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Case Number 376,2022

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AARON GARNETT,	)	
	)	
Defendant – Below,	)	
Appellant,	)	
	)	
v.	)	**No. 376, 2022**
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff – Below,	)	
Appellee.	)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

STATE'S ANSWERING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On June 8, 2020, a Kent County Grand Jury indicted Aaron Garnett ("Garnett") on charges of Murder First Degree, two counts of Endangering the Welfare of a Child, and Offensive Touching. A1; A13-14. Garnett filed a motion to suppress evidence on August 16, 2021, which the Superior Court denied after a hearing. A3; A6-7. The court held a separate hearing on Garnett's motion to suppress his recorded statement to police, which the court likewise denied. A9-10. After a four-day trial, a jury convicted Garnett of all charges. A11. The Superior Court sentenced Garnett to an aggregate life term of incarceration plus one year and thirty days, followed by Level III probation. Exhibit C to Op. Brf. Garnett has appealed. This is the State's answering brief.

SUMMARY OF THE ARGUMENT

I. Appellant's argument is denied. The Superior Court did not abuse its discretion when it denied Garnet's motion to suppress. The court correctly concluded that police would have inevitably discovered Naquita Hill's body in the home she shared with Garnett, their son, and her nephews.

II. Appellant's argument is denied. The Superior Court did not abuse its discretion when it denied Garnett's motion to suppress his statement to police. Detectives did not use any evidence discovered as a result the initial police entry into 32 Willis Road when questioning Garnett, and any he statements made during his interview were not poisonous fruit. Even if this Court were to determine that Garnett's statement was fruit of the poisonous tree, his confession was sufficiently attenuated from the initial police entry into 32 Willis Road to purge the taint.

III. Appellant's argument is denied. The Superior Court did not hold that the Delaware Constitution incorporates the inevitable discovery doctrine. This Court adopted the inevitable discovery doctrine in 1977 and Delaware courts have consistently applied it for over 40 years.

STATEMENT OF FACTS

On March 15, 2020, at approximately 5:34 a.m., officers from the Dover Police Department ("DPD") responded to a call for a domestic welfare check involving an adult male, later identified as Garnett, and three children, reported at a Wawa in Dover, Delaware. B44-46. DPD Cpl. Anthony Toto made contact with Garnett, who was acting "very strange and peculiar," and asked his name. B46. Garnett told Cpl. Toto his name was "Aaron Edwards" and he was at the Wawa to meet his sister who was coming from Maryland. B46. When asked about the mother of the three children accompanying him, Garnett told officers that she was incarcerated. B46; B80. Garnett would not provide officers with any further information about the mother of the children, including her name or any other identifying/contact information. B46. DPD Officer Brandon Clancy placed Garnett into custody for Criminal Impersonation, and transported him to the police station. B80. While processing Garnett, Ofc. Clancy noticed blood on one of Garnett's socks. B81. However, Garnett did not appear to have any injuries. B82.

The three children who were with Garnett appeared "confused" and were not appropriately dressed for the weather. B46. Two of the children, M.S. and F.L. were Naquita Hill's nephews. B44. The third child, A.G., an infant, was the child of Naquita and Garnett. B44. According to DPD Detective Alicia Corrado, who also responded to the Wawa, Garnett had no items associated with transporting

small children – i.e., baby stroller, baby carrier, formula, or diapers. B60. F.L. told Det. Corrado that they had walked to the Wawa. B60. When asked where their mother was, the children told Det. Corrado that she was at home asleep. B60. M.S. and F.L. were able to provide Det. Corrado with their address – 32 Willis Road, which, according to officers, is miles away from the Wawa. B61; B112.

Det. Corrado and Cpl. Toto transported the children to the Dover police station and Det. Corrado remained with the children at the station. B61-62. While minding the children, Det. Corrado notice that M.S. had bulges in his pants' pockets. B62. When M.S. removed the items, Det. Corrado discovered Garnett's cell phone, his watch, and Naquita's driver's license, her social security card, and her credit cards. B63-64. M.S. told police that, prior to arriving at the Wawa, Garnett gave him the items that were in his pockets and told him to hide them and not give them to anyone. A63.

