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**IN THE  
COURT OF APPEALS OF INDIANA**

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CHAD A. JEFFRIES, )  
 )  
Appellant-Petitioner, )  
 )  
vs. ) No. 73A01-0609-CR-377  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE SHELBY SUPERIOR COURT  
The Honorable Jack A. Tandy, Judge  
Cause No. 73D01-0507-FA-10

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**April 23, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**NAJAM, Judge**

## **STATEMENT OF THE CASE**

Chad A. Jeffries appeals from his convictions for Dealing in Methamphetamine, as a Class A felony, and Possession of a Controlled Substance, as a Class C felony, following a jury trial. Jeffries raises a single issue for our review, namely, whether the trial court abused its discretion in admitting into evidence methamphetamine and prescription drugs found on his person.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

On July 14, 2005, Officer Mike Polston of the Shelbyville Police Department received an anonymous tip that Jeffries was dealing methamphetamine. Prior to that, Officer Polston had received information from two other confidential informants that Jeffries dealt in methamphetamine. The information from those two confidential informants led to the conviction of two persons, but the State neither arrested nor charged Jeffries.

Based on the July 14 tip, Officer Polston searched for Jeffries' vehicle, which he knew to be a black Grand Marquis. Officer Polston located such a vehicle in the parking lot of an apartment complex in an area known to Officer Polston for methamphetamine dealing. After locating the vehicle, Officer Polston requested a K-9 unit to perform a "sniff search." Appellant's Brief at 4. The K-9 unit gave a positive indication of the presence of narcotics within the vehicle on two separate sweeps. A tenant at the apartment complex then informed Officer Polston, Officer Charles Curry, who was in

charge of the K-9 unit, and Indiana State Trooper Marcus Brown in which apartment that car's owner could be found.

The officers approached the designated apartment and knocked on the door facing the parking lot. Jennifer Rush answered the door, and the officers asked for Jeffries. Rush told the officers that Jeffries was asleep on the couch; from their vantage point the officers could see him lying on the couch. Rush went over to Jeffries and yelled loudly at him a number of times, but Jeffries did not respond. The officers then asked Rush for permission to enter her apartment to speak with Jeffries or to try to wake him, and Rush consented.

Once the officers entered Rush's apartment, Jeffries stood up and walked towards them. Jeffries appeared pale and disoriented. He was sweating profusely, and he gave the officers a blank stare with bloodshot eyes and dilated pupils. Both Officer Curry and Trooper Brown immediately suspected Jeffries to be under the influence of methamphetamine. Based on his past experiences in similar circumstances, Trooper Brown specifically associated Jeffries' stare as a methamphetamine-induced "fight or flight stare." Transcript at 178.

As Jeffries approached the officers, he placed both hands in the pockets of his pants. The officers asked Jeffries to remove his hands from his pockets several times, but Jeffries did not respond. Jeffries then tried to walk between the officers, at which time Trooper Brown and Officer Curry grabbed Jeffries' arms and pulled his hands from his pockets. Then, without first performing a pat-down of Jeffries' outer clothes, Officer Curry reached into Jeffries' pockets and removed four plastic bags containing

methamphetamine and one plastic bag containing nine Xanax pills. The total weight of the methamphetamine was 24.32 grams. The officers then obtained a warrant to search the apartment and discovered paraphernalia relating to the manufacture of methamphetamine. Rush's apartment was 280 feet from Wiley Park, a city-owned park.

The State charged Jeffries with possession of methamphetamine, as a Class A felony; dealing in methamphetamine, as a Class A felony; possession of a controlled substance, as a Class C felony; and possession of paraphernalia, as a Class A misdemeanor. Jeffries filed a motion to suppress the evidence of the methamphetamine and Xanax. The trial court held a hearing on the motion and denied it, and Jeffries objected to the admission of the evidence during the trial.<sup>1</sup> After a trial, the jury convicted Jeffries of the felony charges, and the trial court merged his Class A felony convictions. The court then sentenced him to a total term of forty years' imprisonment. This appeal ensued.

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<sup>1</sup> Specifically, Jeffries' counsel objected to Trooper Brown's testimony regarding the contents of Jeffries' pockets. In that objection, Jeffries' defense counsel generally stated the following: "We'll be objecting . . . [to] any mention of information with regards to what was found within Mr. Jeffries' pocket. [T]here was [sic] matters outside the presence of the Jury that we need to reflect on it [sic] as a continuing objection." Transcript at 182. The trial court responded by simply stating: "Okay. All right. Court will note the Defendant's objection and overrule it." *Id.* Those facts are analogous to facts before our supreme court in Porter v. State, 272 Ind. 267, 397 N.E.2d 269, 272 (1979), in which the court noted:

The record shows that defendant objected to the testimony of this witness by making a general objection. He indicated to the court that he wished a continuing objection to all of her testimony. This procedure was approved by the court. Although there was not a specific ground for the objection given, it appears that the court understood the grounds on which defendant was objecting and preserved his record upon this issue. We will therefore consider the issue on the merits.

See also Serano v. State, 555 N.E.2d 487, 490 (Ind. Ct. App. 1990), trans. denied. Here, the trial court's response to defense counsel's general and continuing objection to any evidence of the contents of Jeffries' pockets implies that the court understood the grounds of counsel's objection and approved of the continuing objection procedure.

