IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	:	ID No. 2505009470
	:	
v.	:	
	:	
MICHAEL N. LOPEZ,	:	
	:	
Defendant.	:	

Submitted: October 2, 2026
Decided: October 30, 2026

ORDER

1. The State charges Mr. Lopez with five counts of drug dealing, one count of resisting arrest, one count of offensive touching, and one count of possession of drug paraphernalia after his arrest on May 19, 2025. He moves to suppress evidence seized after the police stopped his vehicle in Milford. The State, in its pre-hearing filings, sought to justify the stop on two bases: (1) Mr. Lopez committed motor vehicle violations, and (2) a confidential informant ("the CI") provided information that Mr. Lopez was about to engage in a drug transaction. Although the State referenced the alleged traffic offenses at the hearing and argument, it abandoned them as a justification for the stop. It relied upon the CI's information as the sole basis for the stop.[1]

[1] Notably, nothing prohibited the State from relying on alternative reasons to justify the stop – particularly in light of Delaware's recognition that the Delaware Constitution provides no greater protection against pretextual stops than does *Whren v. United States*. *Juliano v. State*, 254 A.3d 369, 388 (Del. 2020). The State would have needed to present evidence to demonstrate the officers' reasonable articulable suspicion of such a violation to justify the stop on this separate basis – which is not a heavy burden. Here, the State presented only a conclusory allegation that Mr. Lopez committed motor vehicle violations and provided no detail as to who provided the information, or when it was provided, other than it was "heard on the radio." The Court cannot

2. At the hearing, the State presented testimony from a detective involved in the stop. Detective Quiroz, the chief investigating officer, testified that he did not witness Mr. Lopez commit any traffic offenses. The detective could not identify who told him that Mr. Lopez had committed any such violation other than that he "heard it on the radio" at some point before the stop. Accordingly, Detective Quiroz's testimony focused primarily on the CI's tip. At the hearing, he described a non-past-proven-reliable cooperating defendant's tip limited to the following detail: Mr. Lopez planned to get into the pickup at his residence at some unspecified time that day and drive to Milford to sell methamphetamine somewhere in Milford. Detective Quiroz further testified that police surveillance confirmed Mr. Lopez's drive from Felton to Milford. Finally, the detective testified that the police recovered drugs and other evidence from Mr. Lopez's vehicle after the stop and subsequent arrest.

3. The State then rested its portion of the case. The Court asked whether it should decide the case at that point because the State bore the burden of justifying the detention and provided such limited detail. The State then requested to reopen the case which the Court accommodated. The State, however, provided no further detail in its reopened case. Specifically, the State provided no additional information regarding the CI's motive for providing the information, the basis for the CI's knowledge, or the CI's reliability.

4. Mr. Lopez, for his part, called another detective involved in the investigation as a witness – Detective Rivera. That detective provided no additional

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appropriately fill in such gaps in an adversarial proceeding. Accordingly, this decision does not consider whether the State *could have* met its burden in this case under the collective knowledge doctrine. *See State v. Holmes*, 2015 WL 5168374, at *5 (Del. Super. Sept. 3, 2016) (recognizing that an officer can rely on information provided by fellow officers for justification for a stop, arrest, or search provided certain foundational requirements are met). The Court notes only that (1) the State declined to pursue this justification, and (2) the evidence would not have established its applicability on this limited record if the State had.

information relevant to the tip's reliability. Mr. Lopez also entered four exhibits into the suppression record during the course of the hearing.[2]

5. In a motion to suppress evidence seized after a warrantless stop, the State bears the burden of demonstrating that the challenged search or seizure complied with the rights guaranteed by the United States Constitution, the Delaware Constitution, and Delaware statutory law.[3] The State must meet this burden by a preponderance of the evidence.[4] Here, Mr. Lopez challenges the warrantless stop of his vehicle. As a result, the State had the burden of demonstrating the detaining officers' reasonable articulable suspicion that Mr. Lopez was engaged in criminal activity before the stop.

6. An informant's tip "may provide reasonable suspicion for a stop and seizure where the totality of the circumstances, if corroborated, indicates that the information is reliable.[5] The reliability of the information turns on the specificity of the informant's tip and the degree to which the tip is corroborated by independent police surveillance.[6] The facts and conditions existing at the time of the informant's tip are important together with any references to future action that could not ordinarily be easily predicted.[7]

7. The Court finds the following facts relevant to the motion by the preponderance of the evidence. Detectives Quiroz and Rivera, from the Milford Police Department, stopped Mr. Lopez's vehicle on May 19, 2026.[8] They received a tip from a person they described as a *non*-past proven cooperating defendant

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[2] Def.'s Exs. 1–4.
[3] *State v. Hopkins*, 2016 WL 6958697, at *2 (Del. Super. Nov. 23, 2016) (citing *Hunter v. State*, 783 A.2d 558, 560 (Del. 2001)).
[4] *Id.* at *2.
[5] *Miller v. State*, 25 A.3d 768, 771 (Del. 2011).
[6] *Id.* at 771–72.
[7] *Id.* at 772.
[8] Mr. Lopez called the other detective involved in the stop as a witness during his portion of the case.

(again, the "CI") at some unspecified time that day. The CI told them – with no time parameters – that Mr. Lopez was going to leave his house in Felton in a Silverado pickup and drive to Milford for a drug transaction involving "meth." The police then surveilled Mr. Lopez's residence. He entered and exited his residence and did yard work for some time. Later, they observed him exit his garage, get in his Silverado pickup, and drive from Felton to Milford. The detectives then stopped his vehicle somewhere in Milford and took him into custody. They later found drugs and incriminating evidence on Mr. Lopez's person and in his truck.

