

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

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 0910003664
	)	
DEANNE LEWIS,	)	
Defendant.	)	

ORDER

AND NOW, TO WIT, this **10th** day of March, 2010, **IT IS HEREBY ORDERED**
as follows:

Background

On October 5, 2009, Detective Vincent Jordan of the Wilmington Police Department received information from a past proven reliable informant that a female was selling crack cocaine in the area of the 1300 block of East 28th Street.¹ Based on this information, Detective Jordan set up surveillance in the area.² Detective Jordan observed a female fitting the description provided by the informant get into the driver's side of a vehicle³ parked in the 1300th block of East 28th Street. A male, later identified as Sinque Miller, entered the passenger side of

¹ At the Suppression Hearing, Detective Jordan disclosed more specific details he received from the confidential informant, including specifics about the female's race, clothing, movements, and the location of her car.

² Initially, Detective Jordan was unable to locate the female subject, but testified that the informant called again and provided further information, which eventually lead Detective Jordan to observe the female described by the informant.

³ The car was a 2002 Buick Lesabre.

the car. Detective Jordan observed the female driver, later identified as Deanne Lewis (“Lewis”), turn onto Claymont street without using the turn signal. After observing the traffic violation, Detective Jordan called other officers for assistance because his vehicle was not equipped with sirens or lights to make the stop. Detective Jordan continued to follow the vehicle as it turned into a Gettymart located at 30th and Market Street. Other offices arrived shortly thereafter.

Detective Jordan approached the driver’s side of the car, informed Lewis of the traffic violation and the investigation, and asked Lewis for identification. She was unable to provide identification.⁴ Lewis was then asked to step out of the vehicle and she complied. Detective Jordan asked if she had anything illegal on her person or in the vehicle and she responded in the negative. He then asked Lewis if he could search the vehicle and Lewis consented to the search. Numerous small blue ziplock bags that the Detectives identified as commonly used to package cocaine for sale were found in the front cup holder of the vehicle. Lewis was then taken into custody and transported to the police station, along with the vehicle.⁵

At the station, a search of the vehicle was conducted and a small ziplock bag containing an off-white chunky substance was found under the driver’s seat. A strip search of Lewis was also conducted and 21 small blue ziplock bags

⁴ The passenger was also unable to provide identification to the officers.

⁵ The passenger was also taken into custody.

containing an off-white chunky substance were found on her person. The off-white substance tested positive for the presence of cocaine. Lewis was charged with (1) Possession with Intent to Deliver a Narcotic Schedule II Controlled Substance; (2) Maintaining a Vehicle for Keeping Controlled Substances; (3) Possession of Drug Paraphernalia; and (4) No Person Shall Turn or Move a Vehicle without Giving Proper Signal.⁶

Discussion

The Traffic Stop

A traffic stop is a seizure of a vehicle and its occupants under the Fourth Amendment. Therefore, such stops are subject to constitutional limitations.⁷ Under Delaware law, traffic stops must be supported by reasonable suspicion of criminal activity.⁸ Reasonable suspicion is defined as the “officer’s ability to ‘point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant th[e] intrusion.’”⁹ Violations of traffic laws constitute probable cause for a stop.¹⁰ Although a traffic stop must satisfy the Fourth Amendment requirement that it be reasonable under the circumstances, when a police officer has probable cause to believe that a traffic

⁶ 21 Del. C. §4155.

⁷ *Caldwell v. State*, 780 A.2d 1037, 1046 (Del. 2001).

⁸ *Id.*

⁹ *Coleman v. State*, 562 A.2d 1171, 1174 (Del. 1989) (quoting *Terry v. Ohio*, 392 U.S. 1, 21 (1968)).

¹⁰ *State v. Drummond*, 2000 WL 703250, at *2 (Del. Super. Apr. 25, 2000). See also *State v. Godwin*, 2007 WL 2122142, *5 (Del. Super. July 24, 2007).

violation has occurred, the Fourth Amendment reasonableness requirement is satisfied.¹¹

The facts of this case support a finding that a traffic violation occurred and, therefore, the officers had probable cause to stop the vehicle. The affidavit states that the vehicle turned south on Claymont Street and failed to use a turn signal. This allegation was confirmed by the testimony at the Suppression Hearing by Detective Jordan who personally observed the vehicle fail to use a turn signal. Failure to use a turn signal when making a turn at an intersection is a violation of 21 Del. C. § 4155.¹² Because the affidavit and the testimony by the Detective support a finding that a traffic violation occurred, the stop was based on probable cause and, therefore, the stop was proper.

The Search

Lewis next argues that the warrantless search of the vehicle violated her constitutional rights. Delaware law states that a search conducted pursuant to valid consent is an exception to the warrant requirement.¹³ The consent is

¹¹ *McDonald v. State*, 947 A.2d 1073, 1077 (Del. 2008).

¹² 21 Del. C. § 4155 states:

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously not less than 300 feet or more than one-half mile traveled by the vehicle before turning.

¹³ *State v. Huntley*, 777 A.2d 249, 257 (Del. Super. 2000).

constitutionally valid if the consent to search was voluntary.¹⁴ Whether the consent was voluntary is a question of fact that must be determined from the totality of the circumstances.¹⁵ In the current case, the facts show that the consent was voluntary. The testimony at the Suppression Hearing indicated that Lewis was asked if the officers could search her vehicle and that she responded that the officers could do so. Therefore, the search of the vehicle was constitutional and the subsequent arrest, after finding drug paraphernalia in the vehicle, was also proper.

After a lawful arrest, an inventory search of a vehicle may be conducted in preparation for impoundment for the purpose of safeguarding the property for the protection of the owner, the police, and the tow company, but not to gather evidence.¹⁶ This type of inventory search is reasonable and does not violate Fourth Amendment rights. Any evidence of a crime that comes into the “plain view” of the inspecting officer in the course of the inventory search, whether or not related to the offense for which the arrest was made, is admissible.¹⁷

In the current case, the search of the vehicle occurred after Lewis was taken into custody and was pursuant to a proper inventory search. Therefore, the evidence found in the vehicle is admissible.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *State v. Gwinn*, 301 A.2d 291, 293 (Del. 1972).

¹⁷ *Id.*

Furthermore, the evidence seized from Lewis' person after she was lawfully arrested is also admissible. A search incident to a lawful arrest is a recognized exception to the warrant requirement of the Fourth Amendment.¹⁸ The justification is that because the arrest was based on probable cause it is a reasonable intrusion under the Fourth Amendment and, therefore, a search incident to the arrest does not require additional justification; the lawful arrest establishes the authority to search.¹⁹

Because the evidence found in the vehicle and on Lewis' person was properly seized, the Motion to Suppress is **DENIED**.

IT IS SO ORDERED.

Judge Calvin L. Scott, Jr.

¹⁸ *Coley v. State*, 886 A.2d 1277 (Del. 2005).

¹⁹ *Id.* (citing *United States v. Robinson*, 414 U.S. 218, 235 (1973)).