

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 26160
Plaintiff-Appellee	:	
	:	Trial Court Case No. 12-CRB-8678
v.	:	
	:	(Criminal Appeal from
SEAD URUCI	:	Dayton Municipal Court)
	:	
Defendant-Appellant	:	
	:	

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OPINION

Rendered on the 29th day of May, 2015.

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FAIN, J.

{¶ 1} Defendant-appellant Sead Uruci appeals from his conviction and sentence,

following a no-contest plea, for Soliciting, in violation of R.C. 2907.24, Loitering, in violation of R.C. 2907.241, and Prostitution, in violation of R.C. 2907.25(A). Uruci contends that the trial court erred in overruling his motion to suppress evidence, because the police officers lacked reasonable, articulable suspicion to stop Uruci. We conclude that the officers had reasonable, articulable suspicion for the stop. Consequently, the judgment of the trial court is Affirmed.

I. The Events Leading Up to the Stop

{¶ 2} In its decision overruling Uruci's motion to suppress, the trial court made the following findings of fact:

The incident [that] forms the basis of these charges occurred on October 9, 2012. On that date, Dayton Police Department Vice Squad Detectives were monitoring a portion of East Third Street known for high levels of prostitution related activity. While driving around the area in an unmarked vehicle, Det. Doug George passed a female, later learned to be Ashley Eubanks, walking on Philadelphia Street. As he drove past Eubanks, she stared at Det. George, even continuing her stare as he passed her location. Eubanks was not known to Det. George, but her conduct was familiar to the Detective as he has witnessed it many times before when conducting surveillance on prostitutes attempting to pick up customers. Through his extensive training and experience, Det. George believed this to be the same type of prostitution related conduct that he had seen before. After witnessing this conduct by Eubanks, Det. George

circled around through the neighborhood and drove past Eubanks again. Eubanks, again, stared at Det. George in the same manner as she had the previous passing.

After passing Eubanks for the second time, Det. George advised the other detectives working the detail that he was going to set up surveillance on her and observe her while she walked around the area of East Third and Philadelphia Street. As Det. George watched the [sic] Eubanks, he observed her repeat the same conduct in staring at cars as the [sic] drove past. During his surveillance, Det. George believed that he had observed Eubanks get into a vehicle and ride away with the driver. Det. George then left his position in an attempt to locate the vehicle that he believed picked up Eubanks. As Det. George was looking for the vehicle, Det. [Alexander] Magill radioed back to Det. George and advised him that he had located Eubanks walking on East Third Street. As Det. George was returning to that area, Det. Magill sat an [sic] observed Eubanks for three to five minutes. During this time, Eubanks continued her previous behavior of long stares at passing vehicles. It was also during this time that Det. Magill observed the Defendant pull up to Eubanks and briefly stop his vehicle. After short conversation, Eubanks got into the vehicle on the passenger side and Det. Magill watched as the two drove away. Det. Magill followed the vehicle for a short period and then broke off to allow Det. St. Clair to continue to follow the Defendant. Det. St. Clair followed the Defendant to the Defendant's residence and positioned his vehicle down the street from

the Defendant's house. Det. St. Clair then advised Det. George and Det. Magill of his location. The other two detectives met at that location within a very short period of time and set up surveillance on the Defendant's house. The detectives then observed the Defendant and Eubanks exit the Defendant's house approximately seven minutes later and head back towards the Defendant's vehicle. Believing that they had just observed prostitution related activity, the detectives began to move in towards the Defendant's home.

As they arrived at the Defendant's home, the Defendant was in the process of back [sic] out of his driveway. Det. St. Clair the [sic] pulled into the driveway and position [sic] his vehicle immediately behind that of the Defendant, thereby preventing the Defendant from leaving. Det. Magill and Det. George then approached the Defendant's vehicle on foot. The Defendant then pulled his vehicle forward a few feet and stopped. Det. Magill approached the Defendant's side of the vehicle and identified himself as a Dayton Police Officer and asked the Defendant to step from the vehicle. Det. George removed Ms. Eubanks as well and moved her to a different location nearby. As he was exiting the vehicle, the Defendant was very apologetic, stating that he was sorry, that he didn't mean to do it and that he was married.

After the Defendant made these statements, Det. Magill instructed the Defendant to stop talking so that he could be advised of his *Miranda*

rights. After being full [sic] advised of his rights, the Defendant agreed to answer questions without an attorney present. During the questioning by detectives, the Defendant admitted to paying Eubanks \$20.00 for sex and that a used condom was discarded in a trash can inside the home.¹

{¶ 3} There is evidence in the record to support the trial court's findings of fact.

II. The Course of Proceedings

{¶ 4} Uruci was charged with Soliciting, Loitering, and Prostitution. He moved to suppress the evidence (consisting of the statements he made to the officers), contending that it was obtained as the result of an unlawful stop.

{¶ 5} After Uruci's motion to suppress was overruled, he pled no contest to the charges, was found guilty of each of them, and was sentenced to community control sanctions, fined \$150, and was ordered to pay court costs. From his conviction and sentence, Uruci appeals.

III. The Officers Had Reasonable, Articulable Suspicion to Justify the Stop

{¶ 6} Uruci's sole assignment of error is as follows:

THE TRIAL COURT ERRED IN FAILING TO GRANT URUCI'S
MOTION TO SUPPRESS BECAUSE HIS VEHICLE WAS IMPROPERLY
STOPPED, BASED ONLY UPON THE FACT THAT HE MADE EYE

¹ The police did not search the home, and did not retrieve the condom.

CONTACT WITH A WOMAN WHILE DRIVING IN A HIGH CRIME AREA.

{¶ 7} Uruci was stopped after he picked up Eubanks, drove her to her house, and left with her seven minutes later. Beyond that, there is no testimony concerning Uruci's interaction with Eubanks, including any eye contact he may have made with her.

{¶ 8} George and Magill, the two witnesses at the suppression hearing, did testify concerning the eye contact Eubanks made with each of them, as forming part of their basis for concluding that she was a prostitute seeking customers.

{¶ 9} George testified that the area in which he encountered Eubanks was a "high prostitute area" and a "known prostitution haven for prostitutes." Magill also characterized the area they were patrolling as a "high prostitution area." Neither officer testified that the area was a "high crime area," but Magill did concede, on cross-examination, that "there's substantial amount of crime in that area beyond prostitution."

{¶ 10} A brief, investigatory stop must be justified by some objective manifestation – a reasonable, articulable suspicion – that the person stopped is, or is about to be, engaged in criminal activity. *United States v. Cortez*, 449 U.S. 411, 417, 101 S.Ct. 690, 66 L.Ed.2d 621 (1981). In determining whether there is a sufficient basis for a stop, the totality of the circumstances must be considered. *Id.*

{¶ 11} Uruci argues that the officers who stopped him had no basis for concluding that Eubanks was a prostitute looking for customers other than the fact that she made eye contact with them. We conclude that the record indicates that they had more. Officer George testified:

The area we were working was a high prostitute area, known

throughout the city. And I have been on numerous blogs, its [sic] probably known throughout these numerous areas in Ohio as a known prostitution haven for prostitutes. As I drove by her, she had a very adamant stare at me and my vehicle. So, I immediately knew she was trying to summons [sic] me that she was a working girl. Based on my experience, the way she was acting was like the hundreds of girls that I have arrested for prostitution type offenses in my career as a vice crimes detective. So, yes, I believed that she was a working prostitute and she was a working prostitute.

{¶ 12} Officer Magill testified:

A. * * * While I was in that area, I was able to see Ms. Eubanks on the road, on East Third Street. I think it was approximately the thirty-two hundred block of East Third Street. As I drove by her, she looked directly at me and I knew that to be a sign that a working prostitute would use to summons [sic] a john.

Q. And how do you know that, by her looking at you, she was trying to summons you at the time?

A. It's not just the fact that it was the look. It was more of how the look was done. She looked over her right shoulder at me. Followed my vehicle as I drove past her for an extended period of time. Usually, that's how it's known that's how johns try to pick up prostitutes.

{¶ 13} Uruci argues that "Magill testified as to an innocent explanation for a female pedestrian making eye contact with drivers in a high crime area, to be aware of her surroundings." Giving Uruci the benefit of the doubt by assuming that the area's

reputation as a high-crime area was established, Magill actually repudiated this innocent explanation:

Q. OK. Now, in your training experience, in high crime areas, do individuals out on foot tend to make sure that they are aware of everyone around them?

A. I wouldn't be able to answer that one way or another. You know, the individual [sic].

Q. OK. You have been an officer for how long now?

A. About five and a half years.

Q. And a detective for how long?

A. I was only a detective on temporary assignment for three months.

Q. OK. And through your five years of experience, when you are in a high crime area, do people tend to take observations of everybody around their surroundings for safety?

MS. HILL [representing the State]: Objection. I believe he has asked and answered that.

THE COURT: I think he has kind of answered that. I think he has indicated that it depends on the individual.

MR. LENNON [representing Uruci]: OK.

Q. It does happen in some circumstances, correct?

A. What does?

Q. People do look around to observe their surroundings in certain

circumstances in those high crime areas?

A. People look around to find out where they are walking, I guess.

Yes. But, as far as if people were situationally aware of what was going [sic] around them, I think there would be a lot less victims.

{¶ 14} We conclude that, based on the totality of the circumstances, the officers had a reasonable, articulable suspicion of prostitution related activity, justifying their investigative stop of Uruci. As Uruci got out of his car, he volunteered statements that he was sorry, that he did not mean to do it, and that he was married, combined with the circumstances previously known by the officers, gave rise to probable cause for Uruci's arrest.

{¶ 15} Uruci's sole assignment of error is overruled.

IV. Conclusion

{¶ 16} Uruci's sole assignment of error having been overruled, the judgment of the trial court is Affirmed.

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FROELICH, P.J., and HALL, J., concur.

Copies mailed to:

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Hon. Christopher D. Roberts