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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

FILED
MAR 10 1981
CLERK, U. S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 81-00016-A
)
 CHARLES FREDERICK REBOZO)

ORDER

The defendant has filed a number of motions which are pending before the court. After filing the motions the defendant reached certain agreements with the government which makes the motions moot. In addition the defendant has waived a jury.

Accordingly, it is hereby ORDERED:

1. Defendant's Motion for Discovery and Inspection is dismissed;
2. Defendant's Motion for a Bill of Particulars is dismissed;
3. Defendant's Motion to File Additional Pretrial Motions is dismissed;
4. Defendant's Motion to Conduct Individual Voir Dire is dismissed;
5. Defendant's Motion to Prohibit Prior Jury Service in Similar Cases is dismissed; and
6. Defendant's Motion to Compel Disclosure of the United States Attorney's Jury Selection Data is dismissed.

The Clerk shall send copies of this order to the parties.

(7) Defendant's motion to suppress evidence is denied.

Richard L. Williams
United States District Judge

Date: March 10, 1981

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MEMORANDUM OPINION AND ORDER

This matter is before the court on the defendant's Motion to Suppress Evidence. The motion was briefed by the parties and came on for argument before the court on March 6, 1981. For the reasons stated in this opinion, the defendant's Motion to Suppress Evidence is denied.

Charles Frederick Rebozo arrived at the Washington National Airport at 2:15 p.m., January 2, 1981 aboard an Air Florida flight. When the plane touched down, the defendant was unconscious and the flight attendants had been unable to revive him. The attendants summoned the Washington National Airport fire station requesting assistance. Paramedics Cunningham and Smith and Federal Aviation Administration (FAA) police officer Walker responded to the request.

Cunningham arrived first at the scene and testified at the hearing held before this court on March 6, 1981. He was informed by the airline flight attendants that the defendant appeared to have been on some kind of medication when he boarded the plane. He was also informed that the defendant had been drinking while on the plane. He had not responded to the flight crew's attempt to revive him using ammonia inhalants. Cunningham approached the defendant and tried to revive him by shouting, shaking him and placing an ammonia inhalant under his nose. He was unsuccessful in reviving him. Cunningham next searched defendant's body for medic alert tags. He found none. Defendant's vital signs were taken and appeared near enough to normal such that the situation was not an immediate matter of life and death.

Cunningham continued to search for medic alert tags or for any kind of medication the defendant may have been on. He requested the defendant's luggage from the flight attendants and was given a satchel which the defendant had carried on board with him. Cunningham searched the satchel for pill bottles or medic alert tags. In the course of his search he came across a yellow shoe bag which was folded shut. He opened the bag and saw inside of it a number of white envelopes partially closed and tied with a rubber band. Inside the envelopes were plastic bags containing a white powder. Cunningham spotted the plastic bags as he opened the shoe bag and brought them to the attention of FAA police officer Walker who had arrived shortly after Cunningham. Cunningham then continued his efforts to revive the defendant until he was carried away on a stretcher.

Officer Walker took custody of the carry-on bag containing the plastic bags filled with white powder. Officer Walker suspected that the white powder was some form of narcotics. He radioed his supervisor, Detective Grimes. Detective Grimes arrived on the plane and performed a DEA field test on the white powder, determining it to be cocaine.

The sole motivation for Cunningham's search of the defendant's luggage was to locate medic alert tags or medication that the defendant may have taken to cause him to be unconscious. Officer Walker initially saw the cocaine in plain view as a result of the legitimate search performed by paramedic Cunningham. At the time Detective Grimes tested the substance, it was in the lawful possession of officer Walker.

The search of the defendant's bag here was in full compliance with the requirements of the Fourteenth Amendment. Cunningham was acting in accordance with the demands of a medical emergency. He feared the defendant's condition might have resulted from a combination of alcohol and improper medication. He was not required by the Fourteenth Amendment to obtain a search warrant in such a situation. The Fourth

Amendment does not bar officers from warrantless searches when they reasonably believe a person is in need of immediate care. Mincey v. Arizona, 430 U.S. 385 (1977). The police may seize any evidence that is in plain view during the course of a legitimate emergency activity. Id. The Fourth Circuit has endorsed this point in United States v. Presler, 610 F.2d 1260 (4th Cir. 1979). In Presler, the Court of Appeals sanctioned the entry of police officers into a premises for the purpose of determining whether the defendant was in need of immediate aid. Once on the premises, the officers could seize any evidence in plain view. Id. at 1211.

Once the cocaine initially spotted by paramedic Cunningham and then seized by officer Walker was in Walker's possession, any further contact the cocaine had with the police department is beside the point for Fourth Amendment purposes.

Wherefore, it is ORDERED that defendant's Motion to Suppress Evidence is denied.

The Clerk shall send copies of this Memorandum and Order to the parties.

Richard L. Williams
United States District Judge

Date: March 10, 1981