IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE	)	
	)	I.D. No. 0806006784
v.	)	
LAMAR D. CHURCH,	)	
Defendant.	)	

Submitted: November 14, 2008
Decided: November 19, 2008
Amended: December 22, 2008

ON DEFENDANT'S MOTION TO SUPPRESS
GRANTED

AMENDED OPINION

Daniel McBride, Esquire, Office of the Attorney General, Wilmington, Delaware, Attorney for the State.

Ralph D. Wilkinson, IV, Esquire, Office of the Public Defender, Wilmington, Delaware, Attorney for Defendant.

ABLEMAN, JUDGE

I. Introduction

Before the Court is a Motion to Suppress filed by Defendant Lamar D. Church ("Church"), seeking suppression of the drugs seized and of statements he made during the course of a traffic stop for a noise violation. Church contends that the traffic stop was unreasonably extended in violation of the Federal and Delaware constitutions.

Upon consideration of the suppression hearing testimony and the parties' supplemental briefing, the Court concludes that both the physical evidence seized and statements made were obtained in violation of the Fourth Amendment of the United States Constitution and Article I, § 6 of the Delaware Constitution. Although Church had been subject to a valid traffic stop, that stop was illegally extended in both duration and scope beyond those measures reasonably related to its purpose. For the reasons set forth more fully herein, Church's Motion to Suppress is granted.

II. Statement of Facts

At about 8 P.M. on the night of June 5, 2008, a Mitsubishi Montero ("the Montero") driven by Church was waiting for a red light at the intersection of Wilmington Avenue and Washington Street in Wilmington when Wilmington Police Department Patrolwoman Harlow stopped her

patrol car at the same intersection. Officer Harlow observed loud music emanating from the Montero. When the light changed, Church turned southbound onto Washington Street. As Church drove down Washington Street, Officer Harlow could still hear the car stereo. After observing that Church's music could be heard from approximately one-and-a-half city blocks away, the officer pulled Church over.

Church and the officer provide different versions of the events that followed. Officer Harlow testified that she pulled Church over for the purpose of arresting him, as is "sometimes" her practice upon observing minor traffic violations.[1] According to Church, Officer Harlow merely explained that Church had been stopped for a noise abatement violation, for which he offered an apology.

Officer Harlow requested and received Church's license, insurance card, and vehicle registration. Both Church and the officer recount that Officer Harlow left Church in the Montero and returned to her patrol car to verify his information. All three documents were valid. Church has several relatively recent convictions for drug and firearm offenses. For reasons which will become evident in the foregoing description and analysis of events, the Court considers it reasonable to assume that Officer Harlow ran

[1] *See* Docket 13, Ex. A (Suppression Hr'g Tr.), 17:5-6.

Church's name through DELJIS while checking the documents he provided and that this inquiry revealed his prior convictions.

During or just after Officer Harlow's routine computer check of Church's information, his fiancée, Carla Foster ("Foster"), appeared at the scene from her nearby workplace. When Foster approached the Montero, she was ordered by Officer Harlow to step away. Foster and Church stated that Foster stood on the curb, approximately an arm's length from the Montero.

Upon returning from the patrol car, Officer Harlow ordered Church out of the Montero and conducted a pat-down search, which yielded no weapons or contraband. The officer then handcuffed Church and placed him in the back seat of the patrol car. At some point, two or three other police cars arrived at the scene and Officer Harlow spoke with several other officers.

According to suppression hearing testimony from Church and Foster, Church asked for an explanation as to why he was being restrained for a noise violation and Officer Harlow stated that he was not under arrest and was only being detained. Church and Foster, who owns the vehicle, claim that Officer Harlow asked each of them for consent to search the vehicle and that they both refused. Officer Harlow, by contrast, related that she had

determined from the outset of the stop to place Church under arrest for the noise violation and did so, and that she never asked Church or Foster for consent to search the car. Church also testified that other officers on the scene stated that they could arrest him and impound the car. According to Officer Harlow, the other officers suggested to her that she could have the Montero towed.

