IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Crim. No. 04-053-SLR
	)	
TYRONE FAINES,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

I. INTRODUCTION

Defendant Tyrone Faines moves to suppress evidence[1] seized as the result of a search of a vehicle he was driving on February 19, 2004. (D.I. 19) An evidentiary hearing was held on November 10, 2004, with two witnesses testifying.[2] (D.I. 24) The court has jurisdiction pursuant to 18 U.S.C. § 3231. Pursuant to Federal Rule of Criminal Procedure 12(d), the following constitutes the court's essential findings of fact.

II. FINDINGS OF FACT

1. On January 14, 2004, a bank robbery occurred at the Sun National Bank ("Sun") in the City of Wilmington (the "City"). (D.I. 24 at 7) Another bank robbery occurred on February 3, 2004 at the Artisans Bank ("Artisans") in the City. (Id. at 5) Video surveillance revealed that two black males entered Artisans and

---

[1]Identified as: a jacket, a mask, a bag and a screwdriver.

[2]Wilmington Department of Police Patrolman Reginald Harvey ("Harvey") and Detective James Diana ("Diana") testified.

committed the robbery between 9:00 and 10:00 a.m. (Id. at 15-17) Another black male sat in a light-colored Chevy Impala or Malibu[3] parked close to the bank. (Id. at 6, 15-17)

2. As a result of these robberies, as well as other burglaries in the City, a special detective unit was assembled to patrol and monitor the area in an effort to investigate the crimes and deter unlawful conduct.

3. On February 19, 2004, Wilmington Police Patrolman Reginal Harvey was working with the detective unit on special assignment to combat recent burglaries and robberies. (Id. at 3-4) Although the unit typically had five officers working the assignment, on February 19th there were three officers working.

4. At 9:40 a.m., Harvey was patrolling the City in an unmarked police vehicle. (Id. at 7) Harvey was dressed in plainclothes. Harvey observed a silver-colored Chevy that matched the description of the vehicle used as the getaway car in the Artisans robbery. (Id. at 18) Inside the Chevy, Harvey saw three black males. (Id. at 8)

5. Harvey turned his vehicle around to follow the Chevy. He radioed another unit that he had spotted a vehicle matching the description of the vehicle and the suspects involved in the Artisans robbery. (Id. at 8) Harvey continued to follow the

---

[3]Because Harvey testified that the Chevy "Impala" and "Malibu" are the same type of vehicle, all references to this car shall be as "Chevy." (Id. at 15)

Chevy as it traversed various City streets. (Id. at 9) At one point, the Chevy negotiated an illegal right turn from the center lane. In response, Harvey activated his emergency flashers and wig-wams[4] to alert the Chevy to pull over and stop. (Id. at 10) The Chevy pulled over in front of the Sun bank and appeared to be stopping and parking. (Id. at 11) Just before reaching a complete stop, however, the Chevy pulled out of the spot and sped away. As the Chevy accelerated, Harvey initiated his sirens and followed in close pursuit.

6. The Chevy traveled on numerous City streets, well in excess of the legal speed limit of 25 miles per hour. (Id. at 12). At one point, the Chevy drove on the wrong side of the road. About 15 additional patrol units joined Harvey in pursuit of the Chevy. Although not all of the patrol units were marked police vehicles, all units had their sirens and lights activated.

7. As the Chevy traveled over a City bridge, the front seat passenger extended himself out of the window and threw items out of the car. (Id. at 13, 21) One object landed in the water and the other, a gun, struck the side of the bridge. (Id. at 13, 21) As the pursuit continued, several gloves and a hat were thrown from the Chevy. (Id. at 13, 24)

8. The protracted chase ended just outside the City when

---

[4]Described as lights on the front of the vehicle. (Id. at 10).

the Chevy struck train tracks and became disabled. (Id. at 14) The Chevy occupants were taken into custody. (Id. at 15) Defendant was the driver of the car. (Id. at 30) Because the Chevy was suspected to have been used in the Artisans robbery, it was towed to the police station for an inventory search. (Id. at 30, 33)

9. After processing and investigation at the police station, Detective Diana[5] determined that the Chevy was owned by Enterprise Rental in Philadelphia, Pennsylvania and had been reported stolen sometime earlier. (Id. at 31) Diana also discovered that defendant did not have a valid driver's license. (Id. at 31) The search of the Chevy revealed: a mask, glove, screwdriver, white plastic bag and leather jacket. (Id. at 32)

III. CONCLUSIONS OF LAW

1. The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." U.S. Const. Amend. IV. Standing to challenge a search requires that the individual challenging the search has a reasonable expectation of privacy in the property searched and that he manifest a subjective expectation of privacy in the property searched. See Rakas v. Illinois, 439 U.S. 128, 143 (1978); California v. Greenwood, 486

[5]Diana was the lead detective on the Artisans Bank robbery and was part of the detective unit investigating the Sun National Bank robbery. (Id. at 28, 31)

U.S. 35, 39 (1988). Fourth Amendment rights are highly personal and cannot be vicariously asserted. Rakas, 439 U.S. at 133-34.

2. The Court of Appeals for the Third Circuit has opined that "a defendant who had stolen [a car] and used it in a robbery would not have standing to object to a search of the car." United States v. Baker, 221 F.3d 438, 442 (3d Cir. 2000); United States v. Yeager, 448 F.2d 74, 85 (3d Cir. 1971).

3. It is undisputed that the car driven by defendant was stolen. Applying Baker, the court finds defendant lacks standing to challenge the search and seizure.

IV. CONCLUSION

At Wilmington, this 14th day of December, 2004 for the reasons stated;

IT IS ORDERED that defendant's motion to suppress is denied. (D.I. 19)

Sue L. Robinson
United States District Judge