

We review the district court's ruling on the motion to suppress for an abuse of discretion. *Gomez v. State*, 2007 OK CR 33, ¶ 5, 168 P.3d 1139, 1141-42. A trial court has the authority to revisit pretrial rulings on the admissibility of evidence, including motions to suppress based on alleged Fourth Amendment violations. *Wing v. State*, 1978 OK CR 53, ¶ 6, 579 P.2d 196, 198; *State v. Greenwood*, 1977 OK CR 202, ¶ 7, 565 P.2d 701, 703. There is no dispute that Appellant, a pedestrian, disposed of a small baggie of marijuana when the police officer approached him. The officer conceded he had no particularized suspicion of criminal activity, only the fact that Appellant and his companion were walking down the street in what he called a "high crime area" late at night. While the officer's testimony at preliminary hearing did not indicate that Appellant had been seized before he disposed of the drugs, his testimony at trial clearly did. At trial the officer stated that Appellant did not dispose of the baggie until he complied with the officer's second command to stop, given as the officer exited his car and began to approach the two men. We find, based on this version of the events, that Appellant was seized without reasonable suspicion of criminal activity, that his disposal of the marijuana after submitting to the officer was the direct product of an unreasonable seizure, and that the trial court abused its discretion in denying the renewed motion to suppress after this marked change in the officer's account. *Terry v. Ohio*, 392 U.S. 1, 20, 88 S.Ct. 1868, 1879, 20 L.Ed.2d 889 (1968); *Wong Sun v. United States*, 371 U.S. 471, 488, 83 S.Ct. 407, 417, 9 L.Ed.2d 441 (1963); *California v. Hodari D.*, 499 U.S. 621, 628, 111 S.Ct. 1547, 1552, 113 L.Ed.2d

690 (1991); *Revels v. State*, 1983 OK CR 105, ¶ 7, 666 P.2d 1298, 1300.

DECISION

The Judgment and Sentence of the district court is **REVERSED AND REMANDED WITH INSTRUCTIONS TO DISMISS**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2011), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF OKMULGEE COUNTY
THE HONORABLE JOHN MALEY, DISTRICT JUDGE

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OPINION BY C. JOHNSON, J.

A. JOHNSON, P.J.: CONCUR IN RESULTS
LEWIS, V.P.J.: CONCUR
LUMPKIN, J.: CONCUR IN RESULTS
SMITH, J.: CONCUR

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