

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

TOREY M. HUEGLI,

05-CR-060-S-01

Defendant.

---

Defendant Tory M. Huegli has been charged with unlawfully possessing pseudoephedrine knowing that it would be used to manufacture methamphetamine in violation of 21 U.S.C. §841(c)(2). He moves to suppress all evidence derived from his allegedly unlawful investigative detention and to suppress his post-arrest statements to the police because they were involuntary.

On May 26, 2005 the Honorable Stephen L. Crocker, United States Magistrate Judge, held an evidentiary hearing on these motions. On July 21, 2005 the Magistrate Judge recommended that defendant's motions be denied.

On August 1, 2005 defendant filed an objection to the report and recommendation. Specifically, he objects to the Magistrate Judge's finding that the investigatory stop did not violate his Fourth Amendment rights. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court reviews the report and recommendation and finds as follows.

## FACTS

Brandon Quam, a loss prevention officer at Shopko at West Town Shopping Mall, Madison, Wisconsin, called the police on March 13, 2005 to report that two men bought pseudoephedrine. Quam had watched them enter a black Dodge Durango with Iowa plates, open the pseudoephedrine and place it in a bag. Quam observed the Durango enter the adjacent Cub store parking lot.

Madison Police Officer Joshua Acker responded and met Quam. Officer Sarah Olson also responded and was advised by Quam that a police officer was talking to the individuals in the Durango. Officer Olson saw Officer Allen interview Grant Miller who was sitting in the driver's seat of the Durango. Huegli approached the Durango. Officer Olson asked him to stop. He asked her what was happening. Officer Olson advised Huegli that Officer Allen was talking to Miller about something that had happened in the store and asked Huegli for identification.

Huegli stated he had no identification documents with him. Olson then asked him to spell his name and provide his birth date. Huegli told Officer Olson that his name was Torey L. Anderson and his birth date was August 11, 1973 but then changed the year to 1972. He divulged his home address and phone number but did not advise that the State of Iowa had issued a warrant for his arrest.

Officer Olson could not locate anyone in Wisconsin or Iowa with the information provided by Huegli and so advised him. She

asked him if he was lying. Huegli continued to refuse to provide any information to verify his actual identity. Officer Olson informed Huegli that police had been called to investigate the possibility that he and Miller had bought Sudafed for the purpose of manufacturing methamphetamine. Huegli admitted that he bought Sudafed at Shopko but claimed it was for his sick girlfriend.

Madison Police Sergeant Peregoy and Officer Olson decided to handcuff Huegli and place him in a squad car because they could find no record verifying his identity as Torey Anderson. They then formally arrested him for obstructing and for lying about his identity.

#### MEMORANDUM

Defendant objects to the Magistrate Judge's finding that Officer Olson had sufficient grounds for an investigatory detention. A consensual citizen police encounter involves no restraint on a subject's liberty and is characterized by non-coercive police questioning of a citizen who voluntarily cooperates. United States v. Scheets, 188 F. 3d 829, 836-37 (7<sup>th</sup> Cir. 1999).

Officer Olson's initial contact with Huegli was consensual. He approached her. While Olson conversed with Huegli concerning his identity he remained unrestrained in the parking lot. This was a consensual encounter.

Had the stop become a Terry stop, a brief, non-intrusive detention, it complied with the Fourth Amendment because Officer Olson had reasonable suspicion that Huegli had engaged in criminal activity. Quam reported to the police officers certain behaviors by Miller and Huegli that supported a reasonable suspicion that Miller and Huegli were buying pseudoephedrine products for the purpose of manufacturing methamphetamine. The Court agrees with the Magistrate's finding that Olson's stop of Huegli did not violate his Fourth Amendment rights. Accordingly, the Court adopts the Magistrate Judge's recommendation that the motion to suppress evidence derived from this stop should be denied.

Defendant does not object to the Magistrate Judge's finding that his post-arrest statements were voluntary. Accordingly, the Court adopts the Magistrate Judge's recommendation to deny defendant's motion to suppress these statements.

ORDER

IT IS ORDERED that the recommendation of the Magistrate Judge to deny defendant's motion to suppress evidence and his post-arrest statements is ADOPTED.

IT IS FURTHER ORDERED that defendant's motion to suppress evidence and his post-arrest statements is DENIED.

Entered this 3<sup>rd</sup> day of August, 2005.

BY THE COURT:

S/

---

JOHN C. SHABAZ  
District Judge