

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,	:	
	:	
v.	:	ID# 1012002434
	:	
ROBERT R. RAMSEUR,	:	
	:	
Defendant.	:	

Date Submitted: May 27, 2011
Date Decided: June 10, 2011

Upon Defendant's Motion to Suppress: **DENIED**

OPINION

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820 N. French Street, Wilmington, Delaware 19801, Attorney for the State
of Delaware.

Donald R. Roberts, Esq., Roberts Law, 900 Kirkwood Highway,
Wilmington, Delaware, 19805, Attorney for Defendant Robert R. Ramseur.

Jurden, J.

I. Introduction

On December 3, 2010, the defendant, Robert R. Ramseur, was arrested by Wilmington Police and charged with Heroin Trafficking, Possession with Intent to Deliver and Maintaining a Vehicle.¹ Ramseur now seeks to suppress as fruits of the poisonous tree 2,863 bags of heroin found by the police near the area where Ramseur was parked shortly before his arrest.² For the reasons that follow, Ramseur's Motion to Suppress is **DENIED**.

II. Facts

2005 Investigative Efforts

In April 2005, detectives from the Wilmington Police Department, Organized Crime and Vice Division ("WPD") conducted an investigation into narcotics distribution by Ramseur. During that investigation, WPD received the following information from a past proven reliable confidential informant: (1) Ramseur was dealing drugs which he concealed in a hidden compartment in his coat, (2) Ramseur went to Philadelphia two times a week to buy 100 to 200 bundles of heroin, (3) Ramseur would attempt to destroy the drugs and flee if police attempted to stop him, and (4) Ramseur employed motor vehicles to

¹ On January 31, 2011, Ramseur was indicted by a Grand Jury on the following charges: Trafficking in Heroin (50 grams or more), Possession with Intent to Deliver, Maintaining a Vehicle for Keeping or Delivering Controlled Substances, and Resisting Arrest [D.I. 3].

² Defendant's Motion to Suppress [D.I. 7].

transport heroin and “stash houses” to hide the heroin.³ In response to this information, in the second week of April 2005, the WPD conducted physical surveillance on Ramseur.⁴ On one occasion, when the WPD attempted to conduct a motor vehicle stop on Ramseur’s vehicle as he left his “stash house,” Ramseur refused to stop and a pursuit ensued.⁵ Ramseur stopped his vehicle, fled on foot, and threw hundreds of bags of heroin off the 12th Street Bridge. The WPD was able to recover 444 bags of heroin from beneath the bridge. A search of Ramseur’s residence uncovered an additional 1,264 bags of heroin.⁶ During Ramseur’s interview following his arrest, Ramseur advised detectives that he traveled to Philadelphia, Pennsylvania twice a week to purchase 100-200 bundles of heroin that he would then distribute in the City of Wilmington. Ramseur supplied investigators with information about his Philadelphia supplier. A subsequent investigation incorporating Ramseur’s information resulted in the seizure of an additional 192 bundles of heroin.⁷ Ramseur was convicted in Federal Court for Possession with Intent to Distribute Heroin and was sentenced to 4 years of incarceration.⁸

³ See Affidavit in Support of a Mobile Tracking Device attached to State’s May 25, 2011 Response to Defendant’s Motion to Suppress (“Affidavit”) at ¶ 4 [D.I. 9]; Suppression Hearing Testimony of Det. Joseph Leary (“Leary Testimony”) (May 27, 2011).

⁴ Affidavit at ¶ 4.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at ¶ 5.

2009 Investigative Efforts

After Ramseur's release from prison, the WPD learned in 2009 from a past-proven confidential informant that Ramseur was back on the street selling drugs. The WPD had this informant make controlled purchases from Ramseur.⁹ In March 2009, the WPD conducted an investigative stop of Ramseur. On a pat down, the WPD discovered seven Percocet pills and U.S. currency in a compartment in his sleeve.¹⁰

2010 Investigative Efforts

During the second week of March 2010, the WPD was again contacted by a past proven reliable confidential informant regarding sales of heroin by Ramseur taking place at 1309 East 29th Street in Wilmington. The confidential informant made a controlled purchase from Ramseur.¹¹ From the second week of March 2010 through the first week of April 2010, the WPD conducted four separate controlled purchases of heroin by confidential informants from Ramseur at 1309 East 29th Street.¹²

On March 17th 2010, the WPD applied for and received a search warrant for 1309 East 29th Street, Wilmington, Delaware and Ramseur. A search at 1309 East 29th Street uncovered several wrappers known by the investigators through their

⁹ Leary Testimony.

