All statements given by Defendant appear to have been volunteered, and Defendant’s Motion not only misstates the facts of the case, but is also entirely without merit based on the reasonable suspicion doctrine set forth the by the U.S. Supreme Court in *Arivizu*, supra. The facts in this arrest unequivocally are in conformity with that standard and justifies the Defendant’s arrest. A separate order of even date will accompany this Memorandum Opinion.

Dated: April 3, 2012.


JULIO A. BRADY
JUDGE

ATTEST:
VENETIA H. VELAZQUEZ, ESQ.
Clerk of the Court

By: 

Court Clerk Supervisor
4/4/12

³ The reference to “A Court’s decision” is to the Opinion of the Ninth Circuit Court of Appeals which nullified the District Court’s ruling that accepted as credible and probative the reasons articulated by a border patrol agent for doing an investigatory stop of a minivan which was transporting Mexican aliens into Arizona based on his experience and particularized knowledge of his area of law enforcement.