**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**KENT, SC.** **SUPERIOR COURT**

**(FILED: February 6, 2018)**

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| **STATE OF RHODE ISLAND** | : | |
| | : | |
| **v.** | : | **C.A. No. K2-2016-0444A** |
| | : | |
| **KENDALL PETTY** | : | |
| | | ***Consolidated with*** |
| **STATE OF RHODE ISLAND** | : | |
| | : | |
| **v.** | : | **C.A. No. K2-2016-0444B** |
| | : | |
| **ELAINE BOYD** | : | |

**DECISION**

**PROCACCINI, J.** Defendants Kendall Petty (hereinafter Petty) and Elaine Boyd (hereinafter Boyd)—collectively Defendants—move to suppress evidence that was obtained during a search of Boyd's vehicle on February 29, 2016. Petty, a passenger in the vehicle, argues that his arrest was unlawful, and, therefore, the evidence should be suppressed as fruit of the poisonous tree. Boyd, who was operating the vehicle, contends that the stop was unlawful, and, therefore, the evidence obtained from her vehicle should be suppressed as fruit of the poisonous tree. Conversely, the State of Rhode Island (hereinafter State) maintains that the stop of Boyd's vehicle was lawful. In addition, the State argues that the search of Boyd's vehicle was lawful under the automobile exception to the warrant requirement, and, therefore, the evidence found during the search should not be suppressed. For the reasons discussed herein, this Court denies the Defendants' motions to suppress.

## I

## Facts[1] and Travel

On February 29, 2016, Rhode Island State Trooper Evan Shaw[2] (hereinafter Shaw) worked the night shift with Rhode Island State Trooper Nolan Gaumond (hereinafter Gaumond). Shaw drove the marked cruiser that evening. Around 11:00 p.m., Shaw traveled southbound on Interstate 95 until he reached the Town of Exeter. Shaw used an official turnaround to reverse direction, which positioned the cruiser perpendicular to vehicles driving northbound on Interstate 95. Before entering the highway, Shaw and Gaumond watched three vehicles, driving northbound, pass their location. The third vehicle caught Shaw's attention because he could not read or see a license plate.[3] As a result of his inability to see a license plate when the vehicle drove by, Shaw entered the highway and initiated a traffic stop of the vehicle.[4]

Once the vehicle pulled over, Shaw observed that the vehicle had a tinted license plate cover, which made the license plate difficult to discern.[5] Shaw exited the cruiser and approached

[1] The following facts are taken from testimony at a suppression hearing held on September 26, 2017.

[2] Shaw, at the time of the hearing, had been a Rhode Island State Trooper for six years. He graduated from the Rhode Island State Police Academy in 2011. During his time in the academy, Shaw received training on how to identify marijuana, and other drugs, through sight and smell. Shaw also received training in roadside interviews, which focused on things to look for that would give rise to suspicion.

[3] According to Shaw, "[he] remember[ed] seeing that [the] license plate was obstructed by something." Shaw further testified that "[he] couldn't tell what state [issued the plate] or if there was a plate on the vehicle as it passed." (Hr'g Tr. 9:6-10.)

[4] Under Rhode Island Law, "[e]very registration plate shall at all times be . . . in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible." G.L. 1956 § 31-3-18(b).

[5] According to Shaw, license plates are built with reflectivity in them and tinted covers "completely take [the reflectivity] out of [the plate]." Shaw further testified that when a vehicle has a tinted plate cover and headlights are shone at the vehicle, "it shines back as not, like, reflective. What that plate is constructed with is no longer visible." (Hr'g Tr. 11:21-22; 12:1-3.)

the vehicle on the passenger side. Gaumond exited the cruiser and maintained a position of cover behind Shaw's left shoulder. As Shaw approached the passenger side window, he observed two occupants—a female operator and a male passenger. Shaw spoke with the operator of the vehicle, who was identified as Boyd, and explained the reason for the traffic stop. Shaw observed that Boyd had glossy and bloodshot eyes. In addition, he smelled what he identified as fresh marijuana. Shaw questioned Boyd about the marijuana smell and asked if there was any marijuana in the vehicle. According to Shaw, the passenger replied that he and Boyd "smoked weed earlier." The passenger also gestured toward a burned cigar in the center console.

