

**SCOTT, J.**

### **Finding of Fact**

On or about August 11, 2017 at approximately 11:30 A.M., Wilmington Police were observing the area around 1016 N. Pine Street, in Wilmington, Delaware, from two separate surveillance cameras. One camera is situated at the intersection of 10<sup>th</sup> Street and Pine Street, and the second camera is located at the intersection of Lombard Street and Sherman Street. At the suppression hearing Detective Silvers and Detective Gibson testified about the surveillance footage. Between the two cameras the detectives focused on a group of individuals outside the area of 1016 N. Pine Street. From the two cameras the detectives observed hand to hand transactions of small objects which they believed were drugs and money. Additionally, the detectives observed an individual counting cash and putting the cash into different pockets of his pants. Detective Silvers testified that the significance of putting cash into different pockets is that it is indicative of drug dealing. Specific to Defendant, at approximately 11:43 A.M.<sup>1</sup> Defendant entered 1016 N. Pine Street. Around 11:50 A.M. Defendant exited the residence with what appeared to be a white item in his hand. Defendant exchanged the item with an individual outside the residence. The individuals, including Defendant, walked down the street and sat down on a step not far from 1016 N. Pine Street. From the camera at 10<sup>th</sup> and Pine the officers observed one of the individuals toss white objects

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<sup>1</sup> This time stamp and depiction is from the Sherman and Lombard camera.

toward the sidewalk, and another individual eventually picked the object up. At approximately 12:45 P.M.<sup>2</sup> officers arrived to the scene. As the officers arrived the 10<sup>th</sup> and Pine camera showed Defendant walking away from the officers. An officer ordered Defendant to stop and Defendant subsequently fled from the officer.<sup>3</sup>

### **Discussion**

Defendant objects to the basis of the stop on this motion to suppress. The Fourth Amendment to the United States Constitution “guarantees ‘the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures’.”<sup>4</sup> The court looks at the “reasonableness of the officer’s suspicion of criminal activity,” and the facts are “judged against an objective standard.”<sup>5</sup> However, under Delaware law “the court can also ‘combin[e] objective facts with such an officer’s subjective interpretation of those facts’.”<sup>6</sup> To determine if there was reasonable articulable suspicion of criminal activity, the court looks at the totality of the circumstances and “the factual and practical considerations of everyday life on which reasonable and prudent [people], not legal technicians, act.”<sup>7</sup> In order to “meet this standard and establish the reasonable and articulable suspicion

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<sup>2</sup> This is depicted on the 10<sup>th</sup> and Pine camera.

<sup>3</sup> This is depicted on the Sherman and Lombard camera.

<sup>4</sup> *West v. State*, 143 A.3d 712, 715 (Del. 2016).

<sup>5</sup> *Id.* at 716. *See also Lopez-Vazquez v. State*, 956 A.2d 1280, 1286-87 (Del. 2008).

<sup>6</sup> *West*, 143 A.3d at 716.

<sup>7</sup> *Id.* at 717.

necessary to survive a motion to suppress, the State must show specific facts which, when taken together with rational inferences from those facts, reasonably warrant the stop.”<sup>8</sup>

Defendant argues that the officers did not have reasonable articulable suspicion to stop, and subsequently probable cause to arrest, Defendant. However, based on the totality of the circumstances the Court finds that the officers had reasonable articulable suspicion to stop Defendant. As the two videos depict, over the course of an hour detectives observed activity around the 1016 N. Pine Street residence. At the suppression hearing Detective Silvers testified that based on his training and experience the activity was consistent with drug dealing. This included the exchange of small objects and money between numerous individuals, and Defendant appeared to be a participant. Under Delaware law, “[l]awful and apparently innocent behavior may be meaningless to the untrained but still raise reasonable suspicion of drug trafficking in the eyes of a reasonable, prudent, and experienced police officer.”<sup>9</sup> Thus, plausible innocent explanations for the behavior the detectives observed does not negate reasonable articulable suspicion that the individuals, including Defendant, were conducting drug transactions on August 11. Based on the Detectives’ testimony at the suppression hearing, their level of training

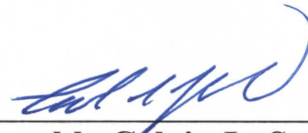
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<sup>8</sup> *Lopez-Vazquez*, 956 A.2d at 1287 (internal quotations omitted).

<sup>9</sup> *Harris v. State*, 806 A.2d 119, 121 (Del. 2002).

and experience, and the evidence on the two cameras, the officer had reasonable articulable suspicion to stop Defendant. Defendant's motion to suppress is **DENIED.**

**IT IS SO ORDERED.**



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**The Honorable Calvin L. Scott, Jr.**