



and the police car. The officers observed the Plymouth slow down as it approached the corner of 28th and Reed Streets and then make a right turn without coming to a complete stop at the stop sign at that intersection. Officer Kelly, who was driving the police car, immediately activated the siren and roof lights and pulled to within ten feet of the Plymouth which then stopped at 28th and Wharton Streets. About ten seconds elapsed between the time the officers sighted and stopped the Plymouth.

The officers then got out of their vehicle and approached the Plymouth. Officer Kelly went to the driver's side. Officer Spadaccini went to the front passenger's side. They observed defendant sitting behind the wheel with a female passenger next to him. They observed a female passenger behind the driver and a male passenger next to her. Officer Kelly shined a flashlight through the open driver's window into the interior of the Plymouth. He observed a handgun on the floor at the driver's feet. He then elected not to ask the driver for a license or registration card but rather drew his firearm and instructed all of the occupants to put their hands up which they did. Officer Kelly alerted his partner to the presence of a gun and he then drew his firearm. Officer Kelly called for back-up and several officers arrived within a minute.

Officer Kelly did a radio check of the license plate and was advised that the Plymouth was not reported as stolen.

The vehicle belonged to Charles Thomas, a friend of defendant from whom he had borrowed it earlier that evening.

Officer Kelly directed defendant to step out of the vehicle upon the arrival of the back-up officers. Defendant complied but then almost immediately began to run south on 28th Street and east on Sears Street. Officer Kelly and two back-up officers pursued defendant on foot. Officer Kelly advised them that a handgun had been found in the car. The officers momentarily lost sight of defendant when he turned into an alley at 2600 Sears Street. Officer Edward Seybert entered the alley which was pitch dark. He turned on his flashlight and observed defendant lying flat on his side under a pile of debris. After a brief struggle, the officer lifted and handcuffed defendant. The officer then did a pat down and felt a bulge in defendant's front right pants pocket. The officer removed what turned out to be a bag with packets of crack cocaine.

During the pursuit of defendant, officer Spadaccini noticed that the male passenger in the rear of the Plymouth was Wendell Taylor for whom the officer knew there was an outstanding arrest warrant for attempted murder. Officer Spadaccini arrested Mr. Taylor and placed him into the back of his patrol car. Two other officers removed and secured the two female passengers. Officer Spadaccini then removed the handgun from the floor of the Plymouth and unloaded it.

Defendant was charged for possession of the firearm and drugs and taken to the South Detectives Division at 24th and Wolf Streets by officers Kelly and Spadaccini, along with Mr. Taylor. The Plymouth was locked and left at the curb on the street.

Officer Kelly observed Messrs. Taylor and Chappelle seated next to each other at South Detectives waiting to be processed. The officer overheard Mr. Taylor say to defendant "you never run from the police" and defendant respond "I have seven years back time." Defendant at the time was on parole following a state firearms conviction. After being processed, defendant was taken to the homicide division where two detectives showed him various photographs and questioned him regarding unsolved homicides.

Police may detain a motorist upon probable cause to believe he has committed a civil traffic violation, regardless of the subjective intent of the officer. See Whren v. U.S., 517 U.S. 806, 813-14 (1996); U.S. v. Moorefield, 111 F.3d 10, 12 (3d Cir. 1997); U.S. v. Lewis, 910 F.2d 10, 12 (7th Cir. 1990). Officers Kelly and Spadaccini lawfully stopped defendant on September 25, 2001. An officer may take reasonable measures to protect his safety during a traffic stop, including a direction to the driver and other occupants to step out of the vehicle. See Maryland v. Wilson, 519 U.S. 408, 513-14 (1997); Ohio v. Robinette, 519 U.S. 33, 39-40 (1996); U.S. v. Holt, 264 F.3d

1215, 1223 (10th Cir. 2001). Officer Kelly acted reasonably and lawfully in scanning the interior of defendant's vehicle with a flashlight, and then ordering him to raise his hands and exit the vehicle upon observing a firearm at defendant's feet.

The officers were entirely justified in investigating the presence of the firearm when defendant fled. The officers had probable cause to believe that someone who fled from the presence of the police after being observed with a firearm at his feet on the floor of an automobile was unlawfully in possession of the firearm. See U.S. v. Kithcart, 134 F.3d 529, 531 (3d Cir. 1998). The knowledge of Officer Kelly with regard to probable cause may be imputed to the other officers who were assisting him including officer Seybert. See U.S. v. Andreas, 463 U.S. 765, 771 n.5 (1983); U.S. v. Ferreira, 821 F.2d 1, 5 (1st Cir. 1987).

The firearm, which was observed in plain view from a location where the officers were lawfully present, was properly seized. See Horton v. California, 496 U.S. 128, 136-37 (1990). Officer Spadaccini properly patted down defendant incident to a lawful arrest in the alley, and lawfully removed and seized the bulging item in his pocket. See New York v. Belton, 453 U.S. 454, 461 (1981); Chimel v. California, 395 U.S. 752, 763 (1969). See also U.S. v. Franklin, 64 F. Supp. 2d 435, 439 (E.D. Pa. 1999), aff'd, 248 F.3d 1131 (3d Cir. 2000).

