

ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR08-1313

ERNEST DEAN WADE,

APPELLANT

V.

STATE OF ARKANSAS,

APPELLEE

Opinion Delivered SEPTEMBER 2, 2009

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT
[NO. CR-2007-2434-1]

HONORABLE WILLIAM A. STOREY,
JUDGE,

AFFIRMED

KAREN R. BAKER, Judge

Appellant Ernest Dean Wade challenges his conviction as an accomplice to possession of drug paraphernalia with intent to manufacture methamphetamine. He argues that the trial court erred in failing to suppress both a statement and physical evidence obtained by officers during a traffic stop. We find no merit to his argument and affirm.

On the night of October 11, 2007, a caller from the Neighborhood Market Wal-Mart reported consecutive purchases of a large number of matches¹ to the Fayetteville Police Department and described the vehicle in which the purchasers left the parking lot. Following the receipt of the caller's report, Corporal Lee, who was on patrol with the Fayetteville Police Department, observed a white Chevy van matching the caller's description of the vehicle.

¹During the suppression hearing, Corporal Robbins with the Fayetteville Police Department identified the strike plate of a packet of matches as one ingredient in the manufacture of methamphetamine.

When he noticed that the tags on the vehicle were expired, Corporal Lee initiated a traffic stop.

Two men occupied the vehicle. One was the driver. The other was appellant who was a passenger in the van. In addition to the van being unlicensed, the driver did not have a driver's license or proof of insurance. Corporal Robbins arrived to assist Corporal Lee and, in verifying appellant's identity, learned that there was possibly an outstanding warrant for appellant's arrest. He then requested appellant to step out of the vehicle while waiting for confirmation of the warrant.

Corporal Robbins testified that, as appellant exited the vehicle, he smelled on appellant a strong chemical odor that he recognized as methamphetamine. After checking appellant for weapons and drugs, he observed Corporal Lee take the driver into custody. He then read appellant his *Miranda* warnings. In response to Corporal Robbins's questions and requests, appellant brought Corporal Robbins the bags of matches, some with strike plates removed. Appellant told Corporal Robbins that he had purchased the items to take to someone who cooked methamphetamine for him. Shortly thereafter, Corporal Robbins received confirmation of the warrant and placed appellant under arrest for the outstanding warrant. In the course of the inventory of the vehicle, the officers found another bag of strike plates removed from the match packages.

Following a hearing on a motion to suppress appellant's statement and evidence, the trial court found that the detention of appellant was proper in that Officer Robbins learned almost immediately that there was a high probability that a warrant for appellant's arrest

remained outstanding. Appellant does not argue that detention of appellant was unreasonable given the probability that a valid warrant for his arrest had been issued by a district court.

Appellant argues that the facts and circumstances necessary to form a reasonable suspicion to support an investigatory stop of appellant were lacking in this case. He does not contend that either the initial stop of the vehicle for expired tags or the subsequent arrest of the driver on various traffic offenses was improper. *See Sims v. State*, 356 Ark. 507, 157 S.W.3d 530 (2003). Neither does he argue that the outstanding warrant, for which appellant was arrested at the scene, was invalid. Instead, appellant focuses upon the call, concerning the suspicious purchase of large numbers of matches, as the basis for appellant's detention by law enforcement. This focus is misplaced. *See Summers v. State*, 90 Ark. App. 25, 203 S.W.3d 638 (2005).

Appellant's attempt to apply the reasoning in *Summers, supra*, fails. In *Summers*, the consensual search of appellant's home was based upon statements made by appellant to the officers following his illegal seizure. There was no break in time between the events leading up to appellant's unlawful arrest and the inculpatory statements he made that led to the search. In other words, the primary taint of the unlawful seizure had not been sufficiently attenuated or purged. Under those circumstances, the fruits of the consensual search were poisoned by the officers' unlawful conduct in seizing appellant. Accordingly, we concluded that the appellant in *Summers* was deprived of his Fourth Amendment rights and that the evidence should have been suppressed.

However, appellant in this case was initially detained pursuant to a traffic stop of a

vehicle that had an expired license. The detention continued when the routine verification of his identity indicated an apparently outstanding warrant for his arrest, followed by his arrest pursuant to that outstanding warrant when the warrant was confirmed. Under these facts, the trial court did not err in finding that the seizure of appellant was lawful. Appellant was properly Mirandized prior to any questioning by the officer, and his statement and actions in retrieving the paraphernalia were done with full knowledge of his rights.

Accordingly, we find no error and affirm.

KINARD and HENRY, JJ., agree.