

Affirmed and Opinion filed October 5, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-01306-CR

JAMIE CARMONA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 232nd District Court
Harris County, Texas
Trial Court Cause No. 797,871**

O P I N I O N

Appellant, Jamie Carmona, was convicted of possession of a controlled substance, namely cocaine, with the intent to manufacture or deliver. He was sentenced to five years imprisonment. On appeal, he contends the trial court erred in not suppressing evidence he claims was seized as a result of an illegal search. We affirm.

Appellant was arrested for outstanding city warrants and transported to the police station. He was placed in a temporary processing cell and his outer garments were searched for contraband. The officer instructed appellant to remove his boots and socks. When appellant removed his boots, a cigarette

package fell onto the floor. The officer opened the package and discovered ten small, plastic bags each containing cocaine.

Appellant argues that the opening of the cigarette package violated the Fourth Amendment of the United States constitution, Article I, section 9 of the Texas constitution as well as Article 38.23 the Texas Code of Criminal Procedure.

The United States Supreme Court examined this precise issue in *Illinois v. Lafayette*, 462 U.S. 640, 103 S.Ct. 2605, 77 L.Ed.2d 65 (1983). In *Lafayette*, the defendant placed a pack of cigarettes on the counter as he was being booked for disturbing the peace. *See id.* at 642. The booking officer looked inside the pack and found narcotics. The Court held that it was lawful for the police to search the personal effects of a person under lawful arrest as a part of normal booking procedure. *See id.* at 648, 103 S.Ct. at 2610-11. The search of the cigarette pack was constitutional. *See id.*; *Rogers v. State*, 774 S.W.2d 247 (Tex. Crim. App.1989) (upholding the search of a suspect's boot while he was in custody and awaiting transfer to jail); *Aitch v. State*, 879 S.W.2d 167, 172 (Tex. App.—Houston [14th Dist.] 1992, pet. ref'd) (holding that article I, section 9 provides no greater protection than the Fourth Amendment for inventory searches).

Appellant's points of error are overruled and the judgment is affirmed.

/s/ J. Harvey Hudson
Justice

Judgment rendered and Opinion filed October 5, 2000.

Panel consists of Chief Justice Murphy and Justices Hudson and Wittig.

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