8. The reliability of the CI's information is central to the motion and the State bears the burden to present facts supporting the CI's reliability. In this case, the lack of specificity in the CI's prediction, the lack of independent corroboration regarding any illegal activity, and the lack of evidence explaining the CI's motive to provide accurate information make the tip insufficiently reliable to support the detention.

9. The State contends that it overcomes these deficiencies because the CI predicted Mr. Lopez's movements in significant detail and the police confirmed those movements through surveillance. The State also relies heavily on the detectives' conclusory testimony that the CI was a "cooperating defendant" rather than simply a confidential informant. These circumstances, the State contends, satisfy its burden regarding this *Terry* level detention under the totality of the circumstances.[9]

10. They do not for several reasons. First, the State presented no evidence to demonstrate why this CI should be considered any more reliable than an

[9] The State also argued that the drugs seized after the stop and arrest demonstrate the tip's reliability post hoc. Search and seizure law ubiquitously recognizes that the results of an improper search or seizure have no bearing on whether that search or seizure was legal in the first instance. The exclusionary rule looks to the justification for the seizure based on facts available to the arresting officers before the seizure.

anonymous tipster. To this end, the record is devoid of evidence regarding how the CI learned the information. Did the CI learn of the planned sale based on personal knowledge regarding the transaction, Mr. Lopez's general practices, or in some other way? Did the CI even have personal knowledge of the future conduct, make some personal observation, or simply rely upon hearsay, or hearsay based upon hearsay when reporting the planned movements? In addition, the record contains no facts or circumstances to infer the nature of the CI's cooperation. Was he a cooperating defendant in some case prior to sentencing, in a separate violation of probation matter, in the same case involving Mr. Lopez, in a different felony case, or in case involving a motor vehicle violation? The record provides no answers to these or other questions which leaves the Court unable to infer this CI had any greater credibility than an anonymous tipster who provided the police a general tip that someone would drive to Milford to sell drugs.

11. Turning to the tip itself, there was sparse predictive detail. Namely, the tip forecasts Mr. Lopez's drive from Felton to Milford *at some time during the day.* The police surveillance corroborating the tip observed only this very general activity.

12. The State opposes the motion by relying on the Delaware Supreme Court's decision in *Miller v. State*,[10] which is distinguishable. There, the Delaware Supreme Court affirmed a denial of a motion challenging the reliability of a confidential informant's tip regarding future drug activity.[11] The tip in *Miller* had much greater predictive detail regarding time and location when compared to the tip in Mr. Lopez's case.[12] For instance, it predicted that two individuals would arrive at *a specific* parking lot within a *two-hour window* and park *within one of four*

[10] 25 A.3d 768 (Del. 2011).
[11] *Id.* at 774.
[12] *Id.* at 773.

identified parking spots with bundles of heroin.[13] The CI in *Miller*, unlike the CI in this case, had also provided information to the police on "multiple" prior occasions.[14] In addition, that CI remained on the phone with the surveilling officers throughout and verified for the officers in real time that the vehicle that pulled into the predicted spot was the correct vehicle.[15]

13. In contrast to *Miller*, the CI provided no details as to time. Furthermore, he or she predicted only a general travel route and provided no specifics regarding destination other than that Mr. Lopez would drive to somewhere within Milford's city limits. The hearing record also provides no information to support any inference about the CI's motivation, basis of knowledge, or familiarity with the police. In sum, the prediction and observation of only Mr. Lopez's legal and generic movements do not satisfy the State's burden, either in isolation, or under the totality of the circumstances.[16]

14. As a final matter, *Mr. Lopez* offered a probable cause affidavit authored by Detective Quiroz for a subsequent search of Mr. Lopez's residence.[17] The State did not address the affidavit in its closing remarks – the Court has nevertheless considered it because it is part of the record. On one hand, the affidavit confirms the sparsity of detail in the CI's tip. Elsewhere, however, it references an alleged tip by a *different* confidential informant who allegedly conducted a controlled buy with

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[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *See State v. Harding*, 2017 WL 1018409, at *4 (Del. Super. Mar. 13, 2017) (citing Lopez-*Vazquez v. State,* 956 A.2d. 1280, 1287–88 (Del. 2008) (where the Supreme Court recognized that "it is possible for factors, although insufficient individually, to add up to reasonable suspicion—that is the nature of the totality of the circumstances test. But we think it impossible for a combination of wholly innocent factors to combine into a suspicious conglomeration unless there are concrete reasons for such an interpretation.").
[17] Def.'s Ex. 1.

Mr. Lopez approximately two weeks before the stop.[18] Granted, hearsay is admissible in a suppression hearing.[19] Nevertheless, under the circumstance of this case, the Court declines to assign any evidentiary weight to the affidavit's reference to the separate CI. The detective who executed the affidavit testified in Court and had the opportunity to explain if additional information was known to him and formed any part of the basis for the stop. Perhaps the detective was unaware of the separate CI at the time of the stop and learned about it only later for inclusion in the subsequent search warrant. Perhaps something has happened since the detective executed the affidavit which left the detective unable to provide testimony addressing the second informant. Regardless, given such an omission in testimony, the Court declines to assign any weight to that recitation in the affidavit when the author declined to rely upon it or even address it in his sworn in-court testimony.

WHEREFORE, for the reasons above, Defendant Michal Lopez's motion to suppress is granted.

IT IS SO ORDERED.

/s/Jeffrey J Clark
Resident Judge

[18] *Id.* ¶¶ 4-5.
[19] *State v. Kolaco*, 2020 WL 7334176, at *10 (Del. Super. Dec. 14, 2020).