After consulting with the other officers, Officer Harlow initiated a search of the Montero, including the locked glove box. The glove box contained seven small plastic bags. In addition, officers recovered a small bag from Church's front right pants pocket. According to the affidavit of probable cause, Church spontaneously stated that he had forgotten the bag was in his pocket. One of the bags from the glove compartment contained a white chunky substance, which later testing revealed to be approximately six grams of crack cocaine. The seven other bags taken from the glove box and Church's pocket contained a total of six grams of marijuana.

Following the search, the police officers returned the Montero to Foster. Church was charged with two counts of Possession With Intent to Deliver a Controlled Substance, one count of Maintaining a Vehicle for Keeping Controlled Substances, and one count of Loud Music or Noise in violation of 21 *Del. C.* § 4306.

III. Parties' Contentions

Church has moved to suppress all evidence seized and statements made as a result of his detention and the search of the Montero. Church alleges that the search of the Montero violated the Fourth Amendment of the United States Constitution and Article 1, § 6 of the Delaware Constitution. Church urges that the Court should apply *Caldwell v. State*, which forbids police from unreasonably extending a traffic stop without independent justification in order to "employ marginally applicable traffic laws as a device to circumvent constitutional search and seizure requirements."[2] Church also argues that the stop of his vehicle was a pretext for an unlawful search, and thus violates Article I, § 6 of the Delaware Constitution.

In response, the State contends that *Caldwell* is factually distinguishable because Church was arrested prior to the search of the Montero. The State construes *Caldwell* as applicable only to cases in which a vehicle is searched in contravention of the Fourth Amendment *prior* to the arrest of an occupant. According to the State, Caldwell was arrested before

[2] *Caldwell v. State*, 780 A.2d 1037, 1048 (Del. 2001). The defense did not frame its argument as a *Caldwell* violation until the suppression hearing, thereby requiring the Court to order additional briefing from both sides. The position omitted from the original motion was crucial to the defense's success and could have affected the course of the suppression hearing had it been raised beforehand. The Court stresses the importance of ensuring that motions present complete arguments when they are submitted, rather than relying upon conclusory language to "get a foot in the door" in hope of finding an opportunity to flesh out or add new issues at a later date.

the vehicle search, which was incident to a valid arrest. In addition, the State suggests that Church's pretext argument is untimely, because it was not raised until after all suppression hearing testimony was concluded and because the Court ordered supplemental briefing only to address the possible *Caldwell* violation. As a result, the State argues that it was unable to elicit testimony regarding pretext – although the State further notes that none of the testimony presented supported that Officer Harlow stopped Church for any reason other than the noise violation.

IV. Standard of Review

Upon a motion to suppress evidence seized during a warrantless search, the State bears the burden of establishing that the search or seizure comported with the rights protected by the United States Constitution, the Delaware Constitution, and the Delaware Code.[3]

[3] *Hunter v. State*, 783 A.2d 558, 560-61 (Del. 2001).

V. Analysis

A. Validity of the Initial Traffic Stop

Individuals possess the right to be free from unreasonable searches and seizures under both the Fourth Amendment of the United States Constitution and Article I, § 6 of the Delaware Constitution.[4] A traffic stop constitutes a "seizure" of the stopped vehicle and its occupants within the meaning of the Fourth Amendment.[5] Therefore, a traffic stop, as well as any police investigation subsequent to that stop, must meet Fourth Amendment standards for reasonableness. In particular, police must possess at least a reasonable suspicion of criminal activity under *Terry v. Ohio*[6] to initiate a stop. Furthermore, the scope of both the stop and any further investigatory activity must be "reasonably related" to the initial justification for the stop.[7] If officers extend the duration of the stop, or engage in investigatory activities beyond those reasonably necessary to carry out the initial purpose

[4] U.S. Const. amend. IV; Del. Const. art. I, § 6 ("The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.").

[5] *Caldwell*, 780 A.2d at 1045-46 (citing *United States v. Brignoni-Ponce*, 422 U.S. 873, 880-81 (1975)).

[6] 392 U.S. 1 (1968).

[7] *Caldwell*, 780 A.2d at 1046.

of the stop, a separate seizure occurs. This "second" seizure or intrusion is unconstitutional unless the officers can identify specific, articulable facts providing an independent justification for the additional intrusion.[8]

Here, Officer Harlow had more than reasonable suspicion, but probable cause to believe that Church had violated the state's noise abatement statute, based upon her personal observation that the Montero's stereo was audible from a distance of more than fifty feet away.[9] The officer's initial decision to subject Church to a traffic stop was therefore valid.

