

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

LONNIE WHITAKER,

Defendant.

ORDER

07-cr-00123-bbc

Defendant Lonnie Whitaker has filed objections to the report and recommendation entered by United States Magistrate Judge Stephen L. Crocker. He takes issue with the magistrate judge's recommendation to the court to deny defendant's motion to suppress the firearm discovered by police officers who conducted a warrantless search of defendant's car on June 17, 2007.

From my own review of the magistrate judge's report, the objections, the transcript of the evidentiary hearing held before the magistrate judge and the briefs filed in connection with the hearing, I am persuaded that the magistrate judge made the correct recommendation and I will adopt it. His analysis of the officers' search of defendant's car after they responded to 911 calls from two different persons is thorough and correct.

Defendant contends that the police cannot rely on their “collective knowledge” of the information in the two calls, but the magistrate judge explained persuasively why defendant’s contention is erroneous, addressing defendant’s contentions that the second 911 call could not be relied upon because it was anonymous and the first call was too vague to be considered as corroboration for the second one.

I agree with the magistrate judge that the officers had reasonable suspicion to believe that defendant was armed or presented a threat to the officers when they undertook a protective sweep of the interior of the car to check for weapons. One modest element of their calculus was the reluctance of defendant’s passenger’s to step away from the car. In itself, her reluctance would not have supplied reasonable suspicion; added to what the police already knew, it lent weight to the likelihood that the gun was still in the car.

ORDER

IT IS ORDERED that the magistrate judge’s recommendation to deny defendant Lonnie Whitaker’s motion to suppress the firearm found in his car on June 17, 2007, is

ADOPTED. Defendant's motion to suppress the firearm is DENIED.

Entered this 21st day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge