

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEANNE LEWIS,	§	
	§	No. 176, 2010
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	Cr. I.D. No. 0910003664
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: October 27, 2010
Decided: November 24, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 24th day of November 2010, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Deanne Lewis (“Lewis”), the defendant below, appeals from a Superior Court order denying her motion to suppress evidence, and also from her subsequent convictions and sentences for possession of cocaine,¹ maintaining a vehicle for keeping controlled substances,² possession of drug paraphernalia,³ and

¹ 16 *Del. C.* § 4751.

² 16 *Del. C.* § 4755(a)(5).

³ 16 *Del. C.* § 4771.

failure to signal before turning.⁴ On appeal, Lewis contends that the Superior Court erroneously denied her suppression motion, because the police lacked a reasonable and articulable suspicion of criminal activity sufficient to detain and search her, thereby violating her rights under the United States and Delaware Constitutions. We find no merit to Lewis' argument and affirm.

3. On October 5, 2009, Detective Vincent Jordan received information from a reliable confidential informant ("CI"),⁵ who told him that a black female wearing medical scrubs was selling crack cocaine in the courtyard of the Riverside Housing Projects ("Riverside"), near the 1300 block of East 28th Street in Wilmington, Delaware. This area was well-known for drug activity, and the police had made numerous drug arrests there on prior occasions. The CI also reported that the seller kept the crack cocaine in her bra. Based on this tip, Detective Jordan drove to Riverside but did not find anyone matching the CI's description.⁶ Jordan asked the CI to call him again when the seller returned. Shortly thereafter, the CI called Jordan and informed him that the seller had returned and that her car was parked on East 28th Street.

⁴ 21 *Del. C.* § 4155(a).

⁵ The CI had been used in approximately twenty-five to fifty past operations.

⁶ Detective Jordan arrived at the Riverside courtyard within fifteen minutes of receiving the CI's first call.

4. Detective Jordan drove to the location in an unmarked police cruiser, and used binoculars to observe the Riverside courtyard from his vehicle. About ten minutes later, Jordan observed a woman, later identified as Lewis, accompanied by a man, later identified as Sinque Miller (“Miller”), exit the courtyard and enter a 2002 Buick LeSabre. Jordan did not see any suspicious activity at that time. He noted, however, that Lewis fit the CI’s description of the cocaine seller, because Lewis was a black female wearing medical scrubs and the Buick had been parked on East 28th Street, where the CI had reported the drug sales were occurring. Using his binoculars, Detective Jordan continued his surveillance of the Buick. Once Jordan observed the Buick make a left turn without signaling, he called for assistance to stop the Buick, because his unmarked vehicle was not equipped with police sirens or lights.

5. After traveling ten to twelve blocks, the Buick pulled into a gas station. Additional police officers arrived in marked police cruisers shortly thereafter. Detective Jordan approached the driver’s side of Buick, informed Lewis of her failure to signal when turning, and told her about the drug investigation. Jordan then asked Lewis for identification, but Lewis was unable to produce any.

6. Lewis was asked to step out of the car, and was patted down by a female officer. When Detective Jordan asked Lewis if she had anything illegal in the car or on her person, Lewis responded in the negative. Jordan then sought her

consent to search the Buick. Lewis replied: “Go ahead, you’re going to search it anyway.” In the Buick’s front cup holder, Jordan found a plastic bag that contained several smaller blue-tinted bags commonly used to package cocaine for sale. The police then took Lewis into custody and impounded the Buick.

7. At the station, the police searched Lewis and found twenty-one small bags containing an off-white chunky substance. A search of the Buick also uncovered a bag containing an off-white chunky substance which, later tests showed, contained cocaine. Lewis was charged with possession with intent to deliver cocaine, maintaining a vehicle for keeping controlled substances, possession of drug paraphernalia, and failure to signal before turning.

8. Lewis moved to suppress the evidence obtained as a result of the searches. The Superior Court denied Lewis’ suppression motion. After hearing testimony from Detectives Jordan and Jeffrey Silvers, the trial court concluded that: (i) the police had probable cause to stop Lewis based on her traffic violation, (ii) Lewis voluntarily consented to the search of the Buick, and (iii) the later searches of the Buick and her person were valid as searches incident to a lawful arrest.⁷ After a bench trial, Lewis was found guilty of all charges.⁸ Lewis directly appeals from those convictions.

⁷ *State v. Lewis*, 2010 WL 877565, at *2 (Del. Super. Ct. Mar. 10, 2010).

⁸ The possession with intent to deliver charge was reduced to simple possession.

