

# Duheart attorneys: No cause for traffic stop, gun charges

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Attorneys for Dearieus Duheart, twice convicted on felony drug charges, argued Tuesday that Baton Rouge police officers had no probable cause for a traffic stop that could send him to prison for 15 years on weapons charges.

Federal prosecutors argued the April 30 stop occurred shortly before 3 a.m. after a lane violation by a woman driving the car in which Duheart was the lone passenger.

After the traffic stop, Cpl. Adam Lea discovered a 9mm pistol tucked in the waistband of Duheart's pants. Lea then threatened the man, said Ian F. Hipwell, an attorney for Duheart.

"Lea tells him there are officers out there who would kill him," for concealing a firearm that Duheart had denied was present, Hipwell told Chief U.S. District Judge Brian A. Jackson.

"The same officer who had threatened him was the officer who advised him of his rights," Hipwell added. "He (Duheart) was told he could be killed for what he did."

Assistant U.S. Attorney Robert W. Piedrahita countered: "It was not a threat."

Piedrahita said Lea's comment referred to the pressure and threat of danger officers feel when they make a traffic stop. He said such situations can become volatile when a concealed weapon is discovered.

Piedrahita noted that a squad car video camera captured images of Lea drawing his pistol after noticing sudden movements by Duheart. The officer, who had been told there were no weapons in the car, then ordered Duheart out of the vehicle.

"Ultimately, Cpl. Lea found a pistol in the defendant's waistband," Piedrahita told Jackson.

The serial numbers had been removed from that pistol.

Duheart, 22, has been a controversial figure since he and a brother, Denako Duheart, were charged in 19th Judicial District Court with first-degree murder in the 2007 beating and burning of Jason Fourmy, 39.

Those charges were dismissed in 2009 after three witnesses were shot to death. No one has been charged in connection with those three deaths.

Denako Duheart was convicted in November for the attempted second-degree murder of Julius Carter a year earlier.

Dearieus Duheart pleaded guilty in August 2010 to felony charges of possession of cocaine and possession of Schedule II drugs. As a convicted felon, he was stripped of his right to possess firearms.

In April, Cpl. T.J. Morse made the initial stop that resulted in Dearieus Duheart's weapons charges.

When Lea and he learned that the passenger in the stopped car was Duheart, Morse testified Tuesday, he recognized the name.

"Duheart was a suspected murderer," Morse testified.

More than \$4,000 in cash was found in Duheart's possession, Morse added.

"He (Duheart) said he worked in construction," Morse testified. "He said the money was not just for him. It was for his brother, his uncle."

Baton Rouge police Officer Kevin Heinz of the department's Violent Crimes Unit testified he was present in June when a federal agent advised Duheart of his rights.

Duheart said he understood his rights before telling the investigators he borrowed the pistol from another man after an argument at a Waffle House.

Duheart said he didn't remove the pistol's serial numbers, Heinz added.

"He said he was going back to the Waffle House," Heinz said.

Special Agent Michael Desmond, of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, testified Duheart told him and Heinz: "He felt that he was going to need (the borrowed gun) for protection."

Hipwell asked Jackson for dismissal of the weapons charges.

Piedrahita argued for their retention.

Jackson told both sides to submit post-hearing briefs no later than Oct. 21. The judge said he will not issue a ruling before receiving those briefs.