

Summary of SC93296, *State of Missouri v. Tyoka L. Lovelady*

Appeal from the Jackson County Circuit Court, Judge W. Brent Powell
Argued and submitted November 7, 2013; opinion issued May 13, 2014

Attorneys: Lovelady was represented by Susan L. Hogan of the public defender's office in Kansas City, (816) 889-7699, and the state was represented by Todd T. Smith and Evan J. Buchheim of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals from the trial court's judgment convicting him of possession of a controlled substance. He argues that the trial court erred in overruling his motion to suppress (exclude) evidence of cocaine base because that evidence was found only through a search of his pockets that violated his rights under the Fourth Amendment of the United States Constitution and under article I, section 15 of the Missouri Constitution. In a unanimous opinion by Judge Laura Denver Stith, the Supreme Court of Missouri affirms the judgment.

Facts: Officers patrolling a high crime area in Kansas City late at night encountered Tyoka Lovelady riding a bicycle in circles around an intersection. When they drove by, he waved and told them, "He went that way," while pointing down the street. As he motioned, they saw he possessed what appeared to be a firearm protruding from his waistband. They handcuffed and disarmed him, determining the item was an Airsoft toy gun that resembled a real gun. Lovelady appeared intoxicated. The officers called in a warrant check on Lovelady that returned a pickup order. They placed him under arrest and searched him for contraband, finding a kitchen knife and a white substance that field tests indicated contained cocaine. The state charged Lovelady with possession of a controlled substance, and Lovelady filed a pretrial motion to suppress the evidence found on him during the arrest as the fruit of an illegal search. After a hearing, the trial court overruled the motion and concluded the officers had reasonable suspicion to continue to detain Lovelady after they discovered the gun was not real. The case proceeded to a trial before a judge rather than a jury. The parties stipulated to the evidence that was introduced at the hearing, and Lovelady objected to the introduction of the evidence found during the search. The court found Lovelady guilty of possession of a controlled substance and entered judgment against him. Lovelady appeals.

AFFIRMED.

Court en banc holds: The trial court did not clearly err in overruling Lovelady's motion to suppress evidence or his objections to the introduction of that evidence. Even after the officers determined the gun was not real, the circumstances supported continued reasonable suspicion, as Lovelady was riding his bicycle late at night in circles in a high crime area, could not explain why he stated to the officers "He went that way," appeared to be intoxicated, and possessed what appeared to be a firearm. Accordingly, the officers' continued detention of Lovelady did not violate his rights under the Fourth Amendment or article I, section 15.