¹⁰ Leary Testimony.

¹¹ *Id.*; Affidavit at ¶ 6.

¹² Affidavit at ¶ 7.

training and experience to be used to deliver large amounts of prepackaged heroin.¹³

During the first week of April 2010, the WPD was contacted by another past proven reliable confidential informant who advised that Ramseur was still selling heroin from 1309 East 29th Street.¹⁴ The WPD learned Ramseur was traveling to Philadelphia, Pennsylvania to obtain large quantities of pre-packaged heroin. Ramseur would then transport the heroin to the City of Wilmington to be distributed to street-level dealers.¹⁵ Through the course of the 2010 investigation, the WPD made repeated attempts to follow Ramseur out of the Riverside area of the City of Wilmington.¹⁶ These attempts were unsuccessful because Ramseur drove in large circles. The WPD believed Ramseur did this to thwart attempts to follow him. On one such occasion, Ramseur stopped and waved to the WPD officers.¹⁷ After attempting unsuccessfully on several occasions to follow Ramseur from 1309 East 29th Street, the WPD suspended its investigation until surveillance equipment was available to further the investigation.¹⁸ While waiting for the surveillance equipment to become available, the WPD learned that Ramseur

¹³ *Id.* at ¶ 8. Robert Ramseur was not at the residence upon WPD's arrival.

¹⁴ *Id.* at ¶ 9; Leary Testimony.

¹⁵ *Id.* at ¶ 3.

¹⁶ *Id.* at ¶ 10; Leary Testimony.

¹⁷ *Id.*

¹⁸ *Id.* at ¶ 11; Leary Testimony.

was operating a gold Mazda 626 (the “Mazda”), bearing Delaware registration 254786. Ramseur was the registered owner of the Mazda.¹⁹

In October 2010, a WPD patrol officer reported that, during a conversation he had with Ramseur, Ramseur boasted that the only way he was going to be arrested again was if the Drug Enforcement Agency conducted an investigation into his activities. Ramseur also said he knew every member of the WPD Drug, Organized Crime and Vice Division and the undercover vehicles they operated. This confirmed for the WPD that Ramseur was conscious of its surveillance efforts and that he was determined to frustrate the WPD’s surveillance attempts.²⁰ On November 15th, 2010, with multiple undercover cars, the WPD again attempted to conduct surveillance on Ramseur while he was operating the Mazda.²¹ During that surveillance, Ramseur continually conducted counter measures to elude any potential surveillance.²² During the fourth week of November 2010, a past proven reliable confidential informant contacted the WPD and advised that Ramseur was giving out samples of new heroin to prospective buyers and was planning to make a trip to Philadelphia to resupply his inventory of heroin.²³ The WPD sought and

¹⁹ *Id.* at ¶ 12; Leary Testimony.

²⁰ *Id.* at ¶ 13; Leary Testimony.

²¹ *Id.* at ¶ 14; Leary Testimony.

²² *Id.* On that occasion, WPD attempted to conduct surveillance for approximately one hour. During that hour, Ramseur repeatedly drove in circles and stopped on the side of the road for brief periods in a manner that frustrated surveillance efforts.

²³ *Id.* at ¶ 16.

obtained a warrant to place a GPS device on Ramseur's Mazda.²⁴ The WPD installed the GPS device on December 3, 2010.²⁵ Later that morning, the WPD learned from a past proven confidential informant that Ramseur was going to Philadelphia to buy heroin and that heroin would be stamped with the words "Block Party." In response to this information, the WPD conducted surveillance of Ramseur's Mazda, which was parked outside his girlfriend's house.²⁶ The WPD observed Ramseur, wearing a Rocawear™ jacket, exit the house alone and enter the Mazda. Ramseur drove to his apartment, went inside, and exited his apartment carrying a green box. Believing Ramseur was going to Riverside, the WPD left and headed there.²⁷ When the WPD checked the GPS, they learned Ramseur was headed to Philadelphia, not Riverside. Using the GPS, they changed direction and headed on the same route as Ramseur toward Philadelphia. When they caught up with Ramseur, he was sitting in the Mazda, which was parked at the intersection of Castor and Unruh Avenues, in a well known heroin distribution area of Philadelphia.²⁸ The WPD observed Ramseur exit his Mazda and enter a corner store. Although it was dark out, street lights provided enough light for the WPD to see Ramseur. After 5 to 10 minutes, Ramseur exited the store and walked to Unruh Avenue. The WPD lost sight of him for about 30 seconds. When Ramseur

²⁴ Leary Testimony.

²⁵ State's Response to Defendant's Motion to Suppress [D.I. 9].

²⁶ Leary Testimony.

²⁷ *Id.*

²⁸ *Id.*

reappeared, the WPD observed a very large bulge in the right sleeve of his jacket.²⁹ The WPD suspected the very large bulge was heroin concealed in a sleeve compartment.³⁰ When Ramseur got into his Mazda, he fumbled around in a manner that led the WPD to believe he was removing something out of his sleeve. He then leaned over for several minutes and appeared to be inspecting something.³¹ Ramseur then drove back to Delaware. Ramseur drove to Delaware Park and stopped in Parking Lot C. The WPD had several undercover surveillance vehicles parked at various locations in Parking Lot C. Ramseur exited his vehicle, saw one of the WPD detectives who was in an undercover vehicle and immediately got back into his Mazda.³² Ramseur drove away, apparently concerned that the WPD would follow him, and headed toward the exit like he was leaving Delaware Park, but then doubled back to near where he had been parked. The WPD lost sight of him briefly. With his driver side window down, Ramseur drove by one of the WPD undercover vehicles at a slow rate of speed. Ramseur made eye contact with another WPD detective in that vehicle and immediately sped up and headed toward the exit.³³ At this point, believing Ramseur was in possession of heroin he purchased in Philadelphia and which he intended to sell, the WPD activated their

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

emergency equipment in an attempt to stop Ramseur's Mazda.³⁴ In the area near where Ramseur was parked in Lot C the WPD discovered 2,863 bags of heroin stamped with the words "Block Party."³⁵

III. Discussion

An individual's right to be free from unreasonable searches and seizures is secured by the Fourth Amendment to the United States Constitution and Article I, § 6 of the Delaware Constitution. In *Terry v. Ohio*,³⁶ the United States Supreme Court held that a police officer may detain an individual for investigatory purposes for a limited scope and duration, but only if such detention is supported by a reasonable and articulable suspicion of criminal activity. "Reasonable and articulable suspicion" is defined as an "officer's ability to 'point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant th[e] intrusion.'"³⁷ "A determination of reasonable suspicion must be evaluated in the context of the totality of the circumstances as viewed through the eyes of a reasonable, trained police officer in the same or similar circumstances, combining objective facts with such an officer's subjective interpretation of those facts."³⁸ Delaware has codified this standard for

³⁴ *Id.*

³⁵ *Id.*

³⁶ 392 U.S. 1 (1968).

³⁷ *Jones v. State*, 745 A.2d 856, 861 (Del. 1999).

³⁸ *Id.*

investigatory stops and detentions in 11 *Del. C.* § 1902.³⁹ The Delaware Supreme Court has held that “reasonable ground” as used in § 1902(a) has the same meaning as “reasonable and articulable suspicion.”⁴⁰ The police “must be able to point to specific facts, which viewed in their entirety and accompanied by rational inferences, support the suspicion that the person sought to be detained was in the process of violating the law in order to satisfy the ‘reasonable and articulable’ standard.”⁴¹ The Courts must evaluate the reasonable articulable suspicion standard under the totality of the circumstances, rather than examining each factor in isolation.⁴² The United States Supreme Court and the Delaware Supreme Court have recognized that “[i]n some instances...lawful and apparently innocent conduct may add up to reasonable suspicion if the detaining officer articulates ‘concrete reasons for such an interpretation.’”⁴³ Thus, the police may stop or detain an individual for investigatory purposes if they have reasonable articulable

³⁹ 11 *Del. C.* § 1902 states:

(a) A peace officer may stop any person abroad, or in a public place, who the officer has reasonable ground to suspect is committing, has committed or is about to commit a crime, and may demand the person's name, address, business abroad and destination.

(b) Any person so questioned who fails to give identification or explain the person's actions to the satisfaction of the officer may be detained and further questioned and investigated.