After the passenger gestured toward the burned cigar, Shaw asked the passenger for identification. The passenger, however, had no proof of identification on his person. Shaw then instructed him to exit the vehicle and move to the rear of the vehicle, where Gaumond was located. While Gaumond spoke to the passenger, Shaw continued to speak with Boyd.[6] Boyd claimed that she and the passenger were heading back from Foxwoods. Shaw then asked Boyd what the passenger's name was and his relationship to her. Boyd responded that the passenger was the father of her child, that his name was Kendall, and that he was forty-nine years old. Boyd also stated that there was no more marijuana in the vehicle.[7]

Shaw then proceeded to join Gaumond, who was speaking with the passenger. Shaw asked Gaumond how the passenger identified himself. The passenger told Gaumond that his name was Kendall Brown and that he was thirty-nine years old. Shaw then ran that information,

[6] When asked if the door was open while he continued to speak with Boyd, Shaw responded: "I don't recall. It might have stayed open. I might have closed it and kept talking to her and opened the window." (Hr'g Tr. 17:1-2.)

[7] According to Shaw, while Boyd was being questioned about the passenger, "she seemed unsure of her answers. She had tense body behavior. She basically, she seemed like not, she was not as forthcoming with her answers as much as a standard question for someone that you think you would know the person or passenger's identity that she identified to me as her kid's father." (Hr'g Tr. 58:18-23.)

but the search returned no results.[8] Shaw returned to the passenger and informed him that there were no results based on the information that he provided. The passenger maintained that his name was Kendall Brown, but changed his date of birth to make his age forty-nine. Shaw then checked the computer system using this updated information. Once again, the search yielded no results. After the second failed search, Shaw went back to the passenger and Gaumond, and the passenger was taken into custody for obstruction. As he was being placed into the back of the cruiser, the passenger gave his real name—Kendall Petty.[9]

After placing Petty in the cruiser, Shaw went back to Boyd, who was still sitting in her vehicle. Shaw requested that Boyd step out of the vehicle. He asked her again about the marijuana and then asked if she had been drinking because he could smell alcohol. Boyd informed Shaw that she had a few drinks earlier in the evening. Gaumond then had Boyd complete a set of field sobriety tests.[10]

While Boyd completed the set of field sobriety tests, Shaw went back to the passenger side of the vehicle. Shaw, again, observed the burned cigar that Petty had gestured toward at the beginning of the traffic stop.[11] In addition, Shaw, again, smelled a strong odor of fresh marijuana emanating from the vehicle. Moreover, Shaw noticed fresh marijuana on the floor, along with a clear plastic bag with more marijuana in it.[12]

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[8] Shaw ran the information through a division laptop which can access information from all fifty states and Puerto Rico. According to Shaw, when a search returns no results, "[i]t means that person doesn't exist." (Hr'g Tr. 17:22.)

[9] Shaw ran this information and found a result. Shaw found Petty's driver's license, an active bench warrant, and an "extensive criminal history." (Hr'g Tr. 20:14.)

[10] Boyd passed the field sobriety tests that Gaumond had her perform.

[11] Shaw did not seize or photograph this burnt cigar.

[12] Shaw testified that the marijuana found on the floor, coupled with the marijuana remnants in the cigar, totaled less than an ounce. However, it is unclear from the record if Shaw saw the marijuana on the floor while he was outside the vehicle or if he entered the vehicle before seeing the marijuana on the floor.

Now clearly inside the vehicle, Shaw realized that the strong smell of marijuana emanated from the center console. Upon that realization, Shaw opened the center console and found a larger quantity of marijuana and a half empty bottle of Hennessey Cognac. Shaw removed the marijuana and Cognac from the center console, which exposed a black plastic bag that was tied in a knot. Shaw proceeded to open the plastic bag. Shaw found eight separate baggies of one type of pill—later identified as Ecstasy—and a single clear bag containing about an ounce of another type of pill—later identified as Molly.

The State charged both Boyd and Petty with (1) possession with intent to deliver methamphetamine and (2) conspiracy to possess with intent to deliver methamphetamine. The State also charged Petty, separately, with obstruction. Defendants moved, individually, to suppress the evidence found during the search of Boyd's vehicle.

## II

## Standard of Review

Petty and Boyd bring their instant motions pursuant to Super. R. Crim. P. 41(f). The State bears the burden of establishing that the evidence seized from Boyd's vehicle is admissible "by a fair preponderance of the evidence." *State v. O'Dell*, 576 A.2d 425, 427 (R.I. 1990) (citing *United States v. Matlock*, 415 U.S. 164, 177-78 n.14 (1974)); *see also State v. Tavarez*, 572 A.2d 276, 279 (R.I. 1990).

## III

## Analysis

Petty and Boyd each contend that the evidence found in Boyd's vehicle should be suppressed, but for different reasons. Petty contends that his arrest for obstruction was not based on probable cause, and, therefore, the evidence found in Boyd's vehicle after his arrest should be

suppressed as fruit of the poisonous tree. Specifically, Petty argues that "[s]ince the marijuana cigar in the ashtray was not seized, there was no justifiable reason for Trooper Shaw to begin searching Boyd's vehicle because [he] gave a name which did not show up on the Trooper[']s computer." Boyd contends that the stop of her vehicle was unlawful because Shaw and Gaumond did not have probable cause to make the stop, and, therefore, the evidence found in her vehicle should be suppressed as fruit of the poisonous tree. Specifically, Boyd argues that "[t]he mere fact that the Troopers could not see a license plate at 11:00 pm while positioned in an unlit, perpendicular point to interstate 95 does not support a violation of R.I.G.L. § 31-3-18." According to Boyd, "[i]n order for there to be probable cause to stop the vehicle for that violation, the Court should be satisfied that the license plate was not clearly visible to the officers at the time of the stop and not merely when they were parked."

Conversely, the State argues that the stop of Boyd's vehicle was lawful. In addition, the State argues that the search of Boyd's vehicle was lawful under the automobile exception to the warrant requirement.

**A**

**Lawfulness of Stop**

Boyd contends that the stop of her vehicle was unlawful because Shaw and Gaumond did not have probable cause that she was violating § 31-3-18. According to Boyd, "[i]n order for there to be probable cause to stop the vehicle for that violation, the Court should be satisfied that the license plate was not clearly visible to the officers at the time of the stop and not merely when they were parked."

"A traffic stop for a suspected violation of law is a seizure of the occupants of the vehicle and therefore must be conducted in accordance with the Fourth Amendment." *Heien v. North*

*Carolina*, 135 S. Ct. 530, 536 (2014) (citing *Brendlin v. California*, 551 U.S. 249, 255-59 (2007)) (internal quotation marks omitted); *see also State v. Quinlan*, 921 A.2d 96, 106 (R.I. 2007) ("It is well established that a traffic stop, regardless of how brief and limited, constitutes a seizure for Fourth Amendment purposes, and thus must be reasonable under the circumstances."). According to the United States Supreme Court, "to justify this type of seizure, officers need only reasonable suspicion—that is, a particularized and objective basis for suspecting the particular person stopped of breaking the law." *Heien*, 135 S. Ct. at 536 (citing *Navarette v. California*, 134 S. Ct. 1683, 1687-88 (2014)) (internal quotation marks omitted). The Court has also stated that "the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause." *Navarette*, 134 S. Ct. at 1687 (citing *United States v. Sokolow*, 490 U.S. 1, 7 (1989)) (internal quotation marks omitted). When assessing reasonable suspicion, a court must look at the "totality of the circumstances—the whole picture." *Sokolow*, 490 U.S. at 8.

This Court finds that Shaw had reasonable suspicion to stop Boyd's vehicle. The applicable statute states that "[e]very registration plate shall at all times be . . . in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible." Sec. 31-3-18(b). Shaw testified that, when Boyd's vehicle drove past his position, "[he] remember[ed] seeing that [the] license plate was obstructed by something." Shaw further testified that "[he] couldn't tell what state [issued the plate] or if there was a plate on the vehicle as it passed." This Court finds that Shaw's inability to discern the information on the plate of Boyd's vehicle, or even see a license plate at all, gave him "a particularized and objective basis for suspecting the particular person stopped of [violating § 31-3-18(b)]." *See Heien*, 135 S. Ct. at 536.

Even though Shaw eventually made out the license plate on the vehicle, he still had reasonable suspicion to initiate the traffic stop of Boyd's vehicle. *See United States v. Glenn*, 204 F. Supp. 3d 893, 900 (M.D. La. 2016) (finding that, even though an officer was eventually able to read the license plate in question, his initial inability to see the information on the license plate, as the vehicle drove by him, provided him with reasonable suspicion to believe that a traffic violation occurred); *United States v. Bates*, 2013 WL 796064, at *4-5 (E.D. La. 2013) (same).

Therefore, because Shaw had reasonable suspicion to initiate the traffic stop of Boyd's vehicle, this Court finds that the stop was lawful. *See Heien*, 135 S. Ct. at 536.

**B**

**Lawfulness of Search**

**1**

**Standing to Challenge Search**[13]

"The Fourth Amendment [to the United States Constitution] protects people, not places." *State v. Milette*, 702 A.2d 1165, 1166 (R.I. 1997) (*Milette I*) (citing *Katz v. United States*, 389 U.S. 347, 351 (1967)). Rights granted by the Fourth Amendment are personal, and a defendant cannot "assert[] [those rights] vicariously . . . merely because he or she may be aggrieved by the introduction of damaging evidence." *State v. Bertram*, 591 A.2d 14, 18 (R.I. 1991). The burden of proving standing to challenge a search's legality rests with the defendant. *See id.* (citing *State v. Porter*, 437 A.2d 1368, 1371 (R.I. 1981)).

"A person has standing when he or she is found to have a reasonable expectation of

[13] This Court notes that neither party mentioned the standing of either defendant. However, this Court raises that issue *sua sponte*. *See United States v. Bah*, 794 F.3d 617, 625-26 (6th Cir. 2015) (finding that trial judge appropriately ruled, *sua sponte*, that one defendant did not have standing to challenge search).

privacy in the area searched or the thing seized." *Quinlan*, 921 A.2d at 109. In evaluating whether a defendant has a reasonable expectation of privacy in the area searched or the thing seized, several factors are considered, "including whether the suspect possessed or owned the area searched or the property seized; his or her prior use of the area searched or the property seized; the person's ability to control or exclude others' use of the property; and the person's legitimate presence in the area searched." *Id.* (internal quotation marks omitted). When considering these factors, however, "'no single factor invariably will be determinative.'" *State v. Casas*, 900 A.2d 1120, 1129-30 (R.I. 2006) (quoting *Rakas v. Illinois*, 439 U.S. 128, 152 (1978) (Powell, J. concurring)). According to the Rhode Island Supreme Court, "[t]he determination of whether there is a reasonable expectation of privacy, and thus standing, is a two-tiered analysis: (1) the defendant must have a subjective expectation of privacy, and (2) the expectation [of privacy] must also be one that society accepts as objectively reasonable." *Quinlan*, 921 A.2d at 109 (internal quotation marks omitted).

Here, Petty was merely a passenger in Boyd's vehicle. No evidence was presented to suggest that Petty had ever driven the vehicle with Boyd's permission. In addition, no evidence was presented to suggest that Petty kept personal belongings in Boyd's vehicle. As a result, this Court finds that Petty did not have a reasonable expectation of privacy in Boyd's vehicle.[14] *Compare Quinlan*, 921 A.2d at 109-10 (holding that defendants did not have a reasonable expectation of privacy in the vehicle because (1) they were passengers in the vehicle; (2) they had never driven the vehicle; and (3) they had never kept personal property in the vehicle), *and*

[14] Boyd, as the owner of the vehicle, clearly had a reasonable expectation of privacy in it. *See Quinlan*, 921 A.2d at 109 (explaining that ownership is a factor to consider when determining if a defendant has a reasonable expectation of privacy in the area searched); *see also State v. Ditren*, 126 A.3d 414, 419 (R.I. 2015) (finding that defendant, who was a passenger in a vehicle, did not have a reasonable expectation of privacy in the vehicle because, among other things, "he had no ownership or possessory interest in it").

*Bertram*, 591 A.2d at 20-21 (holding that defendant had no legitimate expectation of privacy as a passenger in a car his wife leased in her own name, even though he had used the car in the past with her permission), *with Milette I*, 702 A.2d at 1166-67 (holding that defendant had a reasonable expectation of privacy and thus standing to challenge the search of his father's car because (1) he had his own set of keys; (2) he kept personal belongings in the vehicle; and (3) he frequently used the vehicle with his father's permission).

Therefore, because Petty did not have a reasonable expectation of privacy in Boyd's vehicle, this Court finds that Petty does not have standing to challenge the search of Boyd's vehicle. *See Quinlan*, 921 A.2d at 109.

**2**

**The Automobile Exception and Probable Cause**

**a**

**Automobile Exception**

The State argues that the search of Boyd's vehicle was lawful under the "automobile exception" to the warrant requirement, and, therefore, the evidence found should not be suppressed.

"The Fourth Amendment to the United States Constitution, as well as article I, section 6, of the Rhode Island Constitution, protects [t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *State v. Werner*, 615 A.2d 1010, 1011 (R.I. 1992) (internal quotation marks omitted) (alteration in original). Through this language, "[t]he United States Supreme Court has . . . establish[ed] the bright-line principle that states that searches conducted without 'prior approval by judge or magistrate are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and

well-delineated exceptions.'" *Id.* (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)).

One of these "specifically established and well-delineated exceptions" is the "automobile exception," created by the United States Supreme Court in *Carroll v. United States*. *See* 267 U.S. 132, 153-54 (1925). In that case, the United States Supreme Court established the exception as a result of an automobile's mobility, which makes it impractical to obtain a warrant. *See id.* at 153 (acknowledging the difference in practicality of obtaining a warrant for stationary objects like a store or dwelling and obtaining a warrant for objects like a ship or automobile, given the fact that "[a] vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought"). Under the automobile exception, "police officers [have the ability] to search automobiles and containers therein without a warrant when they have probable cause to believe that they hold contraband or evidence of a crime . . ." *State v. Santos*, 64 A.3d 314, 319 (R.I. 2013). Therefore, a police officer can conduct a warrantless search of an automobile if probable cause exists to believe that the car contains either (1) contraband or (2) evidence of a crime. *See id.*; *Werner*, 615 A.2d at 1013-14 ("As long as . . . probable cause [exists] to believe that an automobile, or a container located therein, holds contraband or evidence of a crime, then police may conduct a warrantless search of the vehicle or container, even if the vehicle has lost its mobility and is in police custody.").

"Evidence of a crime" is a fairly straightforward concept. "Contraband," however, can be more difficult to identify and label. *See United States v. Jenison*, 484 F. Supp. 747, 753 (D.R.I. 1980) (discussing the difference between "per se contraband," which includes articles such as counterfeit money, narcotics, or dangerous weapons, and "derivative contraband," which includes articles that only acquire the status "if their possession or receipt is substantially and instrumentally related to illegal behavior"). The statutory definition of "contraband," however,

makes contraband much more readily recognizable. When dealing with drug investigations and enforcement, contraband includes "[a]ll controlled substances, which may be handled, sold, possessed, or distributed in violation of any of the provisions of [the Uniform Controlled Substances Act of Rhode Island]" (hereinafter USCA). . . G.L. 1956 § 21-28-5.06. Under the USCA, a controlled substance is "a drug, substance, immediate precursor, or synthetic drug in schedules I-V" of the USCA. Sec. 21-28-1.02(8). Opium, oxycodone, heroin and marijuana are just a few of the controlled substances under the USCA. *See id.*

Possession of less than an ounce of marijuana, which remains a controlled substance and, therefore, contraband, has been decriminalized by § 21-28-4.01(c)(2)(iii), which is known as the Decriminalization Statute. According to the Decriminalization Statute:

> "Notwithstanding any public, special, or general law to the contrary, the possession of one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older, and who is not exempted from penalties pursuant to chapter 28.6 of this title, shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars ($150) and forfeiture of the marijuana, but not to any other form of criminal or civil punishment or disqualification. Notwithstanding any public, special, or general law to the contrary, this civil penalty of one hundred fifty dollars ($150) and forfeiture of the marijuana shall apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen (18) months." Sec. 21-28-4.01(c)(2)(iii).

Although it decriminalizes possession of an ounce or less of marijuana, the Decriminalization Statute does not remove marijuana's contraband status because it does not deschedule marijuana as a controlled substance, no matter the quantity. *See id.* Therefore, Shaw, pursuant to the automobile exception, had the ability to search Boyd's vehicle for marijuana, or other controlled substances, so long as he had probable cause to believe that marijuana or other controlled substances were in Boyd's vehicle. *See Santos*, 64 A.3d at 319; *Werner*, 615 A.2d at 1013-14.

**b**

**Probable Cause**

"Probable cause for a warrantless search 'exists where the facts and circumstances within [an officer's] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." *State v. DeLaurier*, 533 A.2d 1167, 1170 (R.I. 1987) (quoting *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949)). According to our Supreme Court, the determination of probable cause should be approached with common sense, and the level of proof necessary to find probable cause is not the same as the level of proof necessary to convict. *See State v. Spaziano*, 685 A.2d 1068, 1069 (R.I. 1996). In fact, our Supreme Court has held that, in determining if probable cause existed for a warrantless search, "[p]robability of criminal activity is the benchmark." *Id.* In addition, our Supreme Court has advised the court that is making the probable cause determination to consider the "totality of the circumstances." *State v. Storey*, 8 A.3d 454, 465 (R.I. 2010).

When utilizing the totality of the circumstances approach, "[t]he personal knowledge and experience of the officers are important factors that may allow an officer reasonably to infer from observation of otherwise innocuous conduct that criminal activity is imminent or is taking place." *State v. Halstead*, 414 A.2d 1138, 1148-49 (R.I. 1980). The personal knowledge and experience of the officers is given such weight because even though some pieces "of information may not alone be sufficient to establish probable cause and some of the information may have an innocent explanation, probable cause is the sum total of layers of information and the synthesis of what the police have heard, what they know, and what they observed as trained officers." *Storey*, 8 A.3d at 462 (internal quotations omitted). As a result, the probable cause determination

is made on "the mosaic of facts and circumstances . . . viewed cumulatively as through the eyes of a reasonable and cautious police officer on the scene, guided by his or her experience and training." *State v. Guzman*, 752 A.2d 1, 4 (R.I. 2000) (internal quotations omitted).

Here, upon approaching Boyd's vehicle, Shaw smelled fresh marijuana. *See People v. Zuniga*, 372 P.3d 1052, 1059 (Colo. 2016) (holding that "the odor of marijuana is relevant to the totality of the circumstances test and can contribute to a probable cause determination"); *State v. Senna*, 79 A.3d 45, 50-51 (Vt. 2013) (concluding "that the trial court properly considered the odor of fresh marijuana emanating from defendant's home in assessing probable cause to search his residence"). Moreover, when Shaw asked if there was marijuana in the vehicle, Petty responded that he and Boyd had "smoked weed earlier." *See Adams v. State*, 815 So.2d 578, 582 (Ala. 2001) (holding that an admission of smoking marijuana can be a factor in establishing probable cause); *see also State v. Cabrera*, 2016 WL 4039824, at *7 (R.I. Super. July 21, 2016) (same). Furthermore, Petty, twice, gave false and inconsistent information regarding his identity. *See United States v. Ortiz*, 422 U.S. 891, 897 (1975) (holding that answers to police questioning may properly be taken into account in examining whether there is probable cause to search a vehicle); *see also* 2 W. LaFave, *Search & Seizure* § 3.6(f), at 65-66 (2d ed. 1987) (noting that responses to police questions that are false, implausible or conflicting may constitute probable cause when considered together with other suspicions). Finally, after learning Petty's real identity, Shaw searched that information and learned of Petty's "extensive criminal history." *See Storey*, 8 A.3d at 465 (finding "no error in the affidavit's inclusion of [the defendant's] non-drug-related criminal background as some justification for finding probable cause"); *see also Beck v. Ohio*, 379 U.S. 89, 97 (1964) ("We do not hold that the officer's knowledge of the petitioner's physical appearance and previous [criminal] record was either inadmissible or

entirely irrelevant upon the issue of probable cause.").

Based on a totality of these aforementioned facts and circumstances, in conjunction with Shaw's experience and training, this Court finds that Shaw had probable cause to believe that Boyd's vehicle contained contraband. *See Guzman*, 752 A.2d at 4.

## IV

## Conclusion

Shaw had probable cause to search Boyd's vehicle because there existed certain articulable facts for him to believe that the vehicle contained contraband. As the search of the vehicle was supported by probable cause, Defendants' constitutional rights have not been violated. Accordingly, Defendants' motions to suppress are denied. Counsel shall submit an appropriate order for entry.

**RHODE ISLAND SUPERIOR COURT**

***Decision Addendum Sheet***

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| **TITLE OF CASE:** | **State of Rhode Island v. Kendall Petty**<br>**Consolidated with**<br>**State of Rhode Island v. Elaine Boyd** |
| **CASE NO:** | **K2-2016-0444A**<br>**K2-2016-0444B** |
| **COURT:** | **Kent County Superior Court** |
| **DATE DECISION FILED:** | **February 6, 2018** |
| **JUSTICE/MAGISTRATE:** | **Procaccini, J.** |
| **ATTORNEYS:** | |
| **For Plaintiff:** | **Peter Roklan, Esq.** |
| **For Defendant:** | **Thomas G. Gulick, Esq. (Kendall Petty)**<br>**Pamela E. Chin, Esq. (Elaine Boyd)** |