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JUL 25 1991
CLERK, SUPREME COURT
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IN THE SUPREME COURT
STATE OF FLORIDA

STATE OF FLORIDA,

Petitioner,

vs.

THURSTON McCLAIN,

Respondent.

CASE NO.: 77,713
2ND DISTRICT NO. 88-03456

DISCRETIONARY REVIEW OF THE DECISION OF THE
SECOND DISTRICT COURT OF APPEAL
SECOND DISTRICT

RESPONDENT'S ANSWER BRIEF

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PRELIMINARY STATEMENT

Defendant, Thurston McClain, is referred to as "Respondent" in this brief.

Reference to the record on appeal will be designated by "R" followed by the page number.

References to the transcript of the hearing on the Motion to Suppress will also be preceded by "R" followed by the record page number, not the transcript of hearing page number.

STATEMENT OF THE CASE

Respondent was arrested on April 9, 1988, for possession of cocaine and was so charged by Information filed on May 3, 1988 (R-1). Respondent filed his Motion to Suppress (R-6) which was heard on October 10, 1988, before Circuit Court Judge, J. Dale Durrance. After hearing testimony, the trial judge denied Respondent's motion finding:

> . . .(T)he total circumstances observed by the officers that interpreted in light of the officer's knowledge and training reasonably indicate that there was possible presence of criminal activity and that the officers did have the right to stop and detain and make an inquiry. But the Court further finds that this was not a search, that it was an abandonment of the property, since he threw it down in the officer's presence and the officer observed that. The officers had every right to secure this, the officers had probable cause to effect an arrest. Motion is denied (R-37) (emphasis added).

Respondent entered a no contest plea reserving his right to appeal denial of his Motion to Suppress. He was sentenced on November 17, 1988, being placed on probation for five years. Notice of Appeal was filed December 6, 1988 (R-65).

The Second District Court of Appeals reviewed whether stop of Respondent was a consensual encounter or a seizure of the person, whether there was an abandonment of the substance in question and whether if a seizure of the person the stop was lawful. The court found there was not consensual encounter, there was not a well-founded suspicion justifying the stop and there was not a "voluntary" abandonment. Denial of Motion to Suppress was reversed. The Court certified the

same question certified in Anderson v. State, 16 FLW D264 (Fla. 2d DCA, January 23, 1991).

STATEMENT OF FACTS

At about 9:00 a.m., April 9, 1988, Lakeland Police Officer Gidden observed Appellant leaning into a vehicle parked in a parking lot to the rear of the Blue Bar (R-13). The bar was located in an area known for drug transactions and use (R-13 to 14). Appellant was not observed to have flagged down the vehicle, as Appellant was standing at the vehicle when he was first observed (R-13 and 16). Officer Gidden did not know Appellant, any of the persons in the vehicle or any of the several bystanders in the parking lot (R-28). Appellant was standing approximately 20 feet from other bystanders in the parking lot, according to Officer Gidden (R-25). No transaction was observed to have taken place between the Appellant and any person in the vehicle (R-25).

Officer Gidden was in a marked patrol car and in uniform (R-16) and was accompanied by a trainee (R-18). As he approached, he heard one of several people in the area of the Appellant yell "fire in the hole." It was yelled several times (R-16). The officer did not know which of the bystanders yelled, nor did he have reason to believe such yelling was directed at Appellant (R-24), except that he knew "fire in the hole" to be a warning that means police are in the area or on their way (R-17 to 18). The warning gave Officer Gidden "the feeling there was a crime about to be committed or being committed" (R-27). After the warning was

yelled several times, Appellant began walking away from the vehicle (R-16, 17 and 18). The officer was unable to observe whether any of the other males in the parking lot walked away or otherwise responded when the "warning" was yelled; he was watching the Appellant (R-32).

At no time did Appellant run or attempt to flee. He was walking with both hands in his pockets (R-20). Neither bystanders or occupants of the vehicle were ever questioned or stopped (R-25). The officer approached Appellant by pulling in front of him in his patrol car (R-18) so that the officer's driver's side was in front of Appellant (R-19). Appellant was approximately five (5) feet from the patrol car (R-19). Officer Gidden exited his patrol car as he was saying (R-30), "(S)top, take your hands out of your pockets" (R-29). The officer had no reason to believe Appellant was armed (R-27 and 29), but asked him to remove his hands for his own safety (R-29).

Appellant began to approach the officer as he removed his hands from his pockets, and as he removed his hands, the officer saw an object fall from his pocket to the ground. The officer was moving toward Appellant so that he would not run (R-21). Upon closer examination Officer Gidden recognized the object to be cocaine and performed a Valtox test resulting in a positive finding.

The officer agrees he would not have stopped Appellant but for the "incriminating" warning (R-28 to 29). The State

agreed at hearing that there would not be a founded suspicion of criminal activity supporting the detention but for the "incriminating" warning (R-34 to 35), and cited State v. James, 526 So.2d 188 (Fla. 3d DCA 1988) in support.

QUESTIONED PRESENTED

1. Had the Respondent been unlawfully seized at the time the incriminating evidence was dropped so as to render seizure of the evidence unlawful?

2. Was the disclosure of suspect cocaine a direct result of unlawful detention of Respondent?

3. Does this Court have jurisdiction to review the lawfulness of the stop? If so,

   A. Whether the stop of Appellant amounted to a Terry detention.

   B. Whether, based on Officer Gidden's observations, he had a well-founded suspicion Appellant had committed, was committing or was about to commit a crime.

SUMMARY OF THE ARGUMENT

The question certified by the Second District Court of Appeals is:

> CAN AN ABANDONMENT OF PROPERTY AFTER AN ILLEGAL POLICE STOP, BUT NOT PURSUANT TO A SEARCH, BE CONSIDERED INVOLUNTARY.

Subsequent to certification of this question, California v. Hodari, Infra., was decided by the United States Supreme Court answering the certified question. The answer is that such a seizure is unlawful.

This Court is without jurisdiction to redecide issues not certified, specifically whether there was a seizure of the person of the Respondent and whether Officer Gidden had a well-founded suspicion of criminal activity to justify detaining Respondent. However, if these issues are reviewed, it is clear that the record does not support a finding that there was a consensual encounter or fleeing as opposed to a detention, that the officer had legal justification for the stop, nor that the Respondent's conduct amounted to a voluntary abandonment.

ARGUMENT

I. UNDER THE GUIDELINES OF THE RECENT UNITED STATES SUPREME COURT CASE, RESPONDENT HAD BEEN UNLAWFULLY "SEIZED" SO AS TO RENDER SEIZURE OF THE SUBSTANCE IN QUESTION UNLAWFUL.

In deciding that there was not a consensual encounter and there being no evidence Respondent fled, the Second District Court of Appeals has decided this question.

The certified question can be answered, at least in the case of Respondent, Thurston McClain, by applying the principles set forth in the resent United States Supreme Court case, California v. Hodari, 5 Fed.L.W. S249 (April 26, 1991), decided after this case was certified. The facts in Hodari are distinguishable from those in this case in that Hodari was in the process of fleeing from officers when he threw the incriminating property away. Respondent was not fleeing, and was, in fact, effectively detained by the officer when the property fell from his pocket. In Hodari, California conceded that the officer in pursuit did not possess the requisite well-founded suspicion to justify a lawful detention. Similarly, the Second District Court of Appeals found that the detention of Respondent was not lawful--was not based on well-founded suspicion.

The United States Supreme Court applied a "totality-of-circumstances" test in deciding whether Hodari had been seized. Whether he had been "seized" was the predicate question in deciding whether seizure of the discarded property

was lawful. This is similar to a voluntariness test, but the Court did not per se perform a voluntariness analysis. Hodari argued that a seizure occurs "when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen." The Court found there was a "show of authority" to which Hodari did not respond. Then:

> the narrow question before us is whether, with respect to a show of authority as with respect to application of physical force, a seizure occurs even though the subject does not yield. We hold that it does not.

The Court was obviously concerned with making a categorization related to "show of authority" which could prove to be unreasonable or absurd, such as:

> (The Fourth Amendment) does not remotely apply, however, to the prospect of a policeman yelling, "Stop, in the name of the law!" at a fleeing form that continues to flee. That is no seizure.

Id. The Court further cited Brower v. Inyo County, 489 U.S. 593, 596 (1989):

> In that case, police cars with flashing lights had chased the decedent for 20 miles--surely an adequate "show of authority"--but he did not stop until his fatal crash into a police-erected blockade. The issue was whether his death could be held to be the consequence of an unreasonable seizure in violation of the Fourth Amendment. We did not even consider the possibility that a seizure could have occurred during the course of the chase because, as we explained, that "show of authority" did not produce his stop.

Thus, the test is not strictly whether there is a show of authority or attempted physical restraint, but seems to be (1) "when the officer, by means of physical force or show of

authority, has in some way restrained the liberty of a citizen," Id. at 250, citing Terry v. Ohio, 392 U.S. 1, 19, n. 16 (1968), AND (2) there was submission to that authority. "Show of authority" is shown by an objective test:

> not whether the citizen perceived that he was being ordered to restrict his movement, but whether the officer's words and actions would have conveyed that to a reasonable person,

Id., referring to United States v. Mendenhall, 446 U.S. 544 (1980).

Applying the Hodari rationale, Respondent had been seized. There was a "show of authority." The officer was in a marked patrol car and in uniform. He pulled in front of Respondent so as to block his path. Respondent was walking, not running. The officer stopped with the driver's door of his vehicle facing Respondent. The officer got out of his vehicle and ordered Respondent to "stop and take his hands from his pockets." The officer's vehicle was only five feet from Respondent. He and Respondent moved toward each other (the wrong way to go if Respondent were fleeing). There was no evidence that Respondent was aggressive. The officer's intention to detain Respondent could not have been clearer. His words confirmed his intention. Respondent complied. None of the absurdities the Hodari court sought to avoid in its holding against Hodari apply here.

It is not clear from the testimony whether Respondent was still walking toward the officer after the officer got out of his vehicle, or as the officer pulled in front of Respondent.

However, the officer testified he moved toward Respondent to be sure he did not flee. With only five feet between them, neither had far to move. The State in its brief argues that the Respondent had not yet stopped, so he was not seized. Under these facts, a step forward or a "rolling stop" does not prevent this situation from being a seizure. The Respondent was obviously submissive and it is clear there was a seizure of the person.

II. DISCLOSURE OF THE SUSPECTED COCAINE WAS A DIRECT RESULT OF OFFICER GIDDEN'S DETENTION OF RESPONDENT.

The Respondent dropping the rock to the ground was a direct response to officer Gidden's order to "stop and take your hands out of your pockets." It couldn't be clearer that the officer's blocking Respondent together with his closeness to Respondent and the order caused Respondent to remove his hands from his pockets. We do not know whether Respondent deliberately or accidently dropped the rock. It does not matter. However, if it does matter, the State has the burden of showing the seizure was lawful, and it cannot dispel the equal likelihood that dropping the rock was accidental.

The Fourth District Court of Appeals case, Spann v. State, 529 So.2d 825 (Fla. 4th DCA 1988) is quite similar to the case at bar. The accused in Spann was unlawfully stopped. The officer ordered the accused to "freeze, stop." The defendant dropped an aluminum bag containing cocaine at his own feet. The appellate court found that dropping the bag was

directly caused by the stop and the officer ordering "freeze, stop." The order in Spann seems to have less of a causal link than the order in this case. Nevertheless, the Fourth District Court of Appeals found the seizure to be unlawful.

III. THIS COURT DOES NOT HAVE JURISDICTION TO DECIDE WHETHER THE STOP OF RESPONDENT WAS LAWFUL.

The Second District Court of Appeals determined after review of the full record that the stop of Respondent was not a consensual encounter and that the facts did not give officers a well-founded suspicion that Respondent was in the process of committing or was about to commit a crime. The only question certified is whether the unlawful stop tainted the "abandonment" of suspect cocaine. There is no reason for this Court to go behind such finding in determining whether the suspect cocaine is suppressible.

The certification to this Court is the result of a conflict among District Courts of Appeals. Some of the cases containing inconsistent holding were Patmore v. State, 383 So.2d 309 (Fla. 2d DCA 1980) in which the accused abandoned a bag of marijuana while fleeing and the appellate court found an unlawful seizure because police were not justified in stopping the accused; Stanley v. State, 327 So.2d 243 (Fla. DCA 1976) in which the accused threw a bag from a car window as the car was stopping, pursuant to an unlawful stop; A.G., a Juvenile, v. State, 562 So.2d 400 (Fla. 3d DCA 1990) in which the accused threw down a bag containing narcotics and

fled and in which the seizure was held to be valid in spite of the unlawful stop; and State v. Olivier, 368 So.2d 1331 (Fla. 3d DCA 1979) in which the accused threw a bag containing incriminating evidence to the ground after being unlawfully stopped, the court upholding the seizure.

Clearly, the conflict between the districts can be resolved by applying the analysis in Hodari to determine whether defendants had been seized at the time of "abandonment" and whether such abandonment is causally related to the unlawful stop. A determination in each case of whether the courts were correct in their rulings on the lawfulness of the stop is not needed. Lawfulness of the stop was of no consequence in Hodari.

Should this Court, however, find it necessary to review the validity of the stop, the argument below is being provided.

IV. DETENTION OF APPELLANT WAS NOT A MERE "ENCOUNTER", BUT WAS A SEIZURE OF THE PERSON FOR WHICH A WELL-FOUNDED SUSPICION IS NEEDED THAT APPELLANT IS ENGAGED IN ILLEGAL ACTIVITY.

The manner in which Officer Gidden stopped Appellant leaves no doubt that he intended to effect at least an investigative detention within the meaning of Section 901.151(2), Fla. Stat. (1989). The stop of Appellant exceeded a "citizen encounter." This Court discussed the "three levels of encounter between police and members of the public" in State v. Simons, 549 So.2d 188 (Fla. 2d DCA 1989). The first

level is described in Simons as a "consensual encounter."

> (L)aw enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street. . . by asking him if he is willing to answer some questions, by putting questions to him if the person is willing to listen, or by offering in evidence in a criminal prosecution his voluntary answers . . . Nor would the fact that the officer identifies himself as a police officer, without more, convert the encounter into a seizure requir-ing some level of objective justifications . . . The person approached, however, need not answer any questions put to him; indeed, he may decline to listen to the questions at all and may go on his way. Ibid. [citing Florida v. Royer, 460 U.S. at 497-98, 103 S.Ct. at 1324, 75 L.Ed.2d at 236 (1983)].

and

> (A) significant identifying characteristic of police encounter is that the officer cannot hinder or restrict the person's freedom to leave or freedom to refuse to answer inquiries, and the person may not be detained without reasonable objective grounds for doing so. Ibid. (citing Lightbourne v. State, 438 So.2d 380 (Fla. 1983)].

Appellant was not free to "go on his way."

Officer Gidden approached Appellant by pulling directly in front of Appellant and within five (5) feet of Appellant, blocking his path as he was walking (R-19). The officer was in a marked patrol car, was uniformed and was accompanied by another officer (R-18). He was getting out of the patrol car, his car door facing Appellant as he ordered, "(S)top, take your hands out of your pockets" (R-29). Appellant had both hands in his pockets at the time, and the officer had no reason to suspect Appellant was armed (R-27 and 29). Officer Gidden continued to move toward Appellant "so he could not run" (R-21). Even as Officer Gidden approached Appellant, it

was clear he would not let Appellant leave. If this were a consensual encounter, he could pull beside Appellant and speak to him without leaving the patrol car. He admitted he approached Appellant in a manner so as to prevent him from running. "(S)top, take your hands out of your pockets," is clearly an order which would not lead a reasonable person to believe he could comply if he wanted to.

In distinguishing a consensual encounter from an investigative, Terry detention it is necessary to

> look at the facts in light of all surrounding circumstances to determine whether a reasonable person would have believed he or she were free to leave. Ibid.

In Simons the officer received a dispatch that a black male in a red jogging outfit was selling drugs at a particular supermarket. The officer could see a black male in a red jogging outfit in front of that supermarket as he heard the dispatch. It was obvious to the subject that he was being questioned by a police officer. The officer told the suspect that someone matching his description was suspected of selling drugs and asked if he would mind emptying his pockets. The suspect voluntarily opened his shirt to reveal a firearm, evidence of a crime, which was later the subject of a motion to suppress. The Court found that the subject could not have been intimidated by the officer's language or actions. Similarly, in J.C.W. v. State, 548 So.2d. 1161 (Fla. 1st DCA 1989) (cited in Simon) the Court found a consensual encounter where a lone officer allowed the juvenile suspect to walk

away, then approached her asking her name, age and address, explaining why she was suspected of carrying narcotics and requesting her permission to submit to a search. The subject then handed officers a napkin containing cocaine. Again, the officer used language implying the subject had a choice and engaged in no conduct which could be described as intimidating.

