

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No. 07-168 GMS
)
 IBAN JACKSON,)
)
 Defendant.)

I. INTRODUCTION

II. TESTIMONY

At the evidentiary hearing, the United States called two Wilmington police officers as witnesses: Brian Conkey (“Conkey”) and his partner, nine months, Robert Reaves (“Reaves”). Jackson testified on his own behalf and called as a witness Diane Iardella (“Iardella”), a Special Agent with the Bureau of Alcohol, Tobacco, and Firearms (the “ATF”). The following represents the testimony and evidence presented regarding the incident.

A. Conkey and Reaves' Testimony Regarding the Incident

On December 3, 2007, at approximately 10:30 p.m., Conkey and Reaves¹ were on patrol in Wilmington, when they observed a gold Buick at the intersection of Jefferson and Harrison Streets. (Transcript of Hearing on Defendant's Motion to Suppress ("Tr.") at 5.) The officers observed the vehicle attempt to make a left turn without signaling, but then "c[o]me back straight," and decided to follow it for one more block. (Id.) The vehicle then made another left turn onto Harrison Street without signaling. (Id.) At this point, Conkey and Reaves conducted a motor vehicle stop, turning on their dome lights to indicate to the driver that he was going to have a pull over his vehicle. (Id. at 5, 25, 58.) The driver of the vehicle pulled over on North Harrison Street, and Conkey approached the vehicle on the driver's side, while Reaves approached on the passenger side. (Id. at 25-26, 42.) The officers could see that there was only one occupant in the vehicle, which both identified as Jackson at the suppression hearing. (Id. at 26.)

Conkey, now at the vehicle, asked Jackson for his license, registration, and insurance, which he provided. (Id. at 6, 26, 42, 58.) Conkey then responded back to his police vehicle to make sure he had a valid license and "that everything checked out." (Id. at 8.) Conkey made a telephone call to the police department's data center and learned from a Progressive insurance agent that the insurance was not valid, because although a policy had been written, the payment fell through. (Tr.

¹ At this time, Conkey was a Wilmington police officer for three and one-half years and Reaves was a Wilmington police officer for eighteen months. (Transcript of Hearing on Defendant's Motion to Suppress ("Tr.") at 3-4, 34.)

² While on patrol, Conkey and Reaves were riding in a marked police vehicle and both wearing their police uniforms. (Id. at 24-25, 42.)

³ According to Conkey, Jackson became upset at the request and asked why the officers were stopping him and harassing him. (Id. at 6.) Conkey responded that they were stopping Jackson, because he had failed to signal a few blocks up the street. (Id.)

⁴ Reaves, however, testified that Conkey asked Jackson to step out of the vehicle upon an inventory search. (Tr. at 36.)

⁵ Conkey could not recall when Reaves placed Jackson in handcuffs, and did not see Reaves handcuff Jackson. (Id. at 28.) Conkey also did not recall whether Jackson was in handcuffs when he allegedly gave his consent to search the vehicle. (Id. at 32.) Reaves testified that he first asked Jackson to place his hands on the vehicle and spread his legs for the patdown. (Id. at 32.) Jackson became agitated, however, so Reaves advised Jackson that he was not under arrest, but placed him in handcuffs to