B. The Stop Was Not Initiated to Effectuate an Arrest

Pursuant to her valid stop of Church for his noise abatement violation, Officer Harlow was authorized to conduct activities "reasonably related" to the purpose of that stop. Although the officer repeatedly asserted at the suppression hearing that her intent from the start of her encounter with Church was to arrest him, the Court finds that the initial purpose of the stop

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[8] *State v. Miliany-Ojeda*, 2004 WL 343965, at *3 (Del. Super. Feb. 18, 2004).

[9] *See* 21 *Del. C.* § 4306(c) ("No person operating or occupying a motor vehicle on any street, highway, alley, or parking lot shall operate or permit the operation of any music amplification system, including, but not limited to, any radio, tape player, compact disc player, or any other electrical device used for the amplification of music in or on the motor vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle. For the purpose of this subsection, 'plainly audible' means any sound which clearly can be heard by unaided hearing faculties, however, words or phrases need not be discernible and bass reverberation alone shall be sufficient to so constitute.").

was to issue a citation or a warning. An objective view of the officer's actions indicates that her encounter with Church, at least until she returned to the vehicle after verifying Church's information, constituted a detention, and not an arrest. Church was not placed under arrest until he was handcuffed and placed in the patrol vehicle.[10]

The Delaware Code defines arrest as "the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime."[11] In the absence of indicia of formal arrest, an arrest occurs "when, in view of all the circumstances, a reasonable person would believe that he is not free to leave."[12] The United States Supreme Court has observed that the "duration and atmosphere" of routine traffic stops are generally more analogous to *Terry* detentions than to arrests.[13]

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[10] *See State v. Brown*, 1998 WL 961751, at *2-3 (Del. Super. July 27, 1998) ("Absent any indication that the suspects posed a danger to the officers or possessed [contraband] . . . officers placed . . . [defendants] in separate patrol cars. At this juncture, any reasonable person would no longer believe they were free to leave, even though the formal words of an arrest were lacking. Therefore, I find that placing the handcuffed suspects in separate patrol cars, where there was no reason to believe that they posed a danger to the officers, exceeded the scope of the *Terry* stop, constituting an arrest.").

[11] 11 *Del. C.* § 1901(1).

[12] *State v. Rizzo*, 634 A.2d 392, 395 (Del. Super. 1993).

[13] *Berkemer v. McCarty*, 468 U.S. 420, 439-40 & n.29 (1984); *see also State v. Bonner*, 1995 WL 562162, at *2 (Del. Super. Aug. 30, 1995).

The logical inference from the testimony presented by both sides as well as the affidavit of probable cause is that Officer Harlow pulled Church over to issue a citation, or perhaps to give a warning – not to arrest him for a minor noise violation. If the officer intended from the outset to arrest Church when she first encountered him, she likely would have dispensed with checking his documents while leaving him alone and unattended in the Montero. Moreover, Officer Harlow's probable cause affidavit indicates that she did not advise Church that she was arresting him until *after* she returned from verifying his information, not at the time she first pulled him over. This is consistent with credible testimony from Church and Foster that Officer Harlow repeatedly told Church that he was not under arrest.[14] The Court also credits Church's account of hearing the other officers who responded to the scene say that they "can" impound the Montero and arrest him,[15] the implication being that nobody at the scene reasonably considered Church to have been under arrest at that point in time.

[14] Certain aspects of Church's suppression hearing testimony – particularly assertions that he and Foster never discussed the particular events of June 5 and that he did not know she might testify on his behalf – call for a much greater suspension of disbelief than this Court is willing to extend. Notwithstanding this, in their factual description of the stop itself, Church and Foster presented credible and consistent accounts.

[15] *See* Docket 13, Ex. A, 35:1-4.

The Court would arrive at the same conclusion even if Church had not testified to his prior drug and firearm convictions; nevertheless, those convictions supply a plausible explanation for the sequence of events upon Officer Harlow's return to the Montero. Although the defense did not cross-examine Officer Harlow regarding knowledge of Church's record, it appears likely that she discovered the prior convictions when running a background check of Church's license and then, either on her own initiative or with the input of the other officers at the scene, decided to use what had been a valid traffic stop as the "springboard" for further investigation.[16] The Court now turns to the constitutionality of the officer's decision.

C. Continued Detention and Search Exceeded the Scope of the Stop

As previously discussed, a traffic stop is subject to constitutional limitations on its execution and duration. If a motorist is stopped to receive a citation or warning, the stop must conclude "[o]nce the officer has issued a citation or warning and has run routine computer checks . . . unless the driver voluntarily consents to further questioning or the officer uncovers facts that independently warrant additional investigation."[17] The United States Supreme Court has noted that, although state laws vary as to the

[16] *See Caldwell*, 780 A.2d at 1049.

[17] *Id.* at 1047.

circumstances under which a motorist may be taken into custody rather than issued a ticket or citation, "detention of a motorist pursuant to a traffic stop is presumptively temporary and brief."[18] Because the traffic stop is considered akin to a *Terry* detention, both "[t]he stop and inquiry must be 'reasonably related in scope to the justification for their initiation'":

> Typically, this means that the officer may ask the detainee a moderate number of questions to determine his identity and to try to obtain information confirming or dispelling the officer's suspicions. But the detainee is not obliged to respond. And, unless the detainee's answers provide the officer with probable cause to arrest him, he must then be released.[19]

The constitutional limitations on routine *Terry*-type traffic stops stand in contrast to officers' authority to carry out more extensive investigations pursuant to a valid arrest. In particular, a police officer may, incident to the lawful warrantless arrest of a motorist, search the entire passenger compartment of the car, which would almost certainly encompass a locked glove box.[20]

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[18] *Berkemer***,** 468 U.S. at 437 & n.26.

[19] *Id.* at 439-40 (quoting *Brignoni-Ponce*, 422 U.S. at 881).

[20] *See Belton v. United States*, 453 U.S. 454, 460-61 & n.4 (1981); *Traylor v. State*, 458 A.2d 1170, 1173-74 (Del. 1983). *Belton*, which authorizes the search of an "open or closed" glove box, arguably leaves open whether a search of a passenger compartment incident to arrest encompasses a glove box which is not only closed, but also locked. This precise situation has not been resolved in Delaware. A number of circuits have addressed the question, however, and the apparently universal trend is to consider the locked glove box to be a "container" properly within the scope of a *Belton* search incident to arrest. *See United States v.* Gonzalez, 71 F.3d 819 (11th Cir. 1996); *United*

The Court agrees with Church that his Fourth Amendment rights were violated when both the duration and intrusiveness of his detention were extended, as Officer Harlow had already confirmed the validity of his documentation and thereby completed all activities reasonably related to a traffic stop to cite or warn for noise abatement. The Delaware Supreme Court's treatment of a similar extended traffic stop in *Caldwell* is controlling. In *Caldwell*, officers recognized the defendant as a suspected drug-dealer and stopped his vehicle for parking in a fire lane. Caldwell provided documentation upon request, but based upon his reaching to his side prior to the stop, exhibiting nervous behavior, and failing to know the identity of his passenger, an officer ordered Caldwell out of the car and then frisked and handcuffed him. Officers then attempted to recover a razor blade Caldwell claimed he had placed in the center console of the car, brought in a drug-sniffing dog, and subsequently performed a more extensive search of the vehicle that revealed drugs and drug paraphernalia. After this contraband was discovered, Caldwell was placed under arrest.

The *Caldwell* Court found that the officer's decision to frisk and handcuff Caldwell, along with the later vehicle search, were "entirely

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States v. Woody, 55 F.3d 1257 (7th Cir. 1995); *United States v. McCrady*, 774 F.2d 868 (8th Cir. 1985).

unrelated to the parking violation and exceeded the proper scope of a traffic stop for a parking violation," and thus constituted "a second, independent investigative detention."[21] Moreover, the facts known to the officer at the time he conducted the frisk and handcuffing were insufficient to justify the second detention. The *Caldwell* Court concluded that the fruits of the vehicle search had to be suppressed because "the duration and intrusiveness of the traffic stop were not reasonably related to the justification for the stop (i.e., the parking violation) and were not supported by independent facts justifying the officer's conduct."[22]

In this case, as in *Caldwell*, a traffic stop for a relatively minor violation was extended into an investigative detention and search that exceeded the justifying purpose of the stop. The valid traffic stop for Church's noise violation supported certain investigative actions, including the officer's check of Church's documentation and inquiries as to his name, address, business abroad, and destination, as permitted by 11 *Del. C.* § 1902.[23] A non-consensual search of areas of a vehicle not in plain view,

[21] *Caldwell*, 780 A.2d at 1049.

[22] *Id.* at 1051.

[23] Specifically, 11 *Del. C.* 1902(a) provides as follows:

> (a) A peace officer may stop any person abroad, or in a public place, who the officer has reasonable ground to suspect is committing, has committed

however, is not "reasonably related" to a stop for noise abatement, and the State has not identified any independent facts supporting the search or the extended "second" detention. Indeed, there is even less of an argument here than in *Caldwell* that the investigative search was supported by independent facts. Unlike in *Caldwell*, Church did not make any physical movements prior to the stop which might have raised officers' suspicions, and neither his actions nor his statements during the first part of his encounter with Officer Harlow provided any basis for further investigation after his documentation was determined to be valid.

The State argues that *Caldwell* is distinguishable because Caldwell was arrested after the search of his vehicle, whereas in the instant case Church was arrested before the vehicle search, giving rise to a search incident to arrest. As the State observes, the opinion in *Caldwell* does not address whether the search in that case could have been justified as incident to a lawful warrantless arrest.[24]

> or is about to commit a crime, and may demand the person's name, address, business abroad and destination.

The phrase "reasonable ground," as used in § 1902(a), has been construed to convey the same meaning as "reasonable and articulable suspicion." *See Jones v. State*, 745 A.2d 856, 861 (Del. 1999).

[24] *Caldwell*, 780 A.2d at 1050, n.33.

The State's attempt to distinguish *Caldwell* is unavailing. The Court recognizes that 21 *Del. C.* § 701 vests a police officer with discretion to arrest without a warrant for any violation of the motor vehicle and traffic laws committed in her presence, no matter how minor.[25] Here, however, Church was not placed under arrest until Officer Harlow handcuffed him and placed him in the patrol car, after all investigative activities reasonably related to the traffic stop were completed. Although *Caldwell* does not squarely address the issue, the Court finds that *Caldwell*'s principles apply whenever a routine traffic stop is unreasonably expanded in the absence of independent justifying facts, regardless of whether police arrest on the original traffic violation before conducting a search. A contrary rule would undermine *Caldwell* and permit officers to evade its constitutional restrictions on the execution of routine traffic stops by *escalating* the intrusiveness of the encounter after the legitimate investigative aspects of the stop had concluded.

In both *Caldwell* and the instant case, officers had probable cause to believe the defendant had committed a minor traffic offense, as well as statutory discretion to arrest for that minor violation. In neither case,

[25] *See* 21 *Del. C.* § 701; *Traylor v. State*, 458 A.2d at 1174. *See also Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001) ("If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.").

however, did officers actually exercise that discretion to arrest at the outset of the traffic stop. After deciding to initiate a routine traffic stop without arresting the stopped motorist, officers cannot subsequently employ "discretion" to extend the duration or intrusiveness of that stop beyond its initial purpose unless independent facts justify the expanded detention. The discretion to arrest for minor violations must be carried out subject to the reasonableness limits imposed by the Fourth Amendment and Article I, § 6 of the Delaware Constitution.

The distinction between a detention and an arrest is important at the initiation of a traffic stop, because officers' conduct during a *Terry*-type stop is limited to those actions reasonably related to effectuating the stop's initial purpose. If officers start an encounter as a routine traffic stop and exceed the constitutional limits on *Terry* detentions, it is immaterial whether officers acted via a prolonged detention, an arrest, a search, or a combination of these measures: the expansion of the stop beyond its initial purpose is unconstitutional unless sufficiently supported by independent, articulable facts known to officers before the stop was extended.