In J.C.W. the Court applied criteria set forth in United States v. Mendenhall, 466 U.S. 544, 100 S.Ct. 1870, 64 L.Ed.2d 497 (1980) indicating that a Terry seizure of the person would include and cited in Mendenhall:

> the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled. J.C.W., Supra at 1161 (emphasis added).

By use of the disjunctive "or" it is clear the Supreme Court did not intend that all of the factors be present and said that all surrounding circumstances are to be considered to determine whether he or she reasonably believed he or she was not free to leave.

A closer analysis of Appellant's circumstances shows that although Appellant was not being touched (yet), he could reasonably anticipate being physically held when his path was blocked and Officer Gidden was ordering him to stop while coming toward him with a starting distance of five feet. Although Appellant may have been able to walk around the officer, it is clear the officer did not intend to let him do

so when he pulled directly in front of his course within five feet, and the officer indicated he did not intend to let Appellant run. Officer Gidden's language did not allow an inference of choice, but was clearly an order which Appellant should have believed he would have to obey. The officer did in fact effect at least an investigative stop which is justified "if the officer has a well-founded suspicion that criminal activity is afoot" Simon, Supra, describing the second level of encounter.

V. OFFICER GIDDEN LACKED A WELL-FOUNDED SUSPICION THAT APPELLANT HAD COMMITTED, WAS ABOUT TO COMMIT OR WAS IN THE ACT OF COMMITTING A CRIME.

Officer Gidden's observations provided him with no more than a hunch or bare suspicion that Appellant was engaged in criminal activity. Based on the officer's experience involving 30 drug arrests and his knowledge of the area as a high crime area, he testified that the "typical scenario" of a drug transaction "involving a vehicle" (as if drug transactions may just as well not involve a vehicle) is:

> Basically, the person that's going to buy the drugs will drive into the area. The black male that is holding the narcotics paraphernalia or the narcotics will flag him down. The driver will come to a momentary stop. The person selling the drug will approach the vehicle, enter the driver's window, they will make a transaction and it will be over in approximately -- it takes ten seconds or less for the narcotics and the money to exchange hands. (R-15, emphasis added).

The scene in this case involves an area where many people are standing around. They are going to talk to each other whether

they are on foot or in vehicles. Officer Gidden did not know how long the vehicle had been in the parking lot, whether it was ten seconds or ten minutes; he was unaware of whether the vehicle had been flagged down; he could not identify Appellant, occupants of the vehicle or any of the men standing around to be drug users or dealers; he did not know whether the occupants of the vehicle had "driven into the area" or whether they knew the Appellant; he did not see a transaction. The officer observed innocuous conduct.

Under the circumstances, the warning, "fire in the hole," did nothing to add to the bare suspicion of criminal activity. Officer Gidden testified that he could not tell who was shouting the warning that he heard many times, but had the "feeling there was a crime about to be committed or being committed" (R-27). He was unable to tell whether any of the several males in the parking lot changed his conduct after the warning was given, because he was watching the Appellant (R-32). Officer Gidden guessed that the Appellant was responding to the warning because he was engaging or attempting to engage in criminal activity.

Officer Gidden and the State agreed at hearing that but for the incriminating warning there would not be a founded suspicion of criminal activity, citing State v. James, 526 So.2d 188 (Fla. 3d DCA 1988) in support of that theory. The facts in James are not similar. In that case the defendant was sitting on the trunk of his vehicle; he flagged down an

