

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

STATE OF DELAWARE,	:	
	:	I.D. No. 0401005317
v.	:	Cr. A. No. IK04-02-0299
	:	thru IK04-02-0304
BILLY J. SCOTT,	:	
	:	
Defendant.	:	

Oral Argument Heard: June 15, 2004  
Decided: July 28, 2004

**ORDER**

Upon Defendant' s Motion to Suppress.  
Denied.

Stephen R. Welch, Jr., Esquire, Deputy Attorney General, Dover, Delaware;  
attorneys for the State of Delaware.

Sheryl Rush-Milstead, Esquire, Assistant Public Defender, Dover, Delaware;  
attorneys for the Defendant.

WITHAM, J.

## **Introduction**

Before this Court is Defendant Billy J. Scott's motion to suppress evidence seized during a traffic stop. The State opposes the motion, contending that the traffic stop was valid and thus the subsequent search and seizure were valid.

## **Background**

Corporal Jason Minear, of the Delaware State Police, Governor's Task Force, observed a green Toyota Camry traveling on Millchop Lane in Kent County, Delaware, at approximately 8:15 p.m. on January 7, 2004. The probation officer riding in the marked State Trooper vehicle with Corporal Minear entered the license plate number of the Toyota into the computer in the patrol car.<sup>1</sup> The number entered was the number found on the blue and gold tag mounted on the license plate bracket on the back of the vehicle. The tag number entered, Delaware tag number 948927, came back with the message "No record found." The officer entered the number a second time and again received the message no record found. This indicated to Corporal Minear that the tag on the car was a "bad tag." He activated his emergency lights and the driver of the Toyota stopped his vehicle on the side of the road.

Corporal Minear approached the vehicle and asked the driver for his driver's license, registration, and proof of insurance. Corporal Minear testified that he did

---

<sup>1</sup> The computer accesses the Delaware Criminal Justice Information System and Department of Motor Vehicle records.

*State v. Billy J. Scott*  
**I.D. No. 0401005317**  
July 28, 2004

see a temporary tag after he walked up to the vehicle, but remembered it being on the passenger seat or in the glove box. He further testified that it was possible that the temporary tag was in the back window, but that he could not see it from the outside. The driver was unable to produce a driver's license or proof of insurance. However, he did produce a registration card for the temporary tag on the vehicle. He gave his name as Jimmy Scott and his date of birth as November 1965.<sup>2</sup> Corporal Minear entered this information into the computer in his vehicle and determined that this was a false name because no record was found. When he confronted the driver of the vehicle with this information, the driver gave his real name, Billy J. Scott. Corporal Minear ran this name through the system and found that Scott's driver's license had been suspended and that there were warrants out for him.

Based upon this, Corporal Minear arrested Scott, placed him in the patrol car, and conducted a search of the Toyota. During the search, Corporal Minear discovered a red bag with a white chunky substance inside. The substance tested positive as crack cocaine weighing 0.4 grams. Corporal Minear returned to the troop and placed the crack cocaine in the temporary evidence locker. He then read Scott his *Miranda* rights and conducted an interview. During the interview, Scott stated that he was in the Woodside area, where he was arrested, to purchase crack cocaine. Additionally, he admitted that he knew the tag on the car was invalid and

---

<sup>2</sup> Corporal Minear was unable to remember the exact date the driver gave him.

that his driver' s license was suspended.

During the suppression hearing, the owner of the vehicle, Shaina Loreen Currey testified that the Defendant is her boyfriend, and she gave him permission to drive the vehicle the night that he was arrested. Currey further testified that she has had the vehicle continuously registered in her name since purchasing it in 1997. In December, she and her grandmother went to DMV to transfer her grandmother' s four-digit Delaware tag to Currey' s vehicle. Because her grandmother had not used the tag in sometime, she had lost the actual tag. Therefore, DMV issued a temporary tag for use on the vehicle until the new four-digit tag was prepared. Currey stated that she placed the temporary tag in the back window of the vehicle and did not move it. She said she did not receive instructions from DMV regarding the placement of the tag, therefore she placed it in the back window as she had seen on other vehicles.

