

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MEMORANDUM and ORDER

KEVIN D. LOFFTIN,

06-CR-205-S

Defendant.

Defendant Kevin D. Lofftin was charged with possession of ammunition as a felon in violation of 18 U.S.C. § 922(g)(1). On February 8, 2007 the defendant pled guilty to this charge.

Defendant has moved to suppress evidence. On February 2, 2007 the Honorable Stephen L. Crocker, United States Magistrate Judge, recommended that defendant's motion to suppress evidence be denied.

On February 12, 2007 defendant filed objections to the report and recommendation. He does not object to the proposed findings of fact but objects to the Magistrate Judge's conclusions of law that the initial stop was not an arrest and that had it been an arrest probable cause existed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court reviews the report and recommendation and finds as follows. The Court adopts the findings of fact found by the Magistrate Judge.

MEMORANDUM

The Magistrate Judge found that the initial stop of Lofftin's vehicle by Madison Police Detective Jeff Twing was not an arrest because the defendant did not submit to the authority of the police officer and fled. Defendant contends that it was a seizure and not a traffic stop.

This Court finds that the initial stop of defendant Lofftin by Officer Twing was not a seizure and only had to be supported by a reasonable suspicion that a crime is about to be or has been committed. United States v. McDonald, 453 F.3d 958, 960 (7th Cir. 2006). Based on the undisputed facts the officer stopped Lofftin's vehicle because he reasonably believed that Lofftin unlawfully possessed ammunition.

Defendant also objects to the Magistrate's finding that in the alternative probable cause existed for the stop. The undisputed facts including defendant's flight from the officers confirms that it was reasonable for the officers to believe that defendant unlawfully possessed ammunition. United States v. Parra, 402 F.3d 752 (7th Cir. 2005). The Court adopts the Magistrate Judge's legal conclusions.

The Court adopts the Magistrate Judge's recommendation that the motion to suppress the evidence should be denied. Defendant's motion to suppress evidence will be denied.

ORDER

IT IS ORDERED that the recommendation of the Magistrate Judge to deny defendant's motion to suppress evidence is ADOPTED.

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IT IS FURTHER ORDERED that defendant's motion to suppress evidence is DENIED.

Entered this 13th day of February, 2007.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge