

***People V. Flowers,***  
**179 Ill. 2d 257, 688 N.E.2d 626, 227 Ill. Dec. 933 (1997).**

**Procedural History**

Defendant was charged with possession of controlled substance. Defendant moved to suppress evidence. Circuit court granted the motion. The prosecution appealed. The Appellate Court reversed the circuit court's ruling. The Defendant appealed to the Supreme Court.

**Statement of Facts**

Officer Stephen Wilson was the only witness to testify. He testified that the police department had received an anonymous tip. The caller claimed to have seen a man go towards the back of a house that was for sale and the caller heard the sound of glass breaking. Officers responded and checked two houses on that block that were for sale. Neither house showed signs of a broken window or any further evidence of illegal entry. The Officer saw the Defendant, who matched the description given by the anonymous caller, and stopped the Defendant. The Officer questioned the Defendant about his whereabouts that evening. The Defendant answered his questions and provided addresses for his locations. The Officer asked the Defendant for permission to search his bag, and the Defendant consented. The bag contained only clothing as the Defendant had previously indicated. The Officer then proceeded to "pat down" the Defendant for weapons. The Officer asked the Defendant what he had in his pockets and the Defendant pulled some items out of his pocket. The Officer had felt a "tube-like item" when he frisked the Defendant and asked the Defendant if it was a crack pipe. The Defendant responded affirmatively. The Officer testified that he routinely frisks people for their safety as well as his own.

**Issues**

Is a police officer allowed to stop and frisk someone if the police officer does not believe that person is armed and dangerous?

**Answers**

No. The police officer is not allowed to frisk someone without probable cause that the person is armed and dangerous.

**Reasoning**

The Fourth Amendment prohibits unreasonable search and seizure without probable cause. An exception is allowed by *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968). This exception allows the police to stop someone for questioning for investigatory purposes if the police officer believes that the person has committed a crime or is about to commit a crime. Police officers can then frisk that person if they have reasonable belief that the person is armed and dangerous. This frisk is further limited to weapons only.

At the time of the stop, the officers had already investigated both of the houses and found no signs of illegal entry so they had no reason to believe that a crime had happened. The Officer testified that the Defendant was cooperative, answered his questions and even consented to a search of his bag. Considering that there was no proof a crime had occurred and the Defendant was cooperative with the Officer, there is "no indication whatsoever" that the Defendant was

dangerous nor that he would have a weapon in his possession. Additionally, the Officer testified that he did not believe that the Defendant was armed and dangerous. Therefore the Officer's frisk was invalid and any evidence gathered from the frisk is inadmissible. Furthermore, even if the Officer had belief that the Defendant was armed and dangerous, the frisk would have been limited to weapons only and the crack pipe would have been inadmissible.

**Holding**

The Supreme Court reversed the Appellate Court's ruling and affirmed the Circuit Court's ruling.