(c) The total period of detention provided for by this section shall not exceed 2 hours. The detention is not an arrest and shall not be recorded as an arrest in any official record. At the end of the detention the person so detained shall be released or be arrested and charged with a crime.

⁴⁰ *Jones*, 745 A.2d at 861.

⁴¹ *State v. Rollins*, 922 A.2d 379, 384 (Del. 2007).

⁴² *Id.*

⁴³ *Id.* (quoting *Harris v. State*, 806 A.2d 119, 121 (Del. 2002)).

suspicion the individual is committing, has committed, or is about to commit a crime.⁴⁴

The State points to several factors that, when considered together, it believes constitute reasonable articulable suspicion. The WPD's investigation of Ramseur's heroin distribution spanned several years, and involved multiple controlled buys by multiple past proven reliable confidential informants. The WPD knew from these informants that Ramseur used special hidden compartments in his coat sleeves to conceal heroin, that he purchased that heroin in Philadelphia, and distributed it in Wilmington. During the search of the 1309 East 29th Street "stash house," the WPD found wrappers commonly used by drug dealers to package bulk heroin.⁴⁵ On the day of the stop, the past proven reliable confidential informant's tip that Ramseur would be traveling to Philadelphia to pick up heroin was corroborated by the WPD. The area in Philadelphia where Ramseur traveled to was a well known drug distribution area.⁴⁶ The very large bulge in Ramseur's sleeve and his movements in the Mazda – fumbling with something, leaning forward and examining something – contributed to the WPD's reasonable

⁴⁴ *Woody v. State*, 765 A.2d 1257, 1262 (Del. 2001).

⁴⁵ According to Detective Leary, these wrappers are made of newspaper and are folded and taped in a very particular way. This wrapping is known to be used by drug dealers to wrap "logs" of heroin. *See* Leary Testimony.

⁴⁶ *See U.S. v. Johnson*, 212 F.3d 1313, 1316 (2000) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000)) ("While obviously insufficient by itself to amount to reasonable suspicion, the 'fact that the stop occurred in a high crime area is among the relevant contextual considerations in a *Terry* analysis.'").

suspicion.⁴⁷ The evasive maneuvers employed by Ramseur in the Delaware Park parking lot were consistent with his prior efforts to evade and elude police surveillance.⁴⁸ Examining these facts under the totality of the circumstances, the Court finds that the police had reasonable articulable suspicion that Ramseur had, was, or was about to be, engaged in criminal activity. Consequently, the WPD was justified in conducting the investigative stop.⁴⁹ Moreover, although the State did not argue it, the Court finds that even if the WPD lacked reasonable articulable suspicion, the heroin discovered by the WPD in the Delaware Park parking lot should not be suppressed as fruit of the poisonous tree because Ramseur had abandoned it prior to being stopped.⁵⁰ Based on the foregoing, Ramseur's Motion to Suppress is **DENIED**.

IT IS SO ORDERED.

Jan R. Jurden, Judge

⁴⁷ Cf. *Rollins*, 922 A.2d at 386 (The Court held defendant's "shoving down motion" while seated in parked car and "furtive gestures after the officer's display of authority" contributed to the officer's reasonable suspicion).

⁴⁸ Leaving the scene after detecting police surveillance "is not, in itself and standing alone, suspicious conduct, however, may be considered a factor in the totality of the circumstances." *State v. Rollins*, 922 A.2d 379, 386 (Del. 2007) (quoting *Cummings v. State*, 765, A.2d 945, 949 (Del. 2001)). It is important to note that, unlike the defendant in *State v. Roy*, C.A. No. 1009013260 (Del. Super. Mar. 17, 2011), Ramseur attempted to evade the police before they seized him.

⁴⁹ See *Rollins*, 922 A.2d at 386; *Woody v. State*, 765 A.2d 1257 (Del. 2001).

⁵⁰ See *State v. Dixon*, 2001 WL 209907 (Del. Super. Feb. 15, 2001) (The Court held that defendant demonstrated intent to abandon property when he reacted to sighting of the police by placing the property on the ground in a public place and clearly attempted to disassociate himself from it by walking away and leaving it unattended); *State v. Iverson*, 2011 WL 1205242, at *6 (Del. Super. March 31, 2011) ("Given the totality of the circumstances present at the time [the Defendant] dropped the packages on the ground, the Court is satisfied for several reasons that he then and there relinquished his expectation of privacy in the packages by abandoning them.").