### **Discussion**

When a warrantless search is conducted, the State bears the burden of proof on a motion to suppress evidence seized as a result of the search and seizure.<sup>3</sup> In this case, Corporal Minear did not have a warrant to stop, seize or search the Defendant, therefore the burden is on the State to establish that the search was conducted properly and the evidence was seized appropriately. Under the Fourth Amendment, a traffic stop is a seizure of a vehicle and its occupants. The State

---

<sup>3</sup> *Hunter v. State*, 783 A.2d 558, 560 (Del. 2001).

***State v. Billy J. Scott***  
**I.D. No. 0401005317**  
July 28, 2004

must demonstrate that the stop and the subsequent investigation were reasonable under the circumstances. The investigative stop must be justified by specific and articulable facts sufficient to give rise to a reasonable suspicion of criminal activity, and the stop and inquiry must be reasonably related in scope to the justification for their initiation.<sup>4</sup>

Title 21, section 2126 of the Delaware Code states that the license plate assigned to a motor vehicle, other than tractor trailers, shall be attached to the rear of the vehicle. The plate must be securely attached to the vehicle so as to prevent it from swinging and must be at a height not less than 12 inches from the ground.<sup>5</sup> The plate must be in a place and position to be clearly visible and must be maintained in a condition to be clearly legible.<sup>6</sup> The plate may not be covered with any material which would conceal or obscure any information on it.<sup>7</sup>

The Superior Court concluded that a stop was proper in *State v. Bishop*, in which the police officer stopped a vehicle driving on the road without a visible license plate.<sup>8</sup> Upon approaching the vehicle, the officer in *Bishop* noticed a

---

<sup>4</sup> *Delaware v. Prouse*, 440 U.S. 648, 663 (1979). See also *Caldwell v. State*, 780 A.2d 1037, 1046 (Del. 2001).

<sup>5</sup> 21 Del. C. § 2126(b) (2004).

<sup>6</sup> *Id.*

<sup>7</sup> 21 Del. C. § 2126(c) (2004).

<sup>8</sup> 1990 Del. Super. LEXIS 164, \*3.

*State v. Billy J. Scott*  
**I.D. No. 0401005317**  
July 28, 2004

temporary New Jersey vehicle registration tag taped in the rear window. However, he still asked the defendant to produce his license, registration and proof of insurance. When the defendant opened the glove box, the officer observed a bag containing hypodermic needles and syringes. Furthermore, the defendant was unable to produce any of the information requested. The officer arrested the defendant after learning there was a *capias* for him, and a subsequent search of the vehicle uncovered drugs and drug paraphernalia. The Court concluded that because the officer observed no license plate on the vehicle, as was required by Delaware statute, he had valid reasons for the stop. Thus, the stop and subsequent search and seizure were proper.

In this case, Corporal Minear testified that when he was traveling behind the green Toyota, the only license plate visible was the invalid blue and gold tag attached to the license plate bracket on the rear of the vehicle. Ms. Currey testified that the lights illuminating the license plate bracket were functioning at that time. According to Corporal Minear's testimony, the temporary tag was not visible. State law requires a license plate to be clearly visible with no material obscuring the information on the tag. Therefore, at 8:15 p.m. in January on an unlit residential road, the Court finds that the only license plate reasonably visible to Corporal Minear was the invalid blue and gold tag. Even if Corporal Minear had noticed the temporary tag in the rear window as he walked up to the vehicle, the stop of the vehicle based on the visible invalid blue and gold tag was proper. Corporal Minear has articulated specific facts sufficient to establish that Scott was in violation of

*State v. Billy J. Scott*  
**I.D. No. 0401005317**  
July 28, 2004

Delaware law when operating the vehicle with an invalid license plate. Further, the questions asked and information requested after the stop were reasonably related to the initial purpose for the stop. Thus, the traffic stop was proper. Furthermore, the subsequent arrest of Scott and the search of the vehicle were appropriate. Therefore, Defendant' s motion to suppress the evidence seized is *denied*.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.  
J.

WLW/dmh  
oc: Prothonotary  
xc: Order Distribution  
File