

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 92-4280

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

GEORGE THOMAS CURRY  
a/k/a Jason Mouton,

Defendant-Appellant.

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Appeal from the United States District Court  
For the Western District of Louisiana

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(December 18, 1992)

Before DAVIS and JONES, Circuit Judges and PARKER<sup>1</sup>, District Judge.

PER CURIAM:<sup>2</sup>

George Thomas Curry (Curry) appeals his conviction on drug trafficking and weapons charges. Curry contends that the district court erred in denying his motion to suppress evidence. The district court's findings that Curry consented to the searches in question are not clearly erroneous and we therefore affirm his conviction.

I.

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<sup>1</sup> Chief Judge of the Eastern District of Texas, sitting by designation.

<sup>2</sup>Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

On the morning of January 28, 1991, the Louisiana State Police received an anonymous phone call informing them that Houston authorities wanted a black male by the name of George Curry in connection with a homicide in the Houston area. The informant also told police that they could find Curry at the Plantation Motor Inn in Lafayette, Louisiana, that he would be accompanied by a black female, and that his Texas-registered vehicle would be parked in the parking lot.

Troopers Thomas Romero and Thomas Legendre went to the Plantation Motor Inn to investigate the tip and observed a blue Audi 5000 in the parking lot bearing a Texas inspection sticker. Although no black couple was registered under the name of "George" or "Curry," the desk clerk gave Romero the room numbers of black couples staying at the hotel. Legendre saw two black males and a black female exit Room 225 and walk toward the Audi. One of the males and the female left. The other male returned to Room 225. A few minutes later, the suspect exited Room 225 and walked to the Audi, opened the trunk with a key, and placed two plastic shopping bags - one rose and one gray - in the trunk. He returned to Room 225. He again exited the room, approached the Audi, and opened and closed the trunk without adding or removing anything.

Troopers Legendre and Guillory approached Room 225 to question the suspect before he left the motel. They knocked on the door, displayed State Police badges, identified themselves, and asked if he would open the door. Curry admitted them into the room. They observed a black male and female in the room, who they later learned to be George Curry and Donna Bell. The troopers explained

that they were looking for George Curry, a black male wanted for homicide by the Houston authorities. The suspect stated that George Curry had been in the room but had just left. Believing he had reached the correct parties, Trooper Legendre advised both the male and female of their **Miranda** rights.

Legendre next asked Curry and Bell if they had any weapons. They responded "no" and gave the officers consent to search the room for weapons. In addition to marijuana gleanings and a crack smoking pipe, the troopers seized a loaded .25 caliber semi-automatic pistol they found in Bell's purse.

Curry and Bell identified themselves as Jason Mouton and Brittany Denise. After Trooper Romero joined the other troopers in Room 225, they asked Curry and Bell for identification, but they produced none. Curry and Bell consented to a search of the room for identification. Romero found about four grams of cocaine in a small plastic bag inside a woman's shirt. The troopers then arrested Curry and Bell for possession of narcotics and narcotic paraphernalia, and again read them their **Miranda** rights.

Because of the seriousness of the homicide offense reported in the anonymous tip, the troopers continued to search for identification. Curry and Bell stated that their identification was in "Curry's" car, but that Curry took the trunk key and left the motel with Michael Mouton. The officers knew these suspects had a trunk key because they had seen the male suspect open the trunk twice with a key. Appellant produced the car's ignition key and gave it to the officers. Appellant and Bell consented to a search of the interior of the car, but the troopers found no

identification. A drug sniffing dog was brought to the car but uncovered no drugs. Appellant and Bell then stated that documents identifying them as Jason Mouton and Brittany Denise were in the trunk of the car and consented to a search of the trunk, but repeated that they had no trunk key.

Because appellant claimed that George Curry left the motel with appellant's brother Michael Mouton, the troopers found Michael Mouton and brought him back to the motel. Michael Mouton refused to identify appellant as his brother, Jason Mouton.

The troopers then transported Curry and Bell to State Police Headquarters and impounded the Audi. Curry again received **Miranda** warnings and signed a form acknowledging his rights, this time signing "Jason Davis," but refused to sign the form again in order to waive his rights. Curry did not request a lawyer, and the police continued to question him.

At police headquarters, Curry again consented to a search of the car's trunk for his identification. A locksmith arrived to pick the lock, and ultimately drilled out the trunk lock. The police searched the trunk and found a handgun, drugs, money, and drug paraphernalia inside the rose- and gray-colored plastic bags. At no time during their investigation did the troopers seek or obtain a search warrant or arrest warrant. Nor did the troopers request that Curry sign a consent to search form.

Unable to find identification for Curry in the trunk of the car, police contacted an F.B.I. fingerprint expert who verified that the suspect claiming to be Jason Mouton was in fact George Curry. Curry later informed police that he had placed the trunk

key in the air-conditioning duct in Room 225.

George Curry was indicted for possession with intent to distribute cocaine base (crack cocaine) in violation of 21 U.S.C. §§ 841 (a)(1), 841(b)(1)(A), and 18 U.S.C. § 2. He was also indicted on one count of knowingly using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1) and § 2.

Before trial, Curry filed a motion to suppress the evidence the police recovered from the motel room and the trunk of the Audi. At the suppression hearing, the district court accepted the testimony of the police officers and found that the government proved by a preponderance of the evidence that Curry consented to the searches.

After the district court denied his motion to suppress, a jury found Curry guilty on both counts of the indictment. After the court imposed sentence, Curry filed a timely appeal challenging the court's denial of his suppression motion.

## II.

Curry makes two arguments on appeal. He contends first that the police did not have probable cause to search the hotel room or the car trunk. He also argues that the district court's findings that Curry consented to the searches of the hotel room and the Audi are clearly erroneous. We have carefully reviewed the record and conclude that the district court's findings of consent for both searches are amply supported by the record. The officers' testimony as described above fully supports these findings. Contrary to Curry's argument, a suspect need not sign a consent

form to voluntarily authorize a search.

Because the district court did not err in finding that Curry voluntarily consented to the searches, we need not consider Curry's argument that the officers had no probable cause to search.

For the above reasons, the judgment of conviction is  
AFFIRMED.