Filing # 176840418 E-Filed 07/06/2023 03:11:24 PM

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT, IN AND FOR VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,
vs.

IYANNA Y ROLLINS,
Defendant
_____/

CASENO: 2022-101651-CFDL

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SUPPRESS

COMES NOW the Accused, IYANNA ROLLINS, by and through the undersigned counsel respectfully requests that this Court grant its motion to suppress, in support thereof provides this memorandum of law.

LEGAL ANALYSIS:

On July 18, 2022, Iyanna Rollins was eighteen years old, and newly high-school graduate. Instead of celebrating this momentous occasion with friends and family in fellowship, Ms. Rollins was illegally seized, verbally abused and assaulted. These acts were not perpetuated by another civilian, but by a sworn peace officer. In response to the repeated threats to her person, she expressed rancor. Legal scholar and professor of law, Kristin Henning articulated situations such is this in her law review article *The Reasonable Black Child: Race, Adolescence, and The Fourth Amendment*, where she states: "Throughout American history, blacks have had a tenuous relationship with police. In every critical era—slavery, Jim Crow, lynching, and the contemporary era of mass incarceration—blacks have perceived police to be proponents of discrimination and subordination through violence and intimidation.[1]" That fear was real to Ms. Rollins on July 18, 2022, as the first words from Sergeant Weaver to Ms. Rollins were aggressive, hostile, and profane. Yet, it didn't end in words, it escalated when Sergeant Weaver went into the occupied vehicle of Ms. Rollins and attempted to remove the keys from her vehicle, then forcibly removing her from the vehicle. An act which this state attorney's office would charge and prosecute anyone else to the fullest extent of the law of forcible felonies punishable by life. Professor Henning, stated: "Today, it is difficult to image any black person who is immune from the persistent national coverage of police-on-black killings. To account for these distinct experiences of black Americans with the police, at least two scholars have advocated for a reasonable African American standard in the Fourth Amendment construct.[2]"

A person is seized within the meaning of the Fourth Amendment if, considering the totality of the circumstances, a reasonable person would not have felt free to leave.[3] Sergeant Weaver illegally seized Ms. Rollins when he stopped her lane of travel, demanded she acquiescence to his show of authority by yelling commands to stop the fucking car, and ultimately reaching into her vehicle and physically assaulting her. The U.S. Supreme Court has held that the use of language or tone of voice indicating that compliance with the officer's request might be compelled and indicate a seizure.[4] Additionally a person is seized when he is restrained either by physical force or a "show of authority.[5]" The Florida Supreme Court has held that a stop is justified when an officer observes facts giving rise to a reasonable and well-founded suspicion that criminal activity has occurred or is about to occur.[6] Prior to illegally seizing Ms. Rollins, Sergeant Weaver had no reasonable articulable suspicion that Ms. Rollins had committed a crime. Sergeant Weaver had no description of a potential suspect or suspects, no identifying characteristics of a suspect or suspect vehicle, nor did he observe Ms. Rollins commit even a traffic infraction prior to her seizure.[7] All Sergeant Weaver observed was a vehicle backing out of a driveway, a vehicle that was not mentioned in any BOLO or radio as being suspicious.

The facts in *Fields v. State*[8] are persuasive and support the court granting Ms. Rollins motion to suppress. The Fields case began with a 911 call placed at 10pm by a resident in a subdivision, the caller stated she saw a black man on her elderly neighbors doorstep trying to turn the doorknob.[9] The male was wearing a white t-shirt, knit cap, hoodie, and blue jeans.[10] The deputy responded to the call and saw a man matching the description a block or two past that intersection in the roadway, walking.[11] The deputy activated his lights and stopped the man, who was Fields.[12] The deputy was walking towards Fields who was putting his hands in and out of his pockets, not complying with the deputies request to keep his hands out of his pockets and not walk away.[13] The deputy then grabs Fields arm and detains him arresting him for resisting without violence and loitering and prowling.[14] Prior to seizing Fields, the deputy testified he did not see him doing anything that caused immediate concern and did not observe any criminal activity.[15] The illegal seizure resulted in Fields being convicted of trafficking cocaine. In reversing Fields convictions, the district court found that it is undisputed that when the deputy told Fields to stop, cornered him at the patrol vehicle, and then grabbed his arm, a Fourth Amendment seizure occurred.[16] Further the court held that without an articulable suspicion of criminal activity, the investigatory detention and subsequent arrest and search of Fields was illegal, and thus the fruits of the search should have been suppressed.[17]

Ms. Rollins was not engaged in any criminal activity, and the improper stop constituted an illegal seizure under the Fourth Amendment, thus any subsequent statements and evidence including the identification of Ms. Rollins obtained from that seizure should be suppressed. To suggest that the illegal detention of Ms. Rollins was merely a "mistake" also misses the mark constitutionally, as the mistake by Sergeant Weaver was not reasonable. Police officers are people, and people make mistakes all the time.[18] That said, mistaken beliefs are not automatically forgiven simply because officers are human and make mistakes; if that were the standard, all mistakes would be overlooked and there would be little reason to exercise care and avoid misjudgments.[19] First there was nothing about the street signs that would cause confusion. As clearly depicted in Sergeant Weaver's body/dash camera, you can see the street sign indicating the name of the street, and that was not the street where the call for service was directed to. The lighting conditions were more than ideal, as it was in the afternoon and the sun was still out. There was no construction or anything interfering with the reading of the street sign or the traffic control device affixed to the street signs. Second, the decision to stop Ms. Rollins was not a split-second, life or death one; nor did it involve the operations of vehicles at a high rate of speed. The camera footage depicted the exact opposite, first Sergeant Weaver is traveling at a low rate of speed, and encounters multiple vehicles travelling in the opposite direction once he turned onto Academy Ave., Sergeant Weaver took no actions whatsoever to detain, investigate, or ascertain where they had come from, instead he observed a vehicle slowly, lawfully backing out of a driveway. Finally, after making the decision to seize Ms. Rollins, Sergeant Weaver did not hear any alarm, observe any one at a residence moving furtively or getting in or out of a window. Sergeant Weavers "mistake" was the product of implicit bias and not being objectively reasonable.

It's important to address cognitive shortcuts in the context of investigatory detentions, especially when no criminal activity has been observed. Professor Henning opined that "Police officers who must 'synthesize vast amounts of complex information' in a short period of time to ensure their own safety and the safety of others rely on cognitive shortcuts in their observations and judgments during on-the street encounters with civilians....Cognitive shortcuts involving race are referred to as "implicit racial bias" and include both "unconscious stereotypes (beliefs about social groups) and attitudes (feelings, either positive or negative, about social groups.)Implicit bias is so subtle that we are generally not aware of it and may act on it reflexively without realizing it.[20] Implicit racial bias evolves from our repeated exposure to cultural stereotypes in society and is activated by environmental stimuli, including cultural stereotypes, that cause us to associate crime and race, particularly crime and blackness.[21] Several studies on implicit racial bias have found that

individuals are more likely to interpret ambiguous behavior by blacks as more aggressive and consistent with violent intentions while interpreting the same behavior by whites as harmless.[22] Florida courts have held that the fact that a black person is merely walking in a predominantly white neighborhood does not indicate that he has committed, is committing, or is about to commit a crime.[23] Furthermore, racial incongruity a person being allegedly "out of place" in a particular area, cannot constitute a finding of reasonable suspicion of criminal behavior.[24]

