

**Affirmed and Opinion filed July 13, 2000.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-98-00625-CR**  
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**GUREE HAWKINS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 185<sup>th</sup> District Court  
Harris County, Texas  
Trial Court Cause No. 768,136**

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**OPINION**

Appellant Guree Hawkins was convicted by the jury of possession of a controlled substance, namely crack cocaine, and sentenced to twelve years' confinement. He presents one point of error on appeal, alleging the trial court erred in overruling his motion to suppress. We affirm.

The record shows that around 12:30 a.m. on November 9, 1997, police officer Jeffrey Allen Tippit of the La Porte Police Department spotted appellant standing by the front door of the city civic center, with a white towel draped over his hand. Appellant was well-known to Officer Tippit. As the center was closed and had been the subject of prior break-ins, Tippit was

suspicious and stopped to investigate. When he approached appellant and asked him to come over to the police car, appellant began walking away. Tippit exited his vehicle and again called for appellant to come over. Appellant eventually stopped and Tippit escorted him back to the police car for security purposes. When Tippit reached towards the towel to make sure there was no weapon under it, appellant threw it away from him. The towel hit the trunk of Tippit's police car, and a glass pipe fell from it. Tippit recognized the item as a "crack pipe" for smoking crack cocaine. Tippit did a preliminary C-pak field test on the pipe, which tested positive for cocaine. Forensic chemists for the State subsequently confirmed that the pipe contained cocaine residue in an amount less than 1 gram.

Appellant filed a pre-trial motion to suppress, alleging that the crack pipe and residue were inadmissible fruits of an illegal custodial detention and arrest made without reasonable suspicion or probable cause of illegal activity. There was no pre-trial hearing on the motion. At trial on the merits, Tippit testified to appellant having thrown down the towel and crack pipe, and to the pipe testing positive for cocaine. Appellant did not object to this testimony. Not until the State offered the actual crack pipe into evidence did appellant object and urge his motion to suppress. The motion was overruled.

A motion to suppress is nothing more than a specialized objection regarding the admissibility of evidence. *Galitz v. State*, 617 S.W.2d 949, 952 n. 10 (Tex. Crim. App. 1981); *Hill v. State*, 643 S.W.2d 417, 419 (Tex. App. –Houston [14<sup>th</sup> Dist.] 1982), *aff'd*, 641 S.W.2d 543 (Tex. Crim. App. 1982). Under TEX. CODE CRIM. PROC. ANN. Art. 28.01, the trial court is vested with the discretion of whether to hold a hearing on a pre-trial motion to suppress. The court can hold such a hearing, or it can choose to determine whether to suppress the evidence complained of during the trial on the merits after a proper objection is lodged. *Calloway v. State*, 743 S.W.2d 645, 649 (Tex. Crim. App. 1988). A defendant is not denied any right under the latter procedure, as he may raise any appropriate and timely objection at trial. *Id.*

Appellant now contends that the trial court erred in overruling his motion to suppress, as the crack pipe "throw down" had been an involuntarily abandonment caused by illegal police

conduct. We do not reach the merits of this argument, as after reviewing the record, we find that appellant has waived this alleged error. Although appellant argues that the crack pipe and cocaine residue should not have been admitted before the jury, the record clearly shows that oral testimony as to appellant's crack pipe and the cocaine residue was allowed in without objection by appellant prior to his raising his motion to suppress to the trial court. As a result, any error regarding the motion to suppress was waived by appellant's failure to object to the very same evidence admitted at an earlier point in trial. We overrule appellant's point of error.

The judgment is affirmed.

/s/ Bill Cannon  
Justice

Judgment rendered and Opinion filed July 13, 2000.

Panel consists of Justices Robertson, Sears and Cannon.\*

Do Not Publish — TEX. R. APP. P. 47.3(b).

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\* Senior Justices Sam Robertson, Ross A. Sears, and Bill Cannon sitting by assignment.