

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

<b>STATE OF MISSOURI,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Case No. 1116-CR02911-01</b>
<b>v.</b>	)	
	)	<b>Division 8</b>
<b>DEANGILO R. SMITH,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER GRANTING DEFENDANT’S MOTION TO SUPPRESS  
PHYSICAL EVIDENCE**

Before the Court is the Defendant’s Motion to Suppress Physical Evidence. The matter is called for hearing on February 27, 2015. The state presented the testimony of P. O. Jason Quint and Det. Anthony Halford. The Court takes the matter under advisement and thereafter upon careful consideration of the pleadings and argument presented does find that suppression of certain physical evidence is legally required under the facts of the case presented heretofore.

It is undisputed that on January 7, 2011, Officer Quint and Det. Halford (then Officer Halford) were working proactively at the direction of their superior officer at the apartment building (hereinafter the “building”) located at 3015 Paseo, Kansas City, Missouri. The information adduced was that there had been numerous complaints made about that apartment complex involving disturbances, suspicious parties and a high number of calls for service. However, there was no specific individual or unit identified as the particular source of the concern leading to the police action that evening. When Officers Quint and Halford arrived at the building, they entered through an unsecured backdoor into common area and almost immediately heard multiple distinct voices

coming from unit 103. The Officer's testimony was that the number of voices heard indicated to them that there were more occupants in unit 103 than the two (2) of them and at that point for officer's safety they withdrew to a safer location within the building and radioed for additional members of their squad to respond and provide backup support. While they were waiting for the other members to arrive at the building, parties began to exit unit 103 and approached them near the exit where Officers Quint and Halford were waiting. Again, for officer safety purposes (as testified to by both P.O. Quint and Det. Halford), the subjects were handcuffed as they left the unit and approached the officers, asked for their identification, and patted down for weapons which was negative. Included in the group of people who left unit 103 was the defendant, Deangilo R. Smith. Defendant was kept in handcuffs after he had been patted and provided his identification to the officers, while the police officers waited for information on Mr. Smith from dispatch. During this time, the other members of Officer Quint and Halford's unit had arrived to assist. Ultimately dispatch informed the Officers that Mr. Smith had outstanding city warrants and was searched incident to arrest at which time a quantity of narcotics was found in his front left pocket. The possession of this substance serves as the basis of the charge pending against Mr. Smith in this action.

“At a motion to suppress hearing, ‘the state bears both the burden of producing evidence and the risk on nonpersuasion to show by a preponderance of the evidence that the motion to suppress should be overruled.’” *State v. Faruqi*, 344 S.W.3d 193, 199 (Mo. banc 2011) (quoting *State v. Franklin*, 841 S.W.2d 639, 644 (Mo. banc 1992)). It is axiomatic that “if a detention continues ‘beyond the time reasonably necessary to effect its initial purpose, the seizure may lose its lawful character unless a new factual predicate

for reasonable suspicion is found during the period of lawful seizure.” *State v. Weddle*, 18 S.W.3d 389, 394 (Mo. App. E.D. 2000) (quoting *State v. Stevens*, 845 S.W.2d 124, 128 (Mo. App. E.D. 1993)). “The scope of the detention must be carefully tailored to its underlying justification.” *Florida v. Royer*, 460 U.S. 491, 500; 103 S.Ct. 1319; 75 L.Ed.2d 229 (1983). “However, courts have widely accepted handcuffing during an investigatory detention under conditions in which the officer believes he needs to take reasonably necessary precautions to protect himself or the public or to maintain the status quo.” *State v. Johnson*, 427 S.W.3d 867, 874 (Mo. App. E.D. 2014).

In this case the justification for the detention was for officer’s safety which the Court concludes to be legitimate and appropriate in all respects. However, given the lapse in time from the date of the arrest to the date of the hearing on the Motion to Suppress, memories with respect to specific events and the sequence of such events are, understandably, hazy at best. Thus, based on the credible evidence presented, the Court finds that the detention, including handcuffing for officer safety, was completed prior to information concerning the Defendant’s outstanding warrants being received by the arresting officers and therefore, the underlying justification of insuring officer’s safety was effectuated and there was no new factual predicate to establish reasonable suspicion necessitating that the Defendant remain in handcuffs and effectively be placed under arrest. In summary, the State has failed to meet its burden to show that the motion to suppress should be overruled.

THEREFORE IT IS HEREBY ORDERED that Defendant’s Motion to Suppress Physical Evidence is GRANTED.

**IT IS SO ORDERED.**

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Date

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Hon. Bryan E. Round