

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

THE PEOPLE OF THE VIRGIN ISLANDS,	)	CRIMINAL JURY NO.
Plaintiff,	)	ST-12-CR-291
vs.	)	
	)	
LENNY HEDRINGTON	)	
Defendant.	)	
	)	

MEMORANDUM OPINION

THIS MATTER came on for a suppression hearing on December 9, 2013.¹ The People were represented by Douglas J. Sprotte, Assistant Attorney General. Defendant Lenny Hedrington, was present and represented by Judith L. Bourne, Esq. At the hearing, the Court heard testimony from Officer Ann Marie Charles and Detective Jonathon Rey. At the conclusion of the hearing the Court took the matter under advisement.²

I. Facts

On May 27, 2012, at approximately 6:50 p.m., Officers Ann Marie Charles (hereinafter "Officer Charles") and Ingrid Bukle (hereinafter "Officer Bukle") were on duty and preparing to exit the Fort Christian police parking lot. The two officers were in a police vehicle exiting the parking lot and turning onto Hospital Line Street when Officer Charles saw a gray Mitsubishi Lancer make a left turn off of

¹ Defendant's Motion To Suppress was filed on July 31, 2012. The People filed an opposition on August 9, 2012.

² Co-Defendant Devonte B. Thompson filed a motion to join Mr. Hedrington's Motion to Suppress. The Court orally denied Defendant Thompson's Motion at the hearing on December 9, 2013 as Thompson lacks standing to object to the search since he was a passenger in the vehicle and not the driver. *Rakas v. Illinois*, 439 U.S. 128, 148-49 (1978).

Veteran's Drive and onto Hospital Line Street. The car was traveling at a fast rate of speed and almost collided with the officers' vehicle. Officer Charles observed that the driver of the vehicle was not wearing his seatbelt and as a result the officer signaled for the vehicle to pull over. Upon stopping the car, Officer Charles smelled a strong odor of marijuana. Due to the fact that there were three men in the vehicle, the two officers called for assistance. Defendant Lenny Hedrington was identified as the driver of the car and Devonte B. Thompson and Randy Evans were passengers. While searching the vehicle, officers found several small bags of what field tested positive as crack cocaine. All three men were charged with constructive possession of crack cocaine. Hedrington was also charged with operating a vehicle without the use of a safety belt and failure to come to a complete stop at a marked stop bar.

II. Analysis

The issue before the Court is whether Officers Charles and Bukle initiated a valid traffic stop of Defendant Hedrington's vehicle.

Under the Fourth Amendment, people have the right to be free from "unreasonable searches and seizures" of "their persons, houses, papers and effects."³ The Fourth Amendment to the U.S. Constitution is made applicable to the Virgin Islands pursuant to Section 3 of the Revised Organic Act of 1954, as amended. *See* 48 U.S.C.A. § 1561. It is now undisputed that a vehicle is an "effect" within the

³ Revised Organic Act of 1954, is found at 48 U.S.C. § 1541-1645, reprinted in V.I. CODE ANN., Historical Documents, Organic Acts, and U.S. Constitution at 861 (1995) (preceding V.I. CODE ANN. tit. 1) ("Revised Organic Act").

meaning of the Fourth Amendment. *United States v. Chadwick*, 433 U.S. 1, 12, (1977). It is also well-established that individuals have a reasonable expectation of privacy within their automobiles and a traffic stop is subject to constitutional restrictions. *Brendlin v. California*, 551 U.S. 249, 255 (2007); *Delaware v. Prouse*, 440 U.S. 648, 662 (1979).

According to the Supreme Court decision in *Terry v. Ohio*, police may briefly detain an individual without running afoul of the Fourth Amendment if the officer has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. 392 U.S. 1, 30 (1968). The officer may “conduct a brief, investigatory stop when the Officer has a reasonable, articulable suspicion that [such] criminal activity is afoot.” *Id.* In evaluating the constitutionality of a traffic stop, the Court considers the sufficiency of reasons for the stop as well as the credibility of the officer. *Virgin Islands v. Samuel*, Nos. SX-09-CR-557 and SX-09-CR-556, 2010 WL 7746081 at *4 (VI. Super. Ct. Nov. 12, 2010).

In this case, the police officers had a sufficient basis for believing that the Defendants had committed a traffic violation. Officer Charles testified that she saw Hedrington drive at a faster than normal rate, that he almost collided with her police vehicle, and Defendant was not wearing his seatbelt. Therefore, the police officers had sufficient basis to conduct a traffic stop. When the officers approached the car, Officer Charles detected a strong odor of marijuana and the subsequent search ensued.

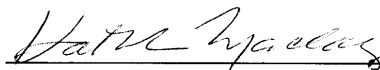
Defendant spent a considerable amount of time arguing that he had no duty to stop at the stop bar located at the intersection of Veterans Drive and Hospital Line. However, even if that is correct, the police still had a reasonable basis to conduct the traffic stop due to the observation that Defendant Hedrington was not wearing his seat belt.

III. Conclusion

All of the evidence in this case consistently shows that the officer stopped Defendant's vehicle for valid reasons. The defense offered no evidence to contradict Officer Charles' statements that Hedrington was driving carelessly and not wearing a safety belt in violation of Virgin Islands law. Therefore, the initial traffic stop of Hedrington's vehicle was both constitutional and lawful. After detecting a strong odor of marijuana, the search was lawful. Accordingly, the crack cocaine that was discovered will not be suppressed.

The appropriate order denying the motion to suppress will be entered.

DATED: February 12, 2014



Kathleen Mackay
Judge of the Superior Court
of the Virgin Islands

ATTEST:

ESTRELLA H. GEORGE
Acting Clerk of the Court

BY:



LORI BOYNES-TYSON
Court Clerk Supervisor

2/12/2013