

# ARKANSAS COURT OF APPEALS

DIVISION II  
No. CACR10-1145

JOE MCKINLEY JONES

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** SEPTEMBER 21, 2011

APPEAL FROM THE SEBASTIAN  
COUNTY CIRCUIT COURT, FORT  
SMITH DISTRICT  
[NO. CR-2002-1140]

HONORABLE STEPHEN TABOR,  
JUDGE

AFFIRMED

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## JOSEPHINE LINKER HART, Judge

Joe McKinley Jones appeals from the circuit court's revocation of his suspended imposition of sentence on the crime of possession of cocaine with the intent to deliver. On appeal, Jones contends that the court erred at the revocation hearing by denying his motion to suppress evidence seized from his vehicle during a traffic stop. We affirm.

According to the testimony of Detective Greg Napier of the Fort Smith Police Department, a confidential informant told him that a woman, Latisha Longnecker, was selling crack cocaine. Detective Napier decided to have the informant make a controlled buy from Longnecker.

Detective Napier and the informant were about a block from the apartment complex where Longnecker lived when the informant identified the driver of a light-colored Mitsubishi traveling away from the apartment complex as "the dope man, that's the guy that



is bringing the dope right there.” According to the informant, Longnecker would make a telephone call and order drugs, and the source of the drugs would arrive with the drugs.

After the car left, the confidential informant entered the apartment complex. Over a listening device that had been concealed on the informant, Detective Napier heard Longnecker make a telephone call. A short while later, the Mitsubishi returned to the parking lot of the apartment complex. Longnecker exited an apartment, entered the vehicle, and less than a minute later, exited the car and returned to the apartment. The car left the apartment complex, followed by other officers.

The informant returned to Detective Napier with a white, rock-like substance. The informant told Detective Napier that it was sold to him as crack cocaine and that he had purchased it with buy money provided to him by Detective Napier. That substance was later determined to be 0.1095 grams of crack cocaine. According to the informant, Longnecker had taken the buy money outside, given it to the driver of the Mitsubishi, and returned to the apartment with the crack cocaine.

Detective Napier then radioed Officer Brian Rice to stop the car. Officer Rice testified that he stopped the car, which was driven by Jones. Rice’s narcotics dog alerted to the presence of narcotics near the car’s front-passenger door. A search of the car resulted in the seizure of 1.5225 grams of crack cocaine consisting of fourteen separately packaged rocks of crack cocaine. According to Detective Napier, Jones was also found to be in possession of the buy money.

At the revocation hearing, the circuit court denied Jones’s motion to suppress the items



seized from his car. On appeal, Jones argues that the evidence should have been suppressed because the police lacked probable cause to stop his vehicle. He asserts that Detective Napier, without corroboration, relied on hearsay from a person whose reliability had not been established as a basis for the stop. He further contends that Officer Rice stopped the vehicle merely because he was told by another officer to do so.<sup>1</sup>

The exclusionary rule does not apply to revocation hearings unless the defendant demonstrates that the officers conducting the search acted in bad faith. *Sherman v. State*, 2009 Ark. 275, 308 S.W.3d 614 (2009). “Bad faith” includes official misconduct that shocks the conscience of the court or officer’s actions where the primary purpose is to seek revocation or harass a defendant. *Alston v. State*, 2010 Ark. App. 592. Jones does not contend on appeal that the officers acted in bad faith. Absent this, we hold that the circuit court did not err in denying the motion to suppress evidence seized as a result of the stop. *See Alston, supra* (holding that the circuit court did not err in failing to suppress evidence seized during an investigatory stop where the appellant did not allege bad faith on the part of the officers).

Affirmed.

PITTMAN and ROBBINS, JJ., agree.

*David L. Dunagin*, for appellant.

*Dustin McDaniel*, Att’y Gen., by: *Rebecca B. Kane*, Ass’t Att’y Gen., for appellee.

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<sup>1</sup>Jones also asserts that Napier tested the crack cocaine at the police station before he requested the stop, but that assertion is not established by a reading of the transcript.