

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

RICHARD R. COOCH
RESIDENT JUDGE

NEW CASTLE COUNTY COURTHOUSE
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**Re: State of Delaware v. Damon J. Wilson
I.D. No. 0802030960**

Submitted: May 21, 2008
Decided: May 23, 2008

On Defendant's Motion to Suppress.
DENIED.

Dear Counsel:

Defendant was indicted in March, 2008 on charges of Trafficking in Heroin, Possession with Intent to Deliver a Narcotic Schedule I Controlled Substance, Use of a Vehicle for Keeping Controlled Substances, Possession of a Controlled Substance Within 1000 Feet of a School and Disregarding a Stop Sign.

On April 16, 2008, Defendant filed a "Motion to Suppress Evidence" which reads, in its entirety:

MOTION TO SUPPRESS EVIDENCE

COMES NOW the defendant above, by and through counsel, Joe Hurley, who moves to suppress all evidence seized as a result of the detention of the defendant, and in support of such application represents:

1. The initial seizure of the defendant was not premised upon reasonable suspicion to believe he was engaged in criminal activity.
2. The search of the defendant, which was warrantless, was not effected pursuant to any exception from the warrant requirement.

WHEREFORE, the defendant moves to suppress all evidence seized at the time of his arrest.

Although the Prothonotary, by email to counsel on May 21, 2008, advised that a suppression hearing would be held on June 13, and directed the State (per standard practice) to file a Response by June 10, there is no need for the State to file a Response.

Defendant's "Motion to Suppress Evidence" is **DENIED** as it is completely devoid of legal authorities and facts relied upon. Superior Court Criminal Rule 41(f) provides in pertinent part that:

The motion shall . . . state the grounds upon which it is made with sufficient specificity to give the State reasonable notice of the issues and to enable the Court to determine what proceedings are appropriate to address them. The Court may summarily deny a motion to suppress unless the motion at least alleges a factual basis upon which relief may be granted.

The rule means what it says. Thus, for example, this Court, in *State v. Russell*, summarily denied a motion to suppress (which had set forth more facts than does the instant motion) for failing to "articulate sufficient factual bases," as required by Criminal Rule 41(f).¹

Other authorities are to the same effect: general and conclusory allegations are not sufficient to trigger a hearing. For example, Professor LaFave observes that "it is unlikely that an unelaborated motion will pass muster,"² and, further, that a defendant's bare assertion that a defendant's "Fourth Amendment rights were violated" is an insufficient legal

¹ *State v. Russell*, 2003 WL 21998966, at *2 (Del. Super.) (citing *State v. Manley*, 706 A.2d 535 (Del. Super. 1996)).

² Wayne R. LaFave, et al., *Search and Seizure* § 11.2(a), at 38 (4th ed. 2004)

conclusion.³

Another secondary authority states:

A motion to suppress evidence must set forth allegations of relevant factual issues with definiteness, clarity, and specificity. A motion which contains general and conclusory factual allegations, or allegations based upon suspicion and conjecture, is not sufficient.

A defendant is required to make factual allegations which, if established, would warrant relief. Since the purpose of a hearing on a motion to suppress is to resolve disputed issues of fact, the court is not required to hold a hearing if this standard is not met. The absence of any meaningful statement of facts by the defendant in support of a motion to suppress prejudices the prosecution in its preparation for the motion, and also hinders the court's research in advance of the hearing. The rule that no suppression hearing is warranted where there is no dispute as to material facts is meant to avoid the time-consuming taking of testimony solely for the purpose of affording defense counsel additional discovery, and an opportunity to examine State's witnesses in advance of trial.⁴

Additionally, Wright and Miller state that “[a]n evidentiary hearing need not be set as a matter of course, but only if the motion [to suppress] alleges facts that, if proved, would require the grant of relief. Factual allegations that are general and conclusory or based upon suspicion and conjecture will not suffice.”⁵

Accordingly, Defendant’s Motion to Suppress Evidence is summarily **DENIED.**

IT IS SO ORDERED.

RRC/mtc
cc: Prothonotary

³ *Id.* at 38.

⁴ 29 Am. Jur. 2d *Evidence* § 648 (2008) (internal citations omitted).

⁵ 10 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 675 (3d ed. 2004).