

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2002-CA-001415-MR

CHRISTOPHER DEMARCO HANLEY

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE REBECCA M. OVERSTREET, JUDGE  
ACTION NO. 02-CR-00226

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

\*\* \*\* \* \* \* \* \*

BEFORE: BAKER, BARBER, AND JOHNSON, JUDGES.

BAKER, JUDGE. Christopher DeMarco Hanley brings this appeal from a June 11, 2002, judgment of the Fayette Circuit Court. We affirm.

On February 25, 2002, appellant was indicted by the Fayette County Grand Jury upon eight counts of second degree possession of a forged instrument, Kentucky Revised Statutes (KRS) 516.060, one count of receiving stolen property, KRS 514.110, and for being a first degree persistent felony

offender, KRS 532.080. Appellant made a "Motion to Suppress Evidence" wherein he argued the University of Kentucky police made an illegal stop in violation of the Fourth Amendment of the United States Constitution and Section 10 of the Kentucky Constitution. Following an evidentiary hearing, the circuit court denied the motion.

Appellant then entered a conditional plea of guilty to four counts of second degree possession of a forged instrument and for being a first degree persistent felony offender. Ky. R. Crim. P. 8.09. By judgment dated June 11, 2002, the circuit court sentenced appellant to a total of thirteen years' imprisonment. This appeal follows.

Appellant contends "the University of Kentucky police officers lacked a reasonable articulable suspicion of criminal activity to stop appellant." Appellant argues that to justify an investigatory stop the police must possess reasonable suspicion of current criminal activity.

In the case at hand, University of Kentucky police officer Ray Sayre testified he observed appellant walking on Euclid Avenue and remembered having seen appellant's picture on a flyer distributed in the police department. He further testified of being advised during roll call that outstanding warrants existed for appellant's arrest. He also remembered the physical description of appellant mentioned a light-colored

jacket with the word "Chicago" on the front. Officer Sayre stated he first noticed the jacket with Chicago written on the front and thereupon followed appellant. After viewing appellant, Officer Sayre believed appellant was, indeed, the individual wanted on the flyer. He radioed for assistance and advised the department he had spotted appellant.

University of Kentucky Police Officer Chassity Betzing responded to Officer Sayre's call. She was the officer who had taken out the warrants for appellant's arrest. She testified that a flyer was circulated within the police department and that it contained appellant's photograph, physical description, social security number, date of birth and the reason he was wanted. Officer Betzing approached appellant and asked his name; appellant responded Christopher Hanley. Officer Betzing testified that she was then positive of appellant's identity. Officer Betzing asked appellant for his social security number, and while checking the number through dispatch, appellant fled. Appellant was apprehended a short distance away.

Appellant argues that "no evidence was adduced that Appellant, as he was walking down the street, was acting in a criminal or suspicious manner. Therefore, without that proof, the subsequent investigative stop and arrest of Appellant was improper and must be suppressed." Appellant's Brief at 6. We must disagree.

In United States v. Hensley, 469 U.S. 221, 229 & 231, 105 S.Ct. 675, 83 L. Ed. 2d 604 (1985), the Court concluded:

[I]f police have a reasonable suspicion, grounded in specific and articulable facts, that a person they encounter was involved in or is wanted in connection with a completed felony, then a *Terry* stop may be made to investigate that suspicion. . . .

. . .

We conclude that, if a flyer or bulletin has been issued on the basis of articulable facts supporting a reasonable suspicion that the wanted person has committed an offense, then reliance on that flyer or bulletin justifies a stop to check identification, . . . to pose questions to the person, or to detain the person briefly while attempting to obtain further information. (citation omitted).

Under Hensley, the police may make an investigatory stop if they have reasonable suspicion grounded in articulable facts that the person they encounter was involved in or is wanted in connection with a completed felony. As stated in Hensley, a flyer may constitute the basis for an investigatory stop. Consequently, we disagree with appellant that the police must have a reasonable suspicion that criminal activity is currently afoot to justify an investigatory stop.

In the case at hand, Officer Sayre was alerted to appellant because of his picture on a flyer distributed in the police department. Officer Betzing testified that she was familiar with the flyer and that she was the officer who had

taken out the warrants for appellant's arrest. Officer Betzing further testified that appellant stated his name was Christopher Hanley and that at that point she was positive of appellant's identity. Under these facts, we are of the opinion that the officers possessed a reasonable suspicion that appellant was involved in a completed felony and that the investigatory stop was justified under the precepts enunciated in Hensley.

For the foregoing reasons, the judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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