DPD Patrolman Dale Stark also responded to the Wawa. B66. As the investigation was concluding, Ptlm. Stark was instructed to respond to 32 Willis Road to attempt to contact a parent or guardian of the children. B69. Two other DPD officers accompanied Ptlm. Stark. B70. When he arrived at 32 Willis Road, Ptlm. Stark knocked on the front door and announced the police presence several times without receiving a response. B70. Ptlm. Stark went to the rear of the property and knocked on the rear door several times with no response. B71. The

lack of response caused concern for Ptlm. Stark because he was told that someone was inside the house. B71. Ptlm. Stark checked to see if the back door was locked and discovered that it was not. B71-72. Ptlm. Stark radioed the other officers, who remained at the front of the residence, and advised them of the development. B72. The other officers came to the back door and opened it. B72. The officers scanned inside and observed what appeared to be a limb protruding from under a blanket. B72; B115. DPD Sgt. Jennifer Lynch entered the residence, removed the blanket covering the body of Naquita, and attempted to render aid. B73; B117.

At trial, M.S. testified that Garnett woke him up at 5:00 a.m. and told him to get dressed. B127. When M.S. came downstairs he saw Naquita lying on the floor with a blanket covering her. B128. As she lay there, Garnett "stomped her face." B131. M.S. walked with Garnett and his cousins from Willis Road to the Wawa. B127. While at the Wawa, Garnett told M.S., "say something and I will kill you." B129. He then choked M.S.. B129.

F.L. also testified at trial. According to F.L., Garnett woke up the children and told them to get dressed. B134-35. When the children went downstairs, F.L. saw Naquita near the stairs; she was covered up and Garnett was "stepping on [her]." B135-36. F.L. walked with Garnett and the other children to the Wawa and, while at the Wawa, he saw Garnett choke M.S.. B136-37.

DPD Detective Timothy Mullaney interviewed Garnett at the police station. B156. During the interview, Garnett admitted killing Naquita and said that he had grabbed her by the throat, she went down to the ground, and he struck her with his fist. B156; State's Trial Exhibit 6. The medical examiner who performed Naquita's autopsy concluded that her cause of death was a compression of the neck and chest, and multiple blunt force injuries. B190.

ARGUMENT

I. THE SUPERIOR COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED GARNETT'S MOTION TO SUPPRESS EVIDENCE.

Question Presented

Whether the Superior Court abused its discretion when it determined that investigators in Garnett's case would have inevitably made entry into 32 Willis Road.

Standard and Scope of Review

This Court reviews the grant or denial of a motion to suppress for an abuse of discretion.[1] A trial court's legal conclusions are reviewed *de novo* for errors in formulating or applying legal precepts.[2] "[A] Trial Court's determination that . . . evidence would have been inevitably discovered constitutes a finding of fact. . . . Such a finding, unless clearly erroneous and not supported by the record, may not be overturned by a reviewing court."[3]

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[1] *Lopez-Vazquez v. State*, 956 A.2d 1280, 1284–85 (Del. 2008) (citations omitted).

[2] *Id.* (citations omitted).

[3] *DeShields v. State*, 534 A.2d 630, 638 (Del. 1987) (citing *Nix v. Williams*, 467 U.S. 431, 448-50 (1984) (other citation omitted)).

Merits of the Argument

On appeal, Garnett claims the Superior Court abused its discretion when it denied his motion to suppress evidence. He contends the police illegally entered 32 Willis Road, and that the record does not support the court's conclusion that the police would have inevitably made entry into the residence and found Naquita Hill's body. Garnett's argument is unavailing.

When the Superior Court considered Garnett's motion to suppress, it determined that the warrantless entry into 32 Willis Road was not permitted under the emergency doctrine.[4] However, the court concluded that the inevitable discovery doctrine applied to the officers' entry into 32 Willis Road, and their subsequent discovery of Naquita Hill's body.[5] The Superior Court did not abuse its discretion in making that determination.

The inevitable discovery doctrine "provides that evidence obtained in the course of illegal police conduct will not be suppressed so long as the prosecution can prove that the evidence 'would have been discovered through legitimate means in the absence of official misconduct.'"[6] As this Court noted in *Roy v. State*, "[o]ne of the rationales for the exclusionary rule—deterrence of police

[4] *State v. Garnett*, 2021 WL 6109797, at *5 (Del. Super. Ct. Dec. 23, 2021).

[5] *Id.* at *7.

