FILED
FEB 28 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, Appellee, v. RONALD LYNN MESPLAY, Appellant.	)	Filed February 28, 1978
	)	419
	)	60501

Appeal from Scott District Court - James R. Havercamp, Judge.

Defendant appeals his conviction for breaking and entering, a violation of § 708.8, The Code, asserting that trial court erred in refusing to suppress certain evidence seized without warrant from defendant's automobile. Affirmed.

Bertram B. Metcalf, of Davenport, for appellant.

Richard C. Turner, Attorney General, and Elizabeth Shaw, Scott County Attorney, for appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

A jury found defendant, Ronald Lynn Mesplay, guilty of breaking and entering, a violation of § 708.8, The Code. He was sentenced to ten years in the Men's Reformatory at Anamosa. Upon his appeal from this judgment, we affirm.

Defendant's complaint is that exhibits 1 and 2, a bank bag and rolls of coins, which were taken from his car during a stop by a police officer, should have been suppressed. He claims that the stop and search of the car, and seizure of the evidence described, were in violation of the fourth amendment.

Lieutenant Geoffrey Robert Phelps of the Saint James, Missouri Police Department was on duty on October 21, 1976. Phelps was informed, by police radio, of the presence of two individuals in a local restaurant flashing large sums of money, including a quantity of change. He was also told that a burglary had occurred at the restaurant in Saint James the previous night, and that $300 in quarters had been stolen.

Working on the basis of a description of the suspects' car, Phelps discovered that car parked at a "mini market." When the defendant and a companion came out of the market and left in the car, Phelps followed. While following, the officer noticed defendant's companion look back, and move in a manner which suggested an attempt at concealing something under the front seat.

When Phelps stopped the suspects' car, defendant, who had been driving, got out and approached the officer to show his identification. The passenger, who had remained in the vehicle, could produce no identification. While dealing with the passenger, Phelps noted a marijuana odor emanating from the car, and spied a plastic holder, such as those used to hold six-packs of beer together, protruding from under the seat. A check under the seat revealed two cans of beer and a pipe with residue in it. Phelps then observed folded money on top of clothing on the back seat. A further search revealed the bank bag, now exhibit 1, on the floorboard behind the passenger. It contained $350 bound by bank wrappers.

Phelps next searched the trunk. There is a conflict in the testimony at this point. Phelps states that he informed the defendant that he did not have to consent to a search of the trunk. He says that defendant consented and handed him the keys.

Defendant says he gave no such consent. He expressed uncertainty as to whether he or his companion gave Phelps the keys, and stated that he signed the consent form (which does not appear in the record certified to us) only after reaching the police station. The search of the trunk revealed several rolls of coins, which now comprise exhibit 2.

Phelps could properly rely upon information transmitted to him by police radio. United States v. Regan, 525 F.2d 1151, 1154 (8th Cir. 1975); United States v. Smith, 503 F.2d 1037, 1040 (9th Cir. 1974), cert. denied 419 U.S. 1124 (1975); see State v. Dixon, 241 N.W.2d 21, 22 (Iowa 1976). On the basis of the correspondence of coins stolen from the restaurant and coins in the suspects' possession, and the passenger's furtive movements, see Sibron v. New York, 392 U.S. 40, 66-67, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968) and State v. Simmons, 195 N.W.2d 723, 724 (Iowa 1972), Phelps had " ' reasonable or probable cause' to believe that [he would] find. . . evidence pertaining to a crime. . . ." Dyke v. Taylor Emplement Mfg. Co., 391 U.S. 216, 221, 88 S.Ct. 1472, 20 L.Ed.2d 538 (1968). The warrantless search was justified by exigent circumstances because it was made of an automobile upon a public highway. Chambers v. Maroney, 399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed.2d 419 (1970); Carroll v. United States, 267 U.S. 132, 45 S.Ct. 280, 69 L.Ed. 543 (1925); State v. Simmons, supra.

Although the foregoing may well validate the search of the trunk, as well as of the rest of the car, we note that on our de novo review, State v. Iowa District Court in and for Johnson County, 247 N.W.2d 241, 245 (Iowa 1976), trial court's implicit finding that the State met its burden to show consent, State v. King, 191 N.W.2d 650, 654 (Iowa 1971), was justified. The search of the trunk was lawful on that basis. Because the search of the car and subsequent seizure of evidence were lawful, the admission of exhibits 1 and 2 was proper.

AFFIRMED.