



ROLL CALL REPORTER

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QUESTION: Does an individual's association with a known drug dealer establish reasonable suspicion needed to make a drug-related investigative stop?

ANSWER: No. An individual's association with a known drug dealer does not, by itself, create reasonable suspicion to believe that the person has committed a drug-related offense.

CASE: *Jamar Holt v. State of Maryland*, Court of Appeals of Maryland
Decided October 28, 2013

The Background: The facts established that during the summer 2011, the Violent Crime Impact Section ("VCIS") of the Baltimore City Police Department was investigating Daniel Blue, who was known for distributing raw heroin in Baltimore City. On June 29, 2011, VCIS conducted surveillance of a meeting between Blue and an individual named Claude Townsend on a street corner in Baltimore City. Detectives Joseph Crystal and James McShane were part of the June 29 surveillance. Although the detectives did not observe the meeting between Blue and Townsend, they were on the arrest team. The meeting, however, was captured by a Baltimore City surveillance camera.

First Surveillance: The surveillance recording showed Blue arriving at the meeting in his vehicle. After he exited, he appeared to look around in a nervous manner. He walked toward Townsend, took an object out of his left pocket, and handed it to Townsend. Shortly thereafter, Blue returned to his vehicle and quickly drove from the area. The meeting between Blue and Townsend lasted about two minutes. Blue kept looking around the entire time. After Blue left, Townsend walked towards his house. As he approached the house, a member of the VCIS arrested him. The VCIS arrest team recovered from Townsend's left pocket a plastic bag containing a piece of bread stuffed with suspected raw heroin.

Second Surveillance: VCIS continued its surveillance of Blue on July 13, 2011. Detectives Crystal and McShane and another detective, were part of the surveillance team. The day before the surveillance, Detective Crystal reviewed the earlier video recorded on June 29. He wanted to determine what Blue looked like, how he dressed, whether he was right or left handed, and his mannerisms. Detective Crystal watched the video several times.

On July 13, when Blue arrived at the Baltimore City District Court for a court appearance, Detective Crystal placed a GPS tracking device on Blue's vehicle. During the surveillance at the courthouse, Blue did nothing unusual and did not appear nervous. After Blue left the courthouse, the detectives followed him to an apartment building in Baltimore County. The detectives saw him enter the building and exit about five minutes later. Blue was carrying a Rubbermaid container in his hand. The container was about the size of a sandwich. Blue then drove directly to Lake Montebello in Baltimore City. He parked near a workout station and began to walk towards it. An individual later identified as Jamar Holt was standing next to the workout station. Although Blue appeared nervous, Holt did not. The men shook hands and walked towards a black Jeep Cherokee. Holt entered on the

driver's side and Blue got in the passenger's side. Holt then drove around Lake Montebello and stopped the Jeep near Blue's parked vehicle. The entire meeting lasted approximately two minutes. As Blue walked towards his vehicle, he still kept looking around, as he did during the drug transaction with Townsend. Blue and Holt then left in their separate vehicles. Detectives Crystal and McShane decided to follow Holt. They did so because they suspected he may have committed a drug related crime during his meeting with Blue. The detectives were not certain, but based upon the similarities to the earlier surveillance of Blue, they decided to follow Holt.

The Stop and the Gunfire: After a short distance, both detectives activated the lights on their unmarked cars. They did so because they wanted to "identify the individual who may have been involved in a drug transaction" and because Holt had failed to completely stop at a stop sign and was driving over the speed limit. Holt pulled over and the detectives approached from the rear and identified themselves as police officers. Holt's brake light was still on, and Detective McShane yelled several times, "Police, let me see your hands!" Instead of complying, Holt moved his right hand from the steering wheel, dropped it out of sight, and then quickly raised it, pointing a handgun directly at Detective McShane. At the same time, he drove the car in detective McShane's direction. Both detectives fired their guns at Holt. Holt sped off, barely missing Detective McShane.

The Arrest, the Charges, and the Suppression of the Evidence: Holt was wounded by the gunfire and checked himself into the University of Maryland Hospital with gunshot wounds. He was arrested at the hospital. When police found his car, they did not find the gun Holt had pointed at the officers or any other evidence. Holt was subsequently charged with assault, reckless endangerment, firearms violations, and a drug-related offense. Prior to trial, Holt's attorney moved to suppress any observations made during and immediately following the investigatory stop - including observation of the gun - on grounds that the investigatory stop violated the Fourth Amendment. It was Holt's contention that the officers lacked reasonable articulable suspicion (RAS) for the stop. He argued that Holt's mere association with Blue was not enough to establish RAS and that there was no information directly linking Holt to criminal activity. The court agreed, finding no RAS to believe that Holt had committed a drug crime and further finding as a matter of fact that the officers had not observed any traffic violation. The trial court suppressed all of the detectives' observations, with the exception of the observations related to the "new" crime allegedly committed by Holt, his driving his vehicle in the direction of Detective McShane. The State appealed.

The Appeal and the Decision: Although the Court of Special Appeals reversed the decision of the trial/suppression court, the Court of Appeals, Maryland's highest court, took up the case. The Court of Appeals agreed that the officers had RAS to make the investigatory stop. It reached this conclusion for the following reasons: (1) the trial/suppression court had found that both detectives were credible witnesses, despite rejecting their testimony that Holt had committed traffic violations; (2) the detectives had made an investigatory or *Terry* stop of Holt that was not predicated upon traffic offenses, but rather upon their investigation of a possible drug crime; (3) the RAS for the investigatory stop was based on Blue's known history as a drug dealer, the fact that Blue had distributed drugs to Townsend two weeks before his meeting with Holt; (4) both Townsend and Blue were waiting for Blue at specific locations; (5) both meetings lasted approximately two minutes; (6) both Townsend and Holt parted ways with Blue after their brief meetings with him; (7) Blue seemed nervous and looked around during both meetings; (8) Blue was not "looking around" when he was seen coming out of the courthouse; (9) Holt and Blue moved from a public space into Holt's Jeep; (10) after his court appearance in Baltimore City, Blue drove to Baltimore County and was seen exiting an apartment with a sandwich-sized Rubbermaid container; and, (11) Blue then immediately returned to Baltimore City and met Holt not far from the courthouse where he had been earlier that morning. The "totality" of these facts and circumstances provided a legal basis for RAS. With the trial court's suppression ruling reversed, the case was sent back to the trial court for further proceedings.

NOTE: It is important to note that an individual's association with a drug dealer does not, by itself, create RAS that the individual committed a drug-related crime. A person's criminal background is just one factor to consider in establishing RAS. Here, the detectives had made many other observations in addition to Holt's association with a known drug dealer to establish RAS. These other observations established the strong parallels between Blue's drug transaction with Townsend and his meeting with Holt two weeks later. The detectives extensive and specialized training and experience in the field of narcotics was also given due deference by the court.

By John F. Breads, Jr., Director of Legal Services, Local Government Insurance Trust

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