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

STATE OF DELAWARE,	)	
	)	
v.	)	ID. No. 1207015770
	)	
DARREN HUNT.	)	
	)	

ORDER

AND NOW, TO WIT, this 14th of January, 2013, **IT IS HEREBY ORDERED** as follows:

Introduction

Before this Court is Defendant Darren Hunt's ("Defendant") Motion to Suppress evidence seized from his person after he was stopped by Officers Jose Cintron ("Officer Cintron") and Gaten MacNamara ("Officer MacNamara") on July 18, 2012. Defendant argues that police officers did not have reasonable suspicion to suspect that he was committing a crime. Alternatively, Defendant argues that the search and seizure amounted to more than a mere stop because he was handcuffed and searched. The Court has held a suppression hearing and reviewed the parties' submissions. For the following reasons, Defendant's Motion to Suppress is DENIED.

Findings of Fact

Officer Cintron has worked for the Wilmington Police Department for five years and has been assigned to patrol for the duration of his career. For about half of his career, he has been assigned to the "Hill-top" area, also known as the 17 and 18 radio districts. Officer MacNamara has been with the Wilmington Police Department for about two and a half years. For about two years, Officers Cintron and MacNamara have been partners.

On July 18, 2012, Officers Cintron and MacNamara were on patrol in the 500 block of North Broom Street in Wilmington, Delaware, which is an area within radio districts 17 and 18. The officers knew this area to be a high drug area where they had a majority of their drug-related arrests. The officers were patrolling the area due to numerous complaints from neighbors in the area about drug activity.

At about 1:10 p.m., while the officers were attempting to park on the southeast corner of 6th and Broom streets, they heard someone yell "Fire in the hole" from the 1400 block. Officer Cintron had heard this term before used to alert individuals in the area that there was police presence. Looking toward the 1300 block of 6th street,[1] the officers observed Defendant, a black male, and an

[1] Officer Cintron testified that this was an area known for heroin.

unidentified white male facing each other in front of 1337 West 6th Street. From about 15-20 feet away, the officers saw the white male give Defendant money and the Defendant reached into his pocket and retrieved what the officers believed to be a package of narcotics. Based on their training and experience, the officers believed a hand-to-hand transaction was taking place.[2] As soon as the officers completed the turn onto the street, the individuals separated and traveled in opposite directions.[3] Defendant traveled east on 6th Street by getting on a bicycle and peddling fast towards Franklin Street. The officers arrived at the corner and exited the vehicle. Upon exiting the vehicle, Officer Cintron saw Defendant put the same package in his pocket, leave the bicycle, and run west on 6th Street. Officer Cintron chased after the Defendant. Other officers, including Officer MacNamara, chased the Defendant; one officer had physical contact with Defendant but was unable to apprehend him. Officer MacNamara gave loud commands to stop and eventually tackled Defendant to the ground and placed him into custody.

A subsequent search of Defendant was conducted and officers located loose bundles of heroin on his person as well as $240.00. Then, the police took Defendant to be processed and, while removing his personal belongings, police observed a small notebook.

[2] Officer Cintron testified that he had seen over 100 hand-to-hand transactions in his career.
[3] At no time did the officers activate their emergency equipment.

Discussion

On a motion to suppress, the State must demonstrate the legality of a challenged search and seizure.[4] The right of individuals to be free from unlawful searches and seizures is provided in the Fourth Amendment of the United States Constitution and Article I, Section 6 of the Delaware Constitution, which contain nearly identical language allowing for individuals to be "secure in their persons, house, papers, and effects, against unreasonable searches and seizures."[5] To determine whether a seizure has occurred, the courts must focus on the officer's actions and when, based on those actions, a reasonable person would not have felt that he or she was free to leave.[6] When a seizure is not based on reasonable and articulable suspicion, then evidence recovered as a result is inadmissible at trial.[7]

A police officer may temporarily detain an individual for investigatory purposes if the detention is supported by a reasonable and articulable suspicion of criminal activity.[8] Reasonable and articulable has been defined by Delaware courts as an "officer's ability to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the

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[4] *State v. Garvin*, 2006 WL 1520185, *2 (Del. Super.).
[5] *Flonnory v. State*, 805 A.2d 854, 857 (Del. 2001).
[6] *Jones*, 745 A.2d at 869.
[7] *Id.*
[8] *Jones v. State*, 745 A.2d 856, 861 (Del. 1999) (citing *Terry v. Ohio*, 392 U.S. 1, 21 (1968)). This standard is also codified in 11 *Del C.* §1902, substituting the term "reasonable suspicion" with "reasonable ground" *Id.*

intrusion."[9] When "seemingly innocent" behavior consistent with "a very large category of presumably innocent travelers," or here, people on the street, a police officer's observations do not give rise to reasonable and articulable suspicion.[10] Reasonable suspicion determinations are analyzed by reviewing "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."[11] Discussing the "totality of the circumstances" standard, the Supreme Court has stated that

> [o]ther circumstances may also be considered, such as the presence of a defendant in a high crime area, the defendant's 'unprovoked, headlong flight,' a defendant 'holding a bulge in his pocket that appeared to be either a gun or a large quantity of drugs', a 'focused' warning shout of police presence,[12] or a furtive gesture after the officer's approach or display of authority. The officer's subjective interpretations and explanations of why these activities, based on experience and training, may have given him a reasonable suspicion to investigate further are also important, as is the trial judge's evaluation of the officer's credibility.[13]

In *State v. Porter*, 2004 WL 2419166 (Del. Super.), an officer stopped a defendant after seeing the defendant engage in what the officer believed, based on experience, to be a hand-to-hand drug transaction in a high crime

[9] *Id.* (quoting *Coleman v. State*, 562 A.2d 1171, 1174 (Del. 1989) (internal quotations omitted).
[10] *Harris v. State*, 806 A.2d 119, 130 (Del. 2002).
[11] *Jones,*745 A.2d at 861.
[12] *See State v. Rollins,* 922 A.2d 379, 385 (Del. 2007).
[13] *Lopez-Vazquez v. State*, 956 A.2d 1280, 1289 (Del. 2008).

area, even though the officer did not see any drugs or money. Thereafter, the defendant fled without provocation. Based on these facts, the Court held that the officer had reasonable suspicion to stop the defendant.[14]

A warrantless arrest must be supported by probable cause based on a totality of the circumstances.[15] The totality of the circumstances must suggest a fair probability that a defendant has committed a crime.[16] While a defendant's flight from police and presence in a high crime area are not separately sufficient for a determination of probable cause, they are factors to be considered in balancing the totality of the circumstances.[17] In the case *sub judice*, the State analogizes the facts here to the facts in *State v. Brooks,* 2002 WL 3181420 (Del. Super.). In *Brooks*, this Court found that an officer had reasonable suspicion to stop a defendant driver who the officer believed to be engaging in a hand-to-hand drug transaction with a pedestrian[18] in an open-air drug market.[19] However, the Court found that the officer lacked probable cause because the officer admitted that he was too far away

[14] *Porter,* 2004 WL 2419166 at *3.
[15] *Jackson v. State*, 990 A.2d 1281, 1289 (Del. 2009).
[16] *Brooks,* 2002 WL 3181420 at *4 (internal quotations omitted).
[17] *See Hovington v. State*, 616 A.2d 829, 833 (Del. 1992).
[18] The Court also noted that the officer's reasonable suspicion was bolstered when he observed pedestrian flee upon seeing police. *Brooks*, 2002 WL 31814820 at *3.
[19] *Id.*

to see exactly what was transpiring and the officer had not obtained any further knowledge to supplement his lack of knowledge.[20]

Based on the totality of the circumstances, the Court finds that the officers had both reasonable suspicion to stop Defendant and probable cause to arrest him. The facts in this case most closely resemble the facts of *Porter*.[21] The officers were patrolling an area that was a known high drug crime area when they heard a phrase used to alert police presence and observed Defendant holding, what they believed to be, a package of narcotics and receiving money from another individual as part of a drug transaction. Defendant fled from officers when they arrived and even after the officers were in active pursuit. Unlike the officers in *Porter* and *Brooks*, Officers MacNamara and Cintron actually saw what they believed to be money and a package of drugs during the transaction. Accordingly, the totality of these facts supports the conclusion that the officers not only had reasonable suspicion to stop the Defendant, but probable cause to arrest him.

[20] *Id.* at *4.
[21] *Supra*.

Conclusion

For the foregoing reasons, Defendant's Motion to Suppress is **DENIED.**

SO ORDERED.

/S/CALVIN L. SCOTT
Judge Calvin L. Scott, Jr.