

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

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|--------------------------|---|------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| Plaintiff |) | case no. 4:10-CR-00162-FJG-6 |
| |) | |
| |) | 10-00162-01-23-CR-W-FJG |
| |) | |
| v. |) | |
| |) | |
| NaRicco T. Scott |) | |
| |) | |
| Defendant |) | |

MOTION TO SUPPRESS

Comes now the defendant, NaRicco T. Scott, pro se, in accordance with Rules 12, 41 and 47 of the Federal Rules of Criminal Procedure and moves this court to suppress all evidence and testimony obtained through the searches of a vehicle allegedly associated with Mr. Scott, and or found on the residential premises of 4414 Askew; which, subsequently he was illegally detained. Mr. Scott offers the following:

SUGGESTIONS IN SUPPORT

On May 9, 2010, while walking on the east side of 44th street in the evening hours between 8:30 – 9:00 p.m., Mr. Scott was approached by someone running in his general direction with what appeared to be a drawn weapon pointed at him. Do to fear borne of being shot and possibly murdered, Mr. Scott tried to flee in self-preservation of his safety.

Mr. Scott made it as far as the back of an unknown residence before being apprehended by an individual later identified as a police officer. This officer, at gunpoint, placed Scott into handcuffs and advised him that he was under arrest. *United States v. Strickler*, supra. There was no basis for the arrest, *United States v. Beck*, 598 F. 2d 497, nor does mere suspicion or hunch of an officer permit an arrest without other independent, reasonable suspicion of criminal activity. *Terry v. Ohio*, 392 U.S. 1 (1968).

The officer whom arrested Mr. Scott had no particularized and objective basis for suspecting that he was involved in any criminal activity, as he was simply a pedestrian walking down the street. *Beck*, 140 F. 3d at 1136.

The officer did not have an independent positive identification of the person allegedly driving the 'white truck' which supposedly fled from a routine traffic stop. And, as such, in order for the arrest of Scott to be valid under *Terry*, the officers conducting an investigation must be acting on facts directly relating to the suspects conduct and not just on a hunch. *United States v. Hawthorne*, 982 F. 2d 1186, 1189 (8th cir. 1992) {quoting *United States v. Campbell*, 843 F. 2d 1089, 1095 (8th cir. 1988)}.

In an affidavit, police officer Mike Miller states that a 'purple Crown Royal bag containing 126 grams of beige rock like substance, a digital scale, and 9 live rounds of 9mm ammunition was located on the ground next to the fence at 4401 Askew; And, an unknown handgun was located on the roof of the same residence, which was identified as a Glock 22, .40 Caliber handgun containing one live round in the chamber and 10 live rounds in the magazine. Also, a search of the vehicle parked in the driveway of 4414 Askew revealed 7 grams of a green leafy substance and approximately 24 grams of beige rock like substance.

As there is no physical nexus tying Scott to the possession of this alleged contraband, and his arrest was illegal in the Fourth Amendments requirements for search and seizure, the evidence held against him must be suppressed under the dictates of *Wong Sun v. United States*, 371 U.S. 471, 83 S. ct. 407, 9 L. ed. 2d. 441 (1963).

Moreover, reasonable suspicion may not be based upon circumstances which “describe a broad category of predominantly innocent travelers”. *Fd.* Applying these standards, the record is devoid of facts giving rise to reasonable suspicion, and the evidence cannot stand.

Respectfully Submitted,

NaRicco T. Scott, pro se

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CERTIFICATE OF SERVICE

In accordance with Rule 49(A), (b), and (d), Fed.R.Crim.P., and Rule 5(b), Fed.R.Civ.P., it is hereby presented that one copy of the foregoing motion was filed and sent to Brent Venneman, Assistant United States Attorney, 400 E. 9th Street, Kansas City, Missouri 64106, this 29th day of August, 2011.

NaRicco T. Scott