



**LGIT'S ROLL CALL REPORTER
NOVEMBER 2010**

Depending on the circumstances, there can be probable cause to arrest an individual who has exchanged an unidentified item for money.

QUESTION: Does the exchange of money for an unidentified item support probable cause to arrest?

ANSWER: Yes, if the totality of the circumstances supports the conclusion that the exchange involved an unlawful substance.

**CASE: *Chuckie Donaldson v. State*, Court of Appeals of Maryland
Decided October 26, 2010**

In this case, the Court of Appeals considered the sufficiency of the probable cause that led to the arrest, prosecution, and conviction of Chuckie Donaldson. The facts established that on December 18, 2006, Detectives Troy Taylor and John Rice of the Baltimore City Police Department were sitting in an unmarked car on West Lombard Street. Detective Taylor was monitoring the area, which was known for drug activity, with binoculars. From approximately half a block away, Detective Taylor saw Donaldson and four other people walk to a corner near an alley on Addison Street. Detective Taylor then saw Donaldson reach into the rear of his pants to retrieve a clear plastic bag containing several small, white objects. Donaldson removed some of the objects from the bag, and two people in the group handed Donaldson money in exchange for the objects. After the four people walked away, Donaldson returned the plastic bag to the rear of his pants.

Based on his training and experience (including his ongoing narcotics training, familiarity with the packaging and sale of narcotics in Baltimore City, and observation of over a thousand narcotics transactions in Baltimore City), Detective Taylor believed he had just witnessed the sale of narcotics. Consequently, he drove towards Donaldson, exited the car, ordered Donaldson to stop, and told him he was under arrest. Donaldson stopped and Detective Taylor arrested him. When asked to do so, Donaldson pulled the plastic bag from the rear of his pants and gave it to Detective Taylor. The bag contained 14 gelatin capsules filled with a white powder. Detective Taylor suspected that the white powder was heroin. Donaldson was charged with distribution of heroin, possession of heroin with intent to distribute, and simple possession of cocaine. Ten of the capsules were later tested by a Baltimore City Police Department chemist who determined that the capsules contained heroin. Donaldson's motion to suppress the evidence was denied and he was

tried and convicted of possession of heroin with intent to distribute. He was sentenced to twelve years' incarceration. Donaldson appealed.

The Court of Special Appeals upheld Donaldson's conviction and he sought and obtained review of his case in the Court of Appeals. That Court, Maryland's highest, framed the issue as follows: Does the exchange of money for an unidentified item support probable cause to arrest? The Court answered with a qualified "Yes." The Court found from the totality of the circumstances that Detective Taylor had probable cause to believe that Donaldson had committed a felony in his presence, namely selling CDS. It was Detective Taylor's articulation of his observations at the scene and his training and experience as a police officer that convinced the Court that probable cause existed. While the exchange observed by Detective Taylor did not, by itself, establish probable cause, it certainly supported the conclusion that the group was engaged in some activity that they wanted to conceal. Further, Detective Taylor testified that he had made a drug arrest the same day on the same block and that the area was a high drug area at the time of Donaldson's arrest. These observations and circumstances, combined with Detective Taylor's testimony detailing his extensive training and experience with narcotics transactions, satisfied the requirements of probable cause. For these reasons, the Court of Appeals upheld Donaldson's conviction.

NOTE: The decision in this case is highly "fact specific." So, whether or not a furtive exchange of money for an unknown substance establishes probable cause will be wholly dependent on the facts of each particular case. If one or more of the established facts in this case were missing, the result may have been different. As such, all of the pertinent facts were critical to the outcome. These facts included the description of the area in which the exchange took place as one of high drug activity, as well as the officer's extensive narcotics training and experience. Another critical fact pertained to the exchange itself. The manner in which it was conducted suggested that it was one the parties wanted to conceal. When viewed together, these facts were sufficient to establish probable cause. Going forward, the critical question in similar cases will be, "Does the totality of the circumstances of the exchange suggest that a drug sale has taken place?" If so, then the arrest and conviction should be upheld.

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