[6] *Roy v. State*, 62 A.3d 1183, 1189 (Del. 2012) (quoting *Cook v. State*, 374 A.2d 264, 267-68 (Del. 1977)).

misconduct—is of diminished concern when the police can demonstrate that they would have inevitably discovered the same evidence through lawful conduct."[7]

Here, the Superior Court determined that the police would have discovered Naquita Hill's body through legitimate means in the absence of their warrantless entry into 32 Willis Road. The court found that the State had established, by a preponderance of evidence, that there were two legitimate possible courses of events which would have led to the discovery of Naquita Hill's body:

> [T]he officers would have re-attempted contact with the guardian and discovered the body pursuant to routine police procedures. It is not speculation, as Mr. Garnett argues, that the body would have been found, as there were at least two avenues to finding the body that became increasingly apparent either contemporaneously with the entry into the home or shortly thereafter: (1) a future check of the home that would have quickly been necessitated because the children required a guardian to care for them, together with an increasing concern for Ms. Hill's own welfare resulting from information that law enforcement was gathering that would have eventually justified a search under the emergency doctrine; and (2) the increasing likelihood that a search warrant would have been applied for and approved, based upon information uncovered by law enforcement separate from the physical evidence discovered as a result of the warrantless entry, that would have allowed access into the home.[8]

The court did not abuse its discretion when it reached the above conclusion.

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[7] *Id.*

[8] *Garnett*, 2021 WL 6109797, at *5.

Emergency Doctrine

Under the emergency doctrine, the State must prove by a preponderance of the evidence: "(1) [t]he police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property[;] (2)[t]he search must not be primarily motivated by intent to arrest and seize evidence[; and] (3) [t]here must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched."[9] The Superior Court correctly determined that the State would have satisfied the emergency doctrine based on the evidence developed during the investigation.

As the police investigation developed, its focus was on locating and contacting the guardian of two school age children and a five-month-old infant.[10] Indeed, that was the impetus for the police going to 32 Willis Road in the first instance.[11] At that point in the investigation:

> The police had been called to the Wawa for a report of a domestic incident involving a physical altercation between Garnett and one of the children.[12]

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[9] *Blake v. State*, 954 A.2d 315, 318 (Del. 2008) (quoting *Guererri v. State*, 922 A.2d 403, 406 (Del. 2007) (quotation marks omitted)).

[10] *See, e.g.,* A68-70.

[11] A69.

[12] A58.

> Garnett told Ofc. Toto that his name was "Aaron Edwards" and initially said he had come from Maryland to take custody of the children because their mother was in prison.[13] Garnett would not provide Ofc. Toto with any other information about the mother of the children.
>
> Garnett told Sgt. Lynch that he had walked with three children, ages 10, 5, and 5 months, from the Towne Point neighborhood to the Wawa in the early morning hours.[14] The children were not appropriately dressed for the weather and Garnett had no items associated with caring for or transporting an infant.[15]
>
> Garnett was going to be arrested for criminal impersonation for providing police with a false name.[16] Ofc. Corrado observed a scratch on M.S.'s neck and officers were reviewing video footage from the Wawa to determine whether Garnett was going to be charged for choking M.S..[17]
>
> The children provided officers with their address and told her that their mother was home sleeping.[18] Police had no other information to aid in determining the identity of the children's guardian and making contact with her.

The following developments occurred contemporaneously with or immediately following officers going to 32 Willis Road:

> During a conversation with Ofc. Corrado, M.S. said that Garnett gave him items to hold and told M.S. to hide them.[19] The items, which

[13] A63.

[14] A83-84.

[15] A62.

[16] A65.

[17] A127; A65.

[18] A89; A127.

[19] A124-25.

> were in M.S.'s pants pockets included Naquita Hill's driver's license and social security card, as well as Garnett's phone, watch and credit cards.[20]
>
> While processing Garnett, Ofc. Clancy observed a "decent size[d]" stain that appeared to be blood on one of Garnett's socks.[21] Garnett did not answer when Ofc. Clancy asked whether he was injured.[22]
>
> When the officers went to 32 Willis Road, they knocked on the front door several times and announced their presence.[23] There was no response from inside.[24] Ofc. Stark went to the rear of the residence, knocked on the back door and announced his presence.[25] He received no response.[26] Ofc. Stark checked to see whether the door was locked – it was not.[27]

The Superior Court initially determined that there was no emergency at hand based on the evidence that had been developed at the time of the police entry into 32 Willis Road. However, the court correctly determined:

> Had the officers waited and returned to the home at a later time, as Sergeant Lynch had suggested would have occurred but for Patrolman Starke's action, they would have been armed with additional pertinent information. That information, likely, could have turned the situation into a welfare check . . . in addition to the original primary purpose of locating the guardian.[28]

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[20] A124-25.

