

STATE v. WILLIAMSON

MAY 31, 2012

You receive anonymous information that someone at a specific motel room “has a gun.” When you and several other officers arrive you see a couple of people outside the room and as you approach you see another person exit the room. Another individual approaches you and points to one of the people who had been standing outside the room when you arrived, claiming that they were armed.

Based on this information can you detain and/or frisk any of these individuals?

No, according to the Tennessee Supreme Court in the case of State v. Williamson, decided May 31, 2012. Based on similar facts the court held that the original anonymous call that caused six officers to respond to the motel was insufficient to establish the reasonable suspicion required to support a Terry stop or a frisk for weapons. The decision seems to be based on two lines of reasoning. First, the call failed to provide any “predictive information” that the officers might use to test the informants knowledge or credibility. Secondly, the information failed to make any allegation of a crime that had or was about to occur. The court said that the mere fact that a person is armed is not necessarily a crime and none of the information received from either of the informants in this case indicated “that the defendant’s possession of the handgun was unlawful.” The mere fact that the above described facts occurred in a “high crime area” was not enough, according to the court, to create reasonable suspicion.

How then should we deal with a call of an armed suspect? We might try to get more information from the informant if possible. Such as description of the armed suspect, how do they know the suspect is armed, has the suspect threatened anyone with the weapon or are they planning on doing something illegal, etcetera. In the absence of more information investigations can be based on a consensual encounter with the suspect and even a consensual frisk if they are willing. BE CAREFUL!

If you determine the suspect has been drinking and combine that with an allegation of being armed this could be reasonable suspicion of a violation of the law prohibiting consumption of alcohol while armed with a firearm.

Remember if you feel the need to pull your weapon or use force of any kind it will constitute a seizure and must be supported by a minimum of reasonable suspicion.