Applying this precept in *State v. Winn*, this Court suppressed evidence obtained in a vehicle search which unreasonably expanded a traffic stop for a seatbelt violation, even though the defendant was eventually arrested and

charged with the seatbelt violation.[26] Police stopped Winn for failure to wear a seatbelt after recognizing the vehicle he was driving as one recently involved in a criminal incident, although Winn had no apparent connection to this prior crime. Winn provided valid documentation upon request. Before issuing a traffic citation, officers conducted further questioning and sought consent from Winn to search the vehicle. After refusing consent to a vehicle search, Winn was subjected to a pat-down search. Officers then either searched the vehicle or saw a bag of suspected drugs in plain view. Winn was handcuffed and placed in the patrol car. He was charged not only with the seatbelt violation that originally served as the basis of the stop, but also with various drug offenses.[27] The Court held that *Caldwell* required suppression:

> This extension of an investigation after a vehicle stop, beyond the time necessary to enforce the seatbelt violation, is contrary to the holding in *Caldwell*. . . . Since there was insufficient criminal behavior "independent" of the traffic violation to justify the extended detention, this Court must, under *Caldwell*, suppress the evidence seized during the "second detention."[28]

Winn clarifies the warrantless arrest issue not addressed in *Caldwell*. Once officers opt to enforce a traffic violation by a routine stop to cite or warn,

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[26] 2006 WL 2052678, at *2-3 (Del. Super. July 3, 2006).

[27] *Id.* at *1-2.

[28] *Id.* at *4.

they cannot rely upon the probable cause from that original traffic violation to "bootstrap" on to the encounter additional detention or investigative measures beyond what is reasonably necessary to effectuate the purpose of the stop. In other words, arresting the defendant for the traffic violation as part of an unconstitutional "second detention" does not cleanse the illegality.

As the *Caldwell* Court observed, "an officer cannot arrest the occupant of a vehicle during a traffic stop for an *unrelated criminal offense* unless the officer has probable cause to believe that person has committed the unrelated criminal offense."[29] To the extent the facts in this case depart from *Caldwell* because Church was arrested before the vehicle search rather than after it, the departure only highlights that *any* unreasonable extension of the stop cannot be used to generate probable cause as to an unrelated criminal offense.

Notably, it was not only the vehicle search in *Caldwell* that violated the Fourth Amendment. As soon as officers departed from the limited questioning of Caldwell permitted by their observing his parking violation, they initiated a separate, unjustified detention:

> [R]ather than continue to question the occupants of the car, the officer frisked and handcuffed Caldwell and detained him until another officer arrived. Because these actions were entirely

[29] *Caldwell*, 780 A.2d at 1050, n.33 (emphasis in original).

> unrelated to the parking violation and exceeded the proper scope of a traffic stop for a parking violation, it was at this point that the traffic stop ended and a second, independent investigative detention began.[30]

If the frisking and handcuffing of Caldwell constituted a second investigative detention beyond the scope of a stop for a parking violation, it follows *a fortiori* that handcuffing Church and placing him in the patrol car exceeded the scope of his stop for a noise violation. The pat-down of Church, the search of the Montero, and the search of Church's person incident to that arrest therefore violated Church's rights under the Fourth Amendment and Article I, § 6 of the Delaware Constitution to be free from unreasonable searches and seizures.[31]

The evidence seized and statements obtained in this case were procured by exploitation of a Fourth Amendment violation, and the State has failed to demonstrate "a break in the chain of events" showing that the

[30] *Id.* at 1049.

[31] Although *Caldwell* specifically addressed Fourth Amendment rights, Article I, § 6 of the Delaware Constitution provides broader protection than the Fourth Amendment. *Milliany-Ojeda*, 2004 WL 343965, at *7 & n.40; *see generally Flonnory v. State***,** 805 A.2d 854, 857 (Del. 2001). Because the Court finds that the evidence must be suppressed as a result of the unreasonable expansion of the traffic stop in this case, it will not address Church's argument that the stop was initiated as a pretext to investigate in violation of the Delaware Constitution.

evidence was not a product of the illegality.[32] Accordingly, the evidence obtained from the searches of the Montero and of Church's person, as well as statements made by Church during his illegal detention, must be suppressed.

VI. Conclusion

For the foregoing reasons, the Defendant's Motion to Suppress is hereby **GRANTED.**

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary

cc: Ralph D. Wilkinson, IV, Esq.
Daniel McBride, Esq.

[32] *Caldwell*, 780 A.2d at 1052.