

## FLORIDA CASE LAW UPDATE 16-05

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**Case:** Watson v. State, 41 Fla. L. Weekly D651a (Fla. 5th DCA)

**Date:** March 11, 2016

**Subject:** **Suppression of Cocaine Improper Where Fellow Officer Communications, Observations and Experience Contributed to the Decision to Detain a Subject**

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**FACTS:** While surveilling a Kwik Stop convenience store, a deputy observed Watson exit a taxi and then talk to another male, who the deputy knew as a drug dealer. The deputy observed Watson give the other male some money and then the male took an object out of his mouth and placed it directly into Watson's mouth. The deputy recognized this conduct as a practice in the illicit drug trade by dealers to confirm that the buyer is not a law enforcement officer (i.e., a law enforcement officer would not accept the drugs in his/her mouth). The deputy then saw Watson hand the male more money and the male went into the store and came out with copper brillo (commonly used to make drug paraphernalia), which he handed to Watson. The deputy then saw Watson begin to put together a crack pipe with the brillo. The deputy relayed this information over the radio to fellow officers, including to the sergeant who became the arresting officer, that Watson was apparently going to smoke the crack cocaine he had just purchased. As the sergeant pulled into the parking lot, the deputy saw Watson walk away and throw an object to the ground. The sergeant also testified that as he pulled next to Watson, he saw Watson drop two objects to the ground. The sergeant exited his vehicle and asked Watson for his ID, then walked over to where Watson dropped the objects. The sergeant found a piece of Brillo and a small plastic baggie containing three pieces of suspected cocaine. Thereafter, the sergeant arrested Watson, conducted a field presumptive test of the crack cocaine (with positive results) and transported Watson to jail. Watson was charged by the State with possession of cocaine. Watson filed a motion to suppress the cocaine on the basis that the sergeant lacked reasonable suspicion to detain him. The trial court granted Watson's motion to suppress the cocaine.

**RULING:** The Fifth District Court of Appeal reversed the trial court's order suppressing the cocaine. The appellate court found that reasonable suspicion existed for the sergeant to stop Watson.

**DISCUSSION:** The appellate court was persuaded by the State's argument that the fellow officer rule allowed the sergeant to stop Watson. The initial deputy had communicated what he had seen of Watson's actions to the other responding officers, over the police radio. The court stated that "by virtue of the fellow officer rule, if [the initial deputy] had reasonable suspicion to detain Watson, so did [the later-arriving sergeant]." See Bowers v. State, 23 So. 3d 767 (Fla. 2d DCA 2009). Additionally, the Kwik Stop was located in a high crime area, where the sergeant had made hundreds of drug-related arrests. The court noted the fact that the incident took place in a high crime area is one of the relevant considerations in a *Terry* stop analysis. See Illinois v. Wardlow, 528 U.S. 119 (2000). Additionally, the court stated that the fact that the deputy and the sergeant had a combined total of over twenty-five years' experience was relevant because an officer may draw inferences based on his/her own experience when making a probable cause determination. See Ornelas v. U.S., 517 U.S. 690 (1996). The court was also persuaded that it was improper to suppress the cocaine because of the evidence—including the sergeant's uncontradicted testimony-- that Watson abandoned the cocaine before he was detained.

**COMMENTS:** In this case the officers' combined experience, similar observations and fellow officer communications were the determining factors in whether or not the sergeant legally detained Watson. Also persuasive were the facts that the incident location was a high crime area, Watson was seen buying crack from a drug dealer, and that he was seen dropping the cocaine on the ground before he was stopped.

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**Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.**