[21] A139-40.

[22] A140.

[23] A146.

[24] A146.

[25] A147.

[26] A147.

[27] A147.

[28] *Garnett*, 2021 WL 6109797, at *4.

The State demonstrated by a preponderance of the evidence that the police would have had reasonable grounds to believe there was an emergency at hand and that there was a need for their assistance. The police could not locate or contact the children's guardian, Garnett would not provide the police with any information about her other than to say that she was incarcerated, the children said their mother was asleep at home, Garnett had given Naquita Hill's driver's license and social security card to M.S. and told him to hide them, Garnett had an unexplained blood stain on his sock, and when police went to 32 Willis Road they received no response after knocking and announcing their presence.

As this Court has stated, "the role of police in Delaware is not limited to merely the detection and prevention of criminal activity, but also encompasses a non-investigative, non-criminal role to ensure the safety and welfare of our citizens."[29] Such was the case here. It is clear that a subsequent police entry into 32 Willis Road would not have been motivated by intent to arrest and seize evidence. And, there was a reasonable basis to associate the emergency with 32 Willis Road. That was the address given to police by the children, who told officers their mother was in the home asleep. The police went to 32 Willis Road, expecting to find her there, but became concerned when they received no response after knocking on the door and announcing their presence. Thus, the court

[29] *Williams v. State*, 962 A.2d 210, 218 (Del. 2008).

correctly concluded that State likewise satisfied the second and third prongs of the emergency doctrine analysis.

In sum, if Ofc. Starke had not opened the back door to 32 Willis Road, the police would have returned to the home at a later time.[30] The developments in the case that occurred contemporaneously with or after the attempt to contact the children's guardian would have provided an additional basis for the police to enter 32 Willis Road to conduct a welfare check under the emergency doctrine. Thus, the Superior Court correctly concluded the police would have inevitably discovered Naquita Hill's body.[31]

Search Warrant

The Superior Court also found that the police would have inevitably discovered Naquita Hill's body because they would have applied for and obtained a search warrant for 32 Willis Road. The court's determination was correct. The State established by a preponderance of the evidence that the police would have been able to obtain a search warrant for 32 Willis Road. Det. Mullaney testified that had there been no police entry into 32 Willis Road, he would have determined

[30] A111-12.

[31] The court's finding that Naquita Hill's body would have been inevitably discovered through legitimate means is entitled to deference. *Rew v. State*, 1993 WL 61705, at *4 (Del. Feb 25, 1993) (citing *DeShields*, 534 A.2d at 638.

who the children's guardian was through a school resource officer ("SRO").[32] SROs have access to a student's emergency contact information – in this case the information would have shown their guardian was Naquita Hill and their address was 32 Willis Road.[33] Det. Mullaney would have run Naquita Hill's name through CJIS and discovered a different address for her – 970 Whatcoat Drive, which was also her sister, Rasheeda Hill's, address.[34] Det. Mullaney testified that he would have gone to 970 Whatcoat Drive to make contact with a relative who would have led police back to 32 Willis Road with hopes to gain entry.[35] If those efforts proved unsuccessful, Det. Mullaney would have sought a warrant.[36]

The following evidence, identified by the Superior Court, would have supported a finding of probable cause for a search warrant:

> Officers had confirmation, via surveillance footage and a scratch on M.S.'s neck, that Garnett had assaulted a minor.
>
> Garnett lied to officers about his name.
>
> Garnett would not provide any information surrounding the children's guardian other than that she was incarcerated, which could not be confirmed at the time.

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[32] A242.

[33] A243.

[34] A243.

[35] A246.

[36] A247.

> The children told officers that that they had left from their mother's home and had walked a great distance to the Wawa with no explanation from Garnett of why they were doing so, and it was apparent that the children were not adequately clothed. The children also told officers that their mother was at home sleeping.
>
> Garnett gave Naquita Hill's Social Security card and driver's license to M.S. to "hide."
>
> While processing Garnett police discovered blood on one of his socks that did not appear to be from a wound of his own.
>
> The officers would have learned that 32 Willis Road was the address listed as the home address on the children's school records.[37]

The police would have had the necessary quantum of evidence for a finding of probable cause. As such, they would have obtained a search warrant for 32 Willis Road and discovered Naquita Hill's body when executing the warrant.

[37] *Garnett*, 2021 WL 6109797, at *6–7.

II. THE SUPERIOR COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED GARNETT'S MOTION TO SUPPRESS HIS STATEMENT TO POLICE.

Question Presented

Whether the Superior Court abused its discretion when it denied Garnett's motion to suppress his statement to police.

Standard and Scope of Review

This Court reviews the grant or denial of a motion to suppress for an abuse of discretion.[38] Claims of a constitutional violation are reviewed *de novo*.[39]

Merits of the Argument

On appeal, Garnett claims the Superior Court abused its discretion when it determined that even if his statement to police was fruit of the police entry into 32 Willis Road, had the police not made the entry, Garnett would have inevitably given the same statement to police. Garnett acknowledges that the court concluded his statement was sufficiently attenuated from the police entry into 32 Willis Road; however, he confines his argument to the court's discussion of the applicability of the inevitable discovery doctrine as alternative basis for denying his suppression motion. Garnett's confession was properly admitted for reasons discussed below

[38] *Lopez-Vazquez*, 956 A.2d at 1284-85.

[39] *Zebroski v. State*, 12 A.3d 1115, 1119 (Del. 2010).

and the Court need not address Garnett's inevitable discovery argument. His confession was not poisonous fruit and was thus admissible at his trial. In any event, the Superior Court correctly determined that Garnett's statement was sufficiently attenuated from the police entry into 32 Willis Road, and it did not abuse its discretion when it denied his suppression motion.

Garnett's Statement Was Not Poisonous Fruit

Under the fruit of the poisonous tree doctrine, a confession may be suppressed if it is the result of unlawful police conduct. For the doctrine to apply, however, there must first be some causal connection between the unlawful police activity and the evidence a defendant seeks to have suppressed.[40] As the United States Supreme Court stated in *Wong Sun*, the question is whether "the evidence to which instant objection is made has been come at by exploitation of that illegality."[41]

Here, the detectives administered the *Miranda* warnings to Garnett before he waived his rights and agreed to speak with them.[42] As the Superior Court noted, "[t]he officers did not lie about any part of the case, and furthermore they did not mention any evidence found at 32 Willis Road, including Ms. Hill's body."[43] The

[40] *Wong Sun v. United States*, 371 U.S. 471, 487-88 (1963).

[41] *Id*. at 488.

[42] *State v. Garnett*, 2022 WL 610200, at *3 (Del. Super. Ct. Mar. 1, 2022).

[43] *Id*.

detectives only told Garnett that they had been to 32 Willis Road. Garnett disclosed that he knew about Naquita Hill's body and the detectives confronted him with Naquita Hill's journal, in which she detailed some of the relationship issues the couple had. Garnett subsequently confessed to killing her. Garnett's confession did not come as a result of the detectives exploiting the police entry into 32 Willis Road. Garnett's confession was not fruit of the poisonous tree and the Court can affirm the Superior Court's denial of Garnett's motion to suppress his statement on that basis alone.[44]

Attenuation Doctrine

Even if the Court were to determine that Garnett's statement was fruit of the poisonous tree, the Superior Court correctly applied the attenuation doctrine when it denied Garnett's motion to suppress. "The attenuation doctrine exception [to the exclusionary rule] permits courts to find that the poisonous taint of an unlawful search and seizure has dissipated when the causal connection between the unlawful police conduct and the acquisition of the challenged evidence becomes sufficiently attenuated."[45] "Thus, even if there is an illegal search or seizure, direct or

[44] *Unitrin, Inc. v. Am. Gen. Corp.*, 651 A.2d 1361, 1390 (Del. 1995) (this Court may affirm a trial court's judgment for reasons different than those articulated by the trial court).

[45] *Lopez-Vazquez*, 956 A.2d at 1293 (citing *Hudson v. Michigan*, 547 U.S. 586, 593 (2006); *Brown v. Illinois*, 422 U.S. 590, 602–03 (1975); *Wong Sun*, 371 U.S. at 487–88; *Nardone v. United States*, 308 U.S. 338, 341 (1939)).

derivative evidence . . . may still be admissible if the taint is sufficiently 'purged.'"[46] The three factors considered when determining whether evidence may be admitted through the attenuation doctrine are: "(1) the temporal proximity of the illegality and the acquisition of the evidence to which the instant objection is made; (2) the presence of intervening circumstances; and (3) the purpose and flagrancy of the official conduct."[47] Applying the above factors to Garnett's statement, the Superior Court correctly determined that the statement was sufficiently attenuated from the police entry into 32 Willis Road.[48]

Temporal Proximity

Garnett was not present when the police entered 32 Willis Road. As the Superior Court noted, the time between the police entry into 32 Willis Road and Garnett's statement was over seven hours.[49] That is a substantial amount of time, which favors application of the attenuation doctrine.[50]

Intervening Circumstances

When Det. Mullaney and Det. Bumgarner interviewed Garnett, they told him that the police had been to 32 Willis Road. They did not discuss or otherwise refer

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[46] *Id.* (citations omitted).

[47] *Id.* (citing *Brown*, 422 U.S. at 603–04).

[48] *Garnett*, 2022 WL 610200, at *9.

[49] *Id.* at *7.

[50] Short time intervals favor suppression under the attenuation doctrine. *Utah v. Strieff*, 579 U.S. 232, 239 (2016); *Kaupp v. Texas*, 538 U.S. 626, 633 (2003).

to any evidence discovered when the police entered the residence. The Superior Court found that "Garnett's own voluntary, unelicited admission to Detectives Mullaney and Bumgarner, near the beginning of the taped statement, that he was aware of the presence of Ms. Hill's dead body at 32 Willis Road" was the intervening circumstance that purged the taint of the officer's entry into 32 Willis Road.[51] As the court explained, "it was not the questioning officers who disclosed to Garnett the discovery of the body and other evidence obtained at the home, thereby exploiting that evidence to obtain a confession, but it was Garnett who first disclosed that he was aware of the evidence." After Garnett told the detectives he knew about Naquita Hill's body, they confronted him with her journal, which had been lawfully obtained from Garnett's person and revealed the relationship issues between Garnett and Hill. The court found that the confrontation was an additional intervening circumstance that likely precipitated Garnett's confession.[52] In sum, no evidence from the entry into 32 Willis Road was used to confront Garnett. His initial disclosure about his knowledge of Naquita Hill's body and his subsequent confession were remote from the police entry into 32 Willis Road. This factor weighs in favor of application of the attenuation doctrine.

[51] *Garnett*, 2022 WL 610200, at *8.

[52] *Id.*

Purpose and Flagrancy of Official Conduct

Here, the purpose of the police entry into 32 Willis Road was to locate the children's mother. There was also a concern for her safety. This was not an effort on the part of police to discover evidence. This factor weighs in favor of application of the attenuation doctrine.

Garnett's statement to detectives was sufficiently attenuated from the police entry into 32 Willis Road. The detectives questioned Garnett several hours after the entry into 32 Willis Road and did not use any evidence discovered during the entry into 32 Willis Road when they questioned him. And, the purpose of the entry into 32 Willis road was to locate the mother of the three children. The Superior Court did not abuse its discretion or otherwise err when it applied the attenuation doctrine and denied Garnett's suppression motion.

Because the Court can affirm the Superior Court's denial of Garnett's motion to suppress his statement by finding that it was not poisonous fruit or by application of the attenuation doctrine, it need not address Garnett's argument about the Superior Court's application of the inevitable discovery doctrine.

III. THE SUPERIOR COURT DID NOT HOLD THAT THE DELAWARE CONSTIUTION INCORPORATES THE INEVITABLE DISCOVERY DOCTRINE.

Question Presented

Whether the Superior Court held that Article I, Section 6 of the Delaware constitution incorporates the inevitable discovery doctrine.

Standard and Scope of Review

This Court reviews claims of violations of the United States or Delaware constitutions *de novo*.[53]

Merits of the Argument

Garnett claims that the Superior Court "erred by holding the Delaware Constitution incorporates the inevitable discovery doctrine as described in *Nix v. Williams.*"[54] He misapprehends the court's decision. The Superior Court noted that this Court has applied the inevitable discovery doctrine as an exception to the exclusionary rule.[55] The court then applied the doctrine in accordance with *Nix v. Williams* and the decisions of this Court, and denied Garnett's suppression

[53] *Hall v. State*, 788 A.2d 118, 123 (Del. 2001).

[54] Op. Brf. at 27.

[55] *See Garnett*, 2021 WL 6109797, at *4 ("[t]he Delaware Supreme Court has recognized and sanctioned both the emergency doctrine and the inevitable discovery exception as two exceptions to [the exclusionary rule].") (citing *Guererri*, 922 A.2d at 406; *Cook*, 374 A.2d at 268.

motion(s).[56] The court did not hold that the Delaware Constitution incorporates the inevitable discovery doctrine.

The court's decisions denying Garnett's motion to suppress evidence and motion to suppress his statement are devoid of any analysis under the Delaware Constitution. Indeed, the following represents the totality of the court's consideration of the issue under the Delaware Constitution:

> For a motion to suppress evidence seized during a warrantless search, the State bears the burden of showing that the challenged seizure complied with the requirements of the United States Constitution, the Delaware Constitution, and any applicable statutes.[57]

The preceding is hardly a holding that the Delaware Constitution incorporates the inevitable discovery doctrine.

In any event, Delaware recognized the inevitable discovery doctrine in 1977 in *Cook v. State*[58] – four years before the United States Supreme Court's decision in *Nix v. Williams*.[59] In *Cook*, this Court stated: "This exception, which has found

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[56] *Garnett*, 2021 WL 6109797, at *5-6; *Garnett*, 2022 WL 610200, at *4-5.

[57] *Garnett*, 2021 WL 6109797, at *3 (Del. 2021). The court's decision denying Garnett's motion to suppress his statement makes no mention of the Delaware Constitution. *See Garnett*, 2022 WL 610200.

[58] 374 A.2d 264, 267-68 (Del. 1977).

[59] 467 U.S. 431 (1984). In *Williams* the Court held: "If the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means . . . then the deterrence rationale has so little basis that the evidence should be received. Anything less would reject logic, experience, and common sense." *Id.* at 444.

increasing judicial favor, provides that evidence, obtained in the course of illegal police conduct, will not be suppressed if the prosecution can prove that the incriminating evidence 'would have been discovered through legitimate means in the absence of official misconduct.'"[60] "One of the rationales for the exclusionary rule—deterrence of police misconduct—is of diminished concern when the police can demonstrate that they would have inevitably discovered the same evidence through lawful conduct."[61] As this Court has stated, the inevitable discovery exception to the exclusionary rule "flow[s] from the premise that, although the government ought not profit from its own misconduct, it also should not be made worse off than it would have been had the misconduct not occurred."[62] This Court has followed *Cook's* adoption of the inevitable discovery doctrine for over 40 years.[63] The Superior Court likewise followed *Cook* and applied the inevitable discovery doctrine in Garnett's case. Garnett is simply mistaken – the court made

[60] *Cook*, 374 A.2d at 267-68 (quoting Comment, "The Inevitable Discovery Exception to the Constitutional Exclusionary Rules," 74 Colum. L. Rev. 88, 90 (1974)).

[61] *Roy v. State*, 62 A.3d 1183, 1189 (Del. 2012).

[62] *Norman v. State,* 976 A.2d 843, 859 (Del. 2009).

[63] *See e.g., Bradley v. State,* 2019 WL 446548, at *4 (Del. Feb. 4, 2019); *Ways v. State,* 199 A.3d 101, 106 (Del. 2018); *Roy* 62 A.3d at 1190; *Norman,* 976 A.2d at 860; *Hardin v. State,* 844 A.2d 982, 987 (Del. 2004); *Rew,* 1993 WL 61705, at *3; *Martin v. State,* 433 A.2d 1025, 1031 (Del. 1981); *Cook* 374 A.2d at 268.

no findings and did not otherwise decide that the Delaware Constitution incorporates the inevitable discovery doctrine.

CONCLUSION

For the foregoing reasons the judgment of the Superior Court should be affirmed.

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DATE: April 10, 2023

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AARON GARNETT,	)	
	)	
Defendant – Below,	)	
Appellant,	)	
	)	
v.	)	**No. 376, 2022**
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff – Below,	)	
Appellee.	)	

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

1. This brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word.

2. This brief complies with the type-volume limitation of Rule 14(d)(i) because it contains 5,288 words, which were counted by Microsoft Word.

Dated: April 10, 2023 /s/ *Andrew J. Vella*