## DISCUSSION AND DECISION

Jeffries' sole contention is that the trial court erred when it denied his Motion to Suppress. But Jeffries is challenging the admission of evidence following his conviction rather than in an interlocutory appeal. Thus, the issue is more appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial. Bentley v. State, 846 N.E.2d 300, 304 (Ind. Ct. App. 2006), trans. denied. A trial court is afforded broad discretion in ruling on the admissibility of evidence, and we will reverse such a ruling only upon a showing of an abuse of discretion. Id. An abuse of discretion involves a decision that is clearly against the logic and effect of the facts and circumstances before the court. Id.

Jeffries maintains that the admission of the methamphetamine and Xanax violates his Fourth Amendment rights against unreasonable search and seizure. Specifically, Jeffries first argues that the police lacked a reasonable suspicion to seize him once they had entered Rush's apartment, as "[a]n anonymous tip alone is not enough to constitute reasonable suspicion necessary for a valid investigatory stop." Appellant's Brief at 8-9. Jeffries then contends that, while he was illegally seized, the officers illegally searched his pockets without first conducting a pat-down of his outer clothing. While we agree with those general principals and officer obligations, see, e.g. Washington v. State, 740 N.E.2d 1241, 1246 (Ind. Ct. App. 2000), trans. denied; Johnson v. State, 710 N.E.2d 925, 928 (Ind. Ct. App. 1999), Jeffries misapplies them to the facts of his case.

The Fourth Amendment protects persons from unreasonable search and seizure and this protection has been extended to the states through the Fourteenth Amendment.

Berry v. State, 704 N.E.2d 462, 464-65 (Ind. 1998) (citing Mapp v. Ohio, 367 U.S. 643, 650 (1961)). As a general rule, the Fourth Amendment prohibits a warrantless search. Id. at 465. When a search is conducted without a warrant, the State has the burden of proving that an exception to the warrant requirement existed at the time of the search. Id. Probable cause is a recognized exception. Id. (citing Robles v. State, 510 N.E.2d 660, 664 (Ind. 1987)). In addition, a police stop and limited search may be authorized on reasonable suspicion that “criminal activity may be afoot.” Id. (quoting Terry v. Ohio, 392 U.S. 1, 30 (1968)).

Generally, the reasonable suspicion that gives authority to a Terry stop does not, without more, authorize the examination of the contents of items carried by the suspicious person. Id. at 466. Nonetheless, the officer may conduct a carefully limited search of the outer clothing of the suspect in the interests of officer safety. Johnson, 710 N.E.2d at 928. And “where either the suspicion that criminal activity may be afoot or a concern over the possibility of harm is reasonably heightened during the stop, the police are authorized to search such items within the suspicious person’s immediate control.” Berry, 704 N.E.2d at 466.

The officers who searched and seized Jeffries had a reasonable suspicion, supported by articulable facts, that Jeffries may have been engaged in criminal activity. The officers did not proceed directly from the anonymous tip to seizing and searching Jeffries. Rather, after receiving the tip, Officer Polston independently investigated Jeffries’ car with a K-9 unit. As we have previously stated: “the investigation of an anonymous tip is clearly legitimate police activity so long as the investigation does not

violate applicable constitutional provisions.” Divello v. State, 782 N.E.2d 433, 437-38 (Ind. Ct. App. 2003), trans. denied. And as our supreme court has held, “a canine sweep of the exterior of a vehicle does not intrude upon a Fourth Amendment privacy interest.” Myers v. State, 839 N.E.2d 1146, 1149 (Ind. 2005). Here, the K-9 unit twice indicated that Jeffries’ car contained illegal substances. Thus, the officers were authorized to stop and briefly detain Jeffries for investigative purposes.

Further, the possibility of harm facing the officers was reasonably heightened during their Terry stop of Jeffries, thereby authorizing the officers to search Jeffries’ pockets without first conducting a pat-down. See Berry, 704 N.E.2d at 466. Once the officers, with Rush’s consent, were inside the apartment, they noticed a number of Jeffries’ characteristics indicated that he was under the influence of methamphetamine. Again, Jeffries appeared pale and disoriented, he was sweating profusely, and he gave the officers a blank stare with bloodshot eyes and dilated pupils. The officers identified that stare as a common look on individuals under the influence of methamphetamine and possibly about to engage the officers in an altercation. And as Jeffries approached the officers, he placed his hands in his front pockets and refused to remove them when ordered. Based on their individual training and experiences, the officers testified that they believed Jeffries could have hidden a weapon in a front pocket and that he could act, while under the influence of the methamphetamine, unpredictably and with unusual strength.

On these facts, we cannot say that the officers unreasonably searched and seized Jeffries when they grabbed him by the arms and removed the contents of his pockets.

The officers had a reasonable suspicion that Jeffries was engaged in criminal activity, and during their ensuing Terry stop Jeffries' appearance and conduct reasonably heightened the likelihood of harm the officers faced. Thus, the trial court did not abuse its discretion in admitting into evidence the contents of Jeffries' pockets.

Affirmed.

RILEY, J., and BARNES, J., concur.