

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
JUDGE

P.O. BOX 746
COURTHOUSE
GEORGETOWN, DE 19947

February 8, 2001

Stephanie Tsantes, Esquire
Department of Justice
Georgetown, DE 19947

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Rehoboth Beach, DE 19971

FEB - 9 2001

Re: State v. Anthony Didomenicis
Def. ID# 0010005743

Dear Counsel:

This is the Court's ruling denying the defendant's motion seeking a second suppression hearing.

Any Court must have reasonable control over its docket, but the Court must not exercise reasonable control in a manner which is arbitrary and which tramples the rights of the defendant.

The history of this case is that a motion to suppress was previously filed. That motion was scheduled for a time convenient to all parties, January 17, 2001. Four witnesses appeared for the State, two of which came from out of state. The defense sought a continuance due to internal problems in defense

counsel's office. The State was skeptical as to the continuance request and reported the defense knew out of state witnesses were needed. Regardless, a continuance was granted and the Court scheduled a new date. When the rescheduling took place, defense counsel were made aware of the difficulty of finding a slot for the hearing which was convenient to everyone, including the out of state witnesses.

It was scheduled and took place on Friday afternoon, January 26, 2001. The motion sought suppression due to "lack of probable cause by the arresting officer for the stop, detention and arrest of the defendant". Evidence was taken on these matters. When defense counsel went beyond the pleadings to other issues, this Court limited the hearing to the pleadings. Superior court Criminal Rule 41 requires suppression motions to be set forth "with sufficient specificity to give the State reasonable notice of the issues and enable the Court to determine what proceedings are appropriate to address them". Non compliance with Rule 41 has its risks. *Marine v. State*, Del. Supr., 450 A.2d 893 (1982).

Following the hearing, the Court found probable cause for the defendant to be stopped, detained and arrested.

On January 31, 2001, the defense filed another motion to suppress seeking to raise issues that had not been pled in the first motion. The defense also requested a hearing to explain the reason for this suppression motion. An office conference

took place on February 8, 2001. This motion was docketed two weeks prior to trial and eight days prior to final case review. Suppression motions necessarily need to be ruled upon prior to final case review in order to have meaningful negotiations.

The application to have a second suppression hearing is denied because this suppression motion was filed after the time requirements of this Court's Criminal Administrative Order¹ and more importantly, this being a second motion following the heels of the January 26, 2001 hearing in which the defense was unsuccessful. It is filed so close to the final case review date (02-08-01) and trial date (02-14-01) as to make it practically impossible to rearrange Court schedules, much less the burden to require the State's witnesses to return to Court a third time prior to trial.

Defendant's motion seeking a second suppression hearing is denied.

IT IS SO ORDERED.

Very truly yours,



T. Henley Graves

THG:jmc

cc: Prothonotary's Office
Case Scheduling Office

¹Superior Court Criminal Administrative Order. January 16, 1991, Paragraphs 9(a) and 8(f).