

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONATHAN DELVALLE,	§
	§ No. 174, 2013
Defendant Below,	§
Appellant,	§
v.	§ Court Below – Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ I.D. No. 1204008839
	§
Plaintiff Below,	§
Appellee.	§

Submitted: August 28, 2013

Decided: September 10, 2013

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

**O R D E R**

This 10th day of September 2013, it appears to the Court that:

1) The defendant-appellant, Jonathan Delvalle (“Delvalle”), appeals from a Superior Court order convicting him of Possession of a Deadly Weapon by a Person Prohibited, Possession of a Weapon in a Safe School Zone, Carrying a Concealed Deadly Weapon, and Possession of Marijuana. Delvalle raises one claim on appeal. Delvalle argues that the trial court abused its discretion when it held that the officers who detained him possessed a reasonable articulable suspicion to continue detaining him despite one officer’s knowledge that they had detained the wrong person.

2) We have concluded Delvalle's argument is without merit. Therefore, the judgments of the Superior Court must be affirmed.

3) In December 2010, Wilmington Police Officers Nolan and Lynch were patrolling the area surrounding the 300 block of North Broom Street in a fully-marked police vehicle when they observed Delvalle walking on the sidewalk.<sup>1</sup> Officer Lynch believed Delvalle to be Jose Fernandini ("Chomo"), a light-skinned Hispanic male who was wanted by police in connection with a recent burglary.<sup>2</sup> Officer Lynch had previous encounters with Chomo, and after seeing Delvalle's face, told Officer Nolan that Delvalle matched the description of Chomo.<sup>3</sup>

4) After Delvalle briefly disappeared, the officers were able to circle the block and relocate him.<sup>4</sup> Officer Nolan exited the vehicle, and immediately handcuffed Delvalle. Thereafter, Officer Lynch exited the vehicle and immediately expressed uncertainty as to whether Delvalle was Chomo, stating, "I don't think that's him." Officer Nolan testified he did not hear this statement.

---

<sup>1</sup> *State v. Delvalle*, Del. Super., ID No. 1012004301, Scott, C. (Nov. 28, 2012) (ORDER).

<sup>2</sup> *Id.* at 2-3. Chomo had been charged with Burglary in the Second Degree and Offensive Touching.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

5) The officers then tried to verify Delvalle's identity, but he could not produce any form of identification or tell the officers his social security number.<sup>5</sup> Delvalle told them that his name was "Jonathan Rodriguez" and that his date of birth was March 22, 1987. The officers were unable to verify this information on DELJIS,<sup>6</sup> and considered Delvalle's nervous behavior to be suspicious. The officers then took Delvalle to the police station for a two-hour detention in order to identify him.<sup>7</sup>

6) On the way to the station, Officer Lynch managed to find an individual in the DELJIS system that had the same name as that provided by Delvalle, but a different date of birth. Based on DELJIS, the individual had four active capiases for his arrest. Delvalle then confessed that he had provided the officers a false date of birth because he had multiple capiases.

7) Once at the station, the officers asked Delvalle if he had anything in his pockets, to which he answered in the affirmative. A search of Delvalle's person yielded ten small baggies of marijuana. In order to take Delvalle into Turnkey,<sup>8</sup> the officers conducted an additional search in which

---

<sup>5</sup> Delvalle said "he didn't know his social security number and hesitated when answering that he went to high school in New Jersey."

<sup>6</sup> DELJIS stands for the Delaware Criminal Justice Information System.

<sup>7</sup> "Before placing him in the police car, the officers patted him down for weapons, but found no weapons or contraband."

<sup>8</sup> The procedure of the Wilmington Police department when taking an individual into Turnkey is to search his belongings, take property from him, and secure him so he cannot harm himself or others.

they found a loaded handgun in Delvalle's waistband. The officers removed the handgun and immediately read Delvalle his *Miranda* rights.

8) A Grand Jury returned a four-count indictment against Delvalle. Delvalle filed a Motion to Suppress Evidence, which was denied after a hearing. After a bench trial, the Superior Court found Delvalle guilty of all charges and sentenced him to an aggregate of six years at Level V. This appeal followed.

9) We review a Superior Court's decision to grant or deny a Motion to Suppress for abuse of discretion.<sup>9</sup> This Court examines the trial court's legal conclusions *de novo* for errors in formulating or applying legal precepts.<sup>10</sup> Factual findings are reviewed to determine "whether there was sufficient evidence to support the findings and whether those findings were clearly erroneous."<sup>11</sup>

10) Although Delvalle concedes that the officers initially had reasonable suspicion to stop him, he contends that the requisite reasonable suspicion was "erased" when Officer Lynch realized that he was not Chomo. In support of that argument, Delvalle points to three occasions on the record that he contends show that the officers had knowledge that Delvalle was not

---

<sup>9</sup> *State v. Holden*, 60 A.3d 1110, 1113 (Del. 2013).

<sup>10</sup> *Jackson v. State*, 990 A.2d 1281, 1288 (Del. 2009).

<sup>11</sup> *Jenkins v. State*, 970 A.2d 154, 157 (Del. 2009) (citation omitted) (internal quotations omitted).

Chomo, and thus, no longer had reasonable suspicion to detain him. First, Delvalle points out that Lynch stated, “I don’t think that’s him,” upon exiting the police vehicle and attempting to identify Delvalle. Secondly, Delvalle points to the following exchange between counsel for Delvalle and Officer Lynch:

Mr. Collins: Okay. With that said, you find out it wasