

1 knife in one pocket and the alleged narcotics in the
2 other.

3 My argument is going to be, essentially,
4 this was a search pursuant to an illegal arrest.
5 Alternatively, that if this is a detention, then the
6 search of his pockets exceeds the scope of a
7 permissible pat-down and entry into a pocket to
8 recover a weapon, Your Honor.

9 THE COURT: Okay. It's your motion, sir.
10 You may proceed.

11 **OFFICER MICHAEL W. GLOVER, JR.,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 BY MR. STILL:

15 Q. Officer Glover, is that your name?

16 A. That's it.

17 Q. Would you please tell the court reporter your
18 full name?

19 A. My name is Officer Michael W. Glover, Jr.

20 Q. And do you recognize my client in the courtroom
21 today?

22 A. Yes.

23 Q. And why don't you please point him out and
24 describe an article of clothing that he's wearing?

25 A. He is wearing a green -- blue dress shirt.

1 MR. STILL: May the record reflect, Your
2 Honor.

3 THE COURT: It will. Let's proceed.

4 Q. (By Mr. Still) You interacted with my client on
5 October 31st 2012; is that correct?

6 A. Yes, sir.

7 Q. At some point did you search the person of my
8 client?

9 A. Yes.

10 Q. Did you have a search warrant to do so?

11 A. No.

12 MR. STILL: Your Honor, at this point I
13 believe I've established that a warrant was not --

14 THE COURT: It's a warrantless search.
15 All right. What say the State?

16 **CROSS-EXAMINATION**

17 BY MS. BRAUN::

18 Q. Officer Glover, when you came into contact with
19 the defendant, did you have some information that led you
20 to the defendant?

21 A. Yes.

22 Q. And what was that?

23 A. It was a general description of his -- black
24 male, article of clothing that he was wearing, and that he
25 had allegedly used a weapon in his offense.

1 Q. Okay. When you came into contact with the
2 defendant, did he, in fact, match that physical
3 description?

4 A. Yes, ma'am.

5 Q. And, at that point, was he detained for an
6 investigation?

7 A. Yes, ma'am.

8 Q. And was this investigation involving the
9 aggravated assault?

10 A. Yes, ma'am.

11 Q. Now, had you been told by dispatch that there
12 was a weapon involved?

13 A. Yes, ma'am.

14 Q. And were you searching the defendant for the
15 weapon as a part of this investigation?

16 A. Yes, ma'am.

17 Q. And when you searched the defendant, what in
18 fact did you find?

19 A. I found a small pocket knife in his right pant
20 pocket.

21 Q. And what else did you find?

22 A. I found narcotics in the other pant pocket.

23 Q. And just to be clear, at this point he was not
24 under arrest; is that right?

25 A. No, not at that point.

1 Q. And then you brought him back to the original
2 scene?

3 A. Yes, ma'am.

4 Q. And at that original scene, was he identified?

5 A. Yes, ma'am.

6 Q. And at that point was he placed under arrest?

7 A. Yes, ma'am.

8 MS. BRAUN: Judge, pass the witness.

9 THE COURT: All right.

10 **REDIRECT EXAMINATION**

11 BY MR. STILL:

12 Q. Officer Glover, I want to make sure you
13 understand your initial interaction with my client. This
14 interaction was based on him, basically, matching a
15 description that was given to you by the complainant; is
16 that correct?

17 A. Yes, sir.

18 Q. You didn't know for sure at that point that my
19 client was responsible for waving a knife; is that
20 correct?

21 A. Not 100 percent sure, no, sir.

22 Q. So, in terms of having probable cause to arrest
23 my client for aggravated assault, you would need some
24 confirmation from the alleged victim if this person was
25 the person responsible; is that correct?

1 A. Yes.

2 Q. So, you approached my client; is that right?

3 A. Yes, me and another officer. Yes, I did.

4 Q. And, basically, you approached and asked him if
5 he had any ID; is that correct?

6 A. Correct.

7 Q. He did not, correct?

8 A. Correct.

9 Q. You then placed him into custody and began to
10 search him for weapons; is that right?

11 A. Correct.

12 Q. That's verbatim from your police report; is
13 that right?

14 A. Correct.

15 Q. So, at your initial interaction with my client,
16 and when you decide to place him into custody, you
17 immediately go into these pockets and search him for
18 items; is that right?

19 A. Repeat that.

20 Q. Yes. You place him into custody and then you
21 search his person; is that right?

22 A. Yes.

23 Q. And you went directly into the pockets; is that
24 correct?

25 A. Not directly into the pockets. I think

1 initially we squeezed his back pockets, or his rear pants
2 pockets to see if he had a wallet, or ID, or anything like
3 that. His front pants pockets, they had articles in them
4 which we weren't sure what they were. Felt items that, I
5 guess, could be conceived as weapons. I knew the alleged
6 weapon that was used in the offense was small and could
7 fit in a pocket. So, when I felt something that could be
8 those items, or could be a weapon, that's when we went in,
9 turned it inside out.

10 Q. So, what we're talking about now is you are
11 talking about a pat-down search; is that correct?

12 A. Correct.

13 Q. And did you say you felt that knife before you
14 went into the pocket?

15 A. Yes.

16 Q. Were you sure it was a weapon or no?

17 A. Was not sure.

18 Q. Now, the pills were in the other pocket; is
19 that correct?

20 A. Correct.

21 Q. And you would agree with me that that doesn't
22 feel like a weapon, correct?

23 A. I didn't know what it was.

24 Q. Precisely. It did not feel like a weapon,
25 correct?

1 A. Right, I did not know what it was.

2 Q. Well, again, Officer Glover, you're allowed to
3 go get things in pockets that feel like weapons during a
4 pat-down, correct?

5 A. Correct.

6 Q. Now, things that you don't know whether it's a
7 weapon, that's not allowed, correct?

8 A. Not necessarily because a lot of things could
9 be used as a weapon that aren't necessarily weapons, like
10 a pen.

11 Q. You would agree with me that a Baggie with some
12 pills in it of less than 3 grams, that's not a weapon,
13 correct?

14 A. Oh, no, that is not a weapon at all.

15 Q. And you can tell that by feeling the pocket,
16 correct?

17 A. That's correct. I think there were other
18 things in his pocket, as well.

19 Q. But regarding those pills, that doesn't feel
20 like a weapon, correct?

21 A. That is correct, pills do not feel like
22 weapons.

23 Q. And let me ask you this, too. In terms of
24 pills, you would agree with me that there are all kinds of
25 pills in this world, right?

1 A. Yes.

2 Q. And that's obvious and I know, but I'm just
3 establishing that there are some pills that people are
4 allowed to have, correct?

5 A. Yes.

6 Q. And there are some pills that people aren't
7 allowed to have, correct?

8 A. Correct.

9 Q. And that turns on whether it's over-the-counter
10 medication, correct?

11 A. Yes, sir.

12 Q. It turns on whether people have a prescription
13 for the medication, correct?

14 A. Correct.

15 Q. There's no way to know if you're feeling pills
16 through cloth whether or not those are legal pills or
17 illegal pills; is that correct?

18 A. That's correct.

19 Q. So, there's no such thing as plain feeling
20 pills and knowing immediately that they are contraband
21 because you don't know if they are legal or illegal; is
22 that right?

23 A. Not until you identify them, no.

24 Q. That's exactly right.

25 MR. STILL: Pass the witness, Your Honor.