officer in an unmarked vehicle with a signal known to mean "I've got it;" he was waving a tightly-rolled paper bag which was found to be a common packaging for narcotics; and when someone yelled "ninety-nine," a common warning that police are in the area, the defendant hid the bag in the gas flap of the vehicle (not a common storage area) and walked away. James' conduct was not innocuous and in no way compares to Appellant's conduct. Flight or avoiding officers alone is not enough to uphold a Terry detention. See Kearse v. State, 384 So.2d 272, 273 (Fla. 4th DCA 1980) (discussed below); Lower v. State, 348 So.2d 410 (Fla. 2d DCA 1977); McCloud v. State, 491 So.2d 1164 (Fla. 2d DCA 1986); Mosley v. State, 519 So.2d 58, 59 (Fla. 2d DCA 1988), "Even running away from police in a high crime area is not enough to justify an investigative stop;" Martin v. State, 521 So.2d 260 (Fla. 2d DCA 1988) where the vehicle defendant approached left upon appearance of officers; King v. State, 521 So.2d 334 (Fla. 4th DCA, 1988). In Kearse the Court commented on the use of flight as a basis of suspicion that a person is engaged in criminal activity:

> . . . A ruling otherwise would mean that any citizen who terminated a conversation with another on a public sidewalk at the time a police officer happened to be approaching and who then walked briskly in the opposite direction from the approach of the police officer, would be subject to detention, Kearse, Supra, [citing Jackson v. State, 319 So.2d 617, 619 (Fla. 1st DCA 1975)].

Officer Gidden based his whole reason for stopping Appellant on the fact that Appellant walked away after he may have known police were near. Officer Gidden still only had a

bare suspicion after Appellant walked away from the vehicle.

Florida caselaw, including cases from the Second District Court of Appeal, will not uphold a finding that Officer Gidden had a "well-founded suspicion of criminal activity under the "totality of circumstances" test, that is, when Appellant's walking away is considered together with Officer Gidden's prior observations of Appellant. Of the cases cited above concerning flight of a suspect, facts in the Kearse case are most similar to those in the instant case. Kearse was seen leaning into the window of an occupied vehicle during daylight hours and walked briskly away when the officer became visible. Kearse had a reputation for being involved in criminal activity. Appellant had no such reputation. The Fourth District Court of Appeals found there was only a bare suspicion which did not justify a stop and frisk. See Kearse, Supra at 273, 274. In Mosley the defendant was seen in a high crime area, talking to a known drug dealer, fists clenched, walking (but not away). This Court did not find these facts raised a founded suspicion of criminal activity. Martin v. State and McCloud v. State have more facts to contribute to suspicion than does the instant case, nevertheless this Court found the facts amounted only to a bare suspicion.

> (1) (A)ppellant was in an area known for street level sales of cocaine; (2) appellant was sitting on a porch with two known drug dealers; (3) appellant walked toward a vehicle, and back to the porch then back to the vehicle and (4) appellant got into the back seat of the vehicle, which started to leave when the officer approached. Martin, Supra at 261.

> (1) (I)t was approximately 1:20 a.m.; (2) (Mosley) was in a "high crime are"; (3) (officers) were not responding to a specific complaint; (4) the building adjacent to appellant's car was boarded up; (5) signs on the adjacent building read, "No Trespassing" and "No Loitering"; (6) appellant was alone in his car with the engine off; (7) as O'Mara approached, appellant started his car, put it in gear, and attempted to go on his way; (8) when O'Mara gave a hand signal to "stop," appellant made no furtive movements, did not attempt to conceal anything, and had no weapon in his hands. McCloud, Supra at 1166.

In all cases cited above, appellate courts have found that detentions were illegal. Because Officer Gidden's observations revealed conduct which was less innocuous or equally innocuous than that observed in the above cases, this Court must find that Appellant's detention was illegal.

CONCLUSION

Hodari tells us that property "abandoned" during or after an unlawful stop is not tainted automatically by the unlawful stop. Rather, the question is whether the person was effectively unlawfully seized at the time of abandonment, thus whether the seizure of property was a result of the unlawful detention.

Respondent's case meets all the criteria for reversing the trial court's denial of suppression. As found by the Second District Court of Appeals the encounter was not consensual, eliminating any "voluntariness" arguments presented by the State and contributing to a conclusion that Respondent was seized. Because there was no consensual encounter and the Respondent was not fleeing, this Court must find Respondent was seized. He then was ordered to remove his hands, making disclosure of the suspect cocaine a direct product of the unlawful seizure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by mail to JOSEPH R. BRYANT, ESQ., Assistant Attorney General, 2002 N. Lois Avenue, Suite 700, Tampa, Florida 33607, this 22nd day of July, 1991.

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