9. On appeal, Lewis claims that the Superior Court erred by denying her motion to suppress evidence, because that evidence was obtained by an unlawful search and seizure in violation of the Fourth Amendment of the United States Constitution, and article I, section 6 of the Delaware Constitution. Lewis advances three arguments: first, that the initial traffic stop was merely a pretext for the police to search her for drugs; second, that the police lacked a reasonable and articulable suspicion to detain and frisk her beyond the initial traffic stop; and third, that her consent to the search was ineffective because she was illegally detained.

10. This Court reviews a trial court's denial of a motion to suppress for abuse of discretion.⁹ We review a claim of a violation of constitutional rights *de novo*,¹⁰ but we will not disturb a trial court's factual findings absent clear error.¹¹

11. We need not address Lewis' "pretextual" or "illegal detainment" arguments, because the police had a reasonable and articulable suspicion to believe that she had engaged in illegal drug activity at the time they stopped her. To have a reasonable and articulable suspicion, the police must have "a particularized and

⁹ *Lopez-Vazquez v. State*, 956 A.2d 1280, 1284 (Del. 2008).

¹⁰ *Id.* at 1284-85.

¹¹ *Woody v. State*, 765 A.2d 1257, 1261 (Del. 2001).

objective basis' for suspecting legal wrongdoing."¹² "In assessing whether a tip from a CI is sufficient to create a "reasonable suspicion" of wrongdoing, the "totality of the circumstances" must be considered."¹³ A CI's "credibility, reliability, and basis of knowledge are all highly relevant in determining the value of his information."¹⁴

12. Given the totality of the circumstances, Detective Jordan had a reasonable basis to believe that Lewis had engaged in illegal drug activity before he stopped her for the traffic violation. At the time he approached Lewis at the gas station, Detective Jordan had already verified the CI's tip through his surveillance of the Riverside courtyard.¹⁵ Based on his experience and knowledge, Jordan knew that this area was known for drug dealing. He had made numerous drug arrests there on prior occasions. The past-proven reliable CI had informed him directly that a black female wearing medical scrubs would be selling cocaine at the

¹² *Sierra v. State*, 958 A.2d 825, 828 (Del. 2008) (quoting *United States v. Arizona*, 534 U.S. 266, 273 (2002)).

¹³ *Id.* at 829 (citation omitted).

¹⁴ *Id.* at 830 (internal quotation marks and citation omitted).

¹⁵ See *Harris v. State*, 880 A.2d 1047, 2005 WL 2219212, at *2 (Del. 2005) (concluding that even if the informant's information is readily observable and verifiable, "the totality of the circumstances surrounding the situation 'viewed through the eyes of a reasonable, trained police officer in the same or similar circumstances, combining objective facts with such an officer's subjective interpretation of those facts'" can give rise to reasonable suspicion) (citation omitted); *Miller v. State*, 612 A.2d 158 (Table), 1992 WL 219203, at *2 (Del. 1992) (holding that verification of the informant's tip through police observation, coupled with independent observations about the suspect, is enough for reasonable suspicion)

Riverside courtyard.¹⁶ Consistent with that information, Jordan observed Lewis walking out of the Riverside courtyard wearing medical scrubs. In addition to the CI's physical description of the female cocaine seller being accurate, Lewis' car was parked on East 28th Street where the CI reported it would be located. Because the police already had a reasonable and articulable suspicion to justify investigating Lewis, the trial court did not abuse its discretion in denying Lewis' suppression motion.

13. Lewis' final argument—that her consent was ineffective—also fails, because there was no illegal detainment. This Court has held that during the course of a traffic stop, an officer may order a driver to exit the car and frisk for weapons for safety reasons.¹⁷ After stopping Lewis for the traffic violation, the police were lawfully permitted to ask Lewis to exit the car and frisk her for weapons. That did not constitute an illegal detainment. The police also had a reasonable and articulable suspicion to stop and then investigate Lewis based on her suspected involvement in drug activity. That, too, did not constitute an illegal detainment. Accordingly, the trial court properly denied Lewis' motion to suppress.

¹⁶ See *Sierra*, 958 A.2d at 830. (emphasizing that whether the police directly speak with the CI weighs on the credibility and reliability factors).

¹⁷ *Dunlap v. State*, 812 A.2d 899 (Table), 2002 WL 31796193, at *2 (Del. 2002), *Caldwell v. State*, 780 A.2d 1037, 1045 n. 27 (Del. 2001); see also *Maryland v. Wilson*, 519 U.S. 408, 415, (1997); *Pennsylvania v. Mimms*, 434 U.S. 106, 107-11 (1977) (holding that the police may order a driver to exit the vehicle without violating the Fourth Amendment).

NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court are **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice