



LEGAL UPDATE

COLLECTIVE KNOWLEDGE WILL ONLY APPLY WHEN OFFICERS ARE INVOLVED IN A JOINT INVESTIGATION AND ARE IN CLOSE COMMUNICATION WITH EACH OTHER

Commonwealth v. David Privette, Supreme Judicial Court (March 28, 2023).

RELEVANT FACTS

On August 12, 2018 at 3:35AM a dispatch went out about an armed robbery at a gas station on Morrissey Boulevard. A description of the suspect was dispatched over the police radio. Multiple officers responded to the area in search of the suspect. In the next seven minutes two additional descriptions were transmitted over the radio. Both referenced facial hair and one included a silver firearm.

Two officers who were patrolling the area individually and had been monitoring the radio saw the defendant on Ashland Street at 3:41AM, seven minutes after the robbery. The defendant was a Black male with facial hair who matched the approximate age of the suspect given out over the radio. These officers had not seen anyone in the area except the defendant since the original dispatch. Both officers approached the defendant from opposite directions.

The first officer was working in a plain clothes capacity. He identified himself as "Boston Police" and instructed the defendant to show him his hands. The defendant complied with the request and made no attempt to evade or avoid the officer. The officer conducted a patfrisk and felt a "large wad" in the defendant's pocket. The wad was \$432. No weapons were found.

The second officer saw the defendant was wearing a red plaid backpack. This officer patfrisked the backpack and felt a hard object. The officer opened the backpack and saw a silver handgun.

For specific guidance on the application of this case or any law, please consult your supervisor or your department's legal advisor.

A third officer was working that early morning and began looking for the suspect as well. This officer did not see anyone in the area prior to the defendant being stopped; however, this information was never relayed to other officers.

The defendant was charged with multiple firearm offenses. In this case the SJC considered what, if any, knowledge of the second the third officers could be considered in the reasonable suspicion analysis using the collective knowledge doctrine.

DISCUSSION

Vertical collective knowledge is when one officer directs another to stop, frisk, search, or arrest someone. When such direction is given, the court will consider the knowledge of the directing officer when determining whether there was reasonable suspicion. In this context, it is not necessary for the acting officers to have personal knowledge of the facts establishing reasonable suspicion or probable cause.

Horizontal collective knowledge allows the aggregation of information known by multiple officers. In these situations, no one officer is required to have personal knowledge of the facts that support a finding of reasonable suspicion or probable cause. Until this case was decided, Massachusetts allowed information known to officers to be aggregated even if there was no communication between the officers before the constitutionally significant act. In this case the SJC concluded such an expansive interpretation of the collective knowledge doctrine would violate art. 14 of the Massachusetts Declaration of Rights.

To comport with art. 14, information known to multiple officers will only be aggregated if the officers were involved in a joint investigation with a mutual purpose and objective and the officers must be in close and continuous communication with each other about that objective.

“For officers in a joint investigation to be considered in close communication, they must be continuously conferring with each other throughout the course of the investigation, exchanging information to the extent possible.”

Not all information that establishes reasonable suspicion or probable cause has to be communicated; however, some of the “critical information” must be known by the acting officer.

Applying this standard, the court found that the knowledge of the second officer could be imputed to the first officer. All of the officers were involved in a joint investigation and the second officer continuously updated his fellow officers as to his observations while he was looking for the suspect. The third officer; however, did not communicate his observations to the other officers. For this reason, the continuous communication requirement was met with respect to the second officer, but not the third.

Taking all of the information known to the first officer, including what the second officer knew, the court found that there was reasonable suspicion to stop the defendant.

The motion to suppress was properly denied.

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