The Florida Supreme Court has been firm in holding that the Fourth Amendment to the United States Constitution and section 12 of Florida's Declaration of Rights guarantee citizens the right to be free from unreasonable searches ands seizures.[25] Those searches are not limited to the person or home, as a traffic stop is a seizure. The U.S. Supreme Court has recognized that the warrantless arrest of a person is a species of seizure required by the Fourth Amendment to be reasonable.[26] The extreme display of authority by Sergeant Weaver not only using multiple profanities, standing in front of her vehicle, but entering her vehicle without her permission and physically grabbing her person in removing her from the vehicle exceeded Fourth Amendment protections and all done without any reasonable suspicion. It is the state's burden to establish that police had the necessary reasonable suspicion to detain an inidvidiual.[27] All evidence obtained including the identification of the Accused, as a result of the illegal seizure must be excluded as fruit of the poisonous tree.[28]

WHEREFORE the Defendant prays for this Honorable Court to grant the Defendant's motion to suppress.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this original document has been E-Filed with the Clerk of Court through the E-Portal and a copy of the foregoing has been E-Served to the Office of the State Attorney at EserviceVolusia@sao7.org, this the _6th__ day of June, 2023.

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[1] See Kristin Henning; *The Reasonable Black Child: Race, Adolescence, and The Fourth Amendment*, 67 Am. U.L. Rev. 1513 at 1530 (June 2018); citing Mia Carpinielle, Note, *Striking A Sincere Balance: A Reasonable Black Person Standard for "Location Plus Evasion"* Terry Stops, 6 MICH. J. RACE & L. 355, supra note 19, at 344 (2001).
[2] See Kristin Henning; *The Reasonable Black Child: Race, Adolescence, and The Fourth Amendment*, 67 Am. U.L. Rev. 1513 at 1530 (June 2018); citing Randall S. Susskind, *Race, Reasonable Articulable Suspicion, and Seizure*, 31 Am. Crim. L. Rev. 327, supra note 19, at 346-49 (1994); see also Carpiniello, supra note 19, at 356.
[3] See *United States v. Mendenhall*, 446 U.S. 544, 554 (1980).
[4] See Id.; citing *Terry v. Ohio*, 392 U.S. 1 at 19 (1968).
[5] See *California v. Hodari D.*, 499 U.S. 621-626-28 (1991).
[6] See *C.E.L. v. State*, 24 So.3d 1181 at 1186; citing *Davis v. State*, 973 So.2d 1277, 1279 (Fla. 2d DCA 2008); *Popple v. State*, 626 So.2d 185, 186 (Fla. 1993).
[7] See Transcr. Depo. Deputy Sheriff Chad Weaver 22:19-22 (Mar. 27, 2023).
[8] See *Fields v. State*, 292 So.3d 889 (Fla. 2d DCA 2020).
[9] Id at 891.
[10] Id.
[11] Id.
[12] Id.
[13] Id at 892.
[14] Id.
[15] Id.
[16] Id at 893.
[17] Id at 895; citing Weaver v. State, 233 So.3d 501, 504 (Fla. 2d DCA 2017); B.G. v. State, 213 So.3d 1016, 1019 (Fla. 2d DCA 2017); and Williams v. State, 769 So.2d 404, 406-07 (Fla. 2d DCA 2000).
[18] See Littles v. State, 354 So.3d 1169 at 1172 (Fla. 5th DCA 2023).
[19] Id.
[20] Id at 1543.
[21] Id.
[22] Id at 1546.
[23] See *Phillips v. State*, 781 So.2d 477 (Fla. 3d DCA 2001)
[24] Id.
[25] See *Golphin v. State*, 945 So.2d 1174, 1179 (Fla. 2006).
[26] See *Seiracki v. State*, 333 So.3d 802 (Fla. 2d DCA 2022); citing *Payton v. New York*, 445 U.S. 573 at 585 (1980).
[27] See *Dydek v. State*, 349 So.3d 521 (Fla. 2d DCA 2022); citing *K.W. v. State,* 328 So.3d 1022, *1025* (Fla. 2d DCA 2021).
[28] See *Wong Sun v. United States,* 371 U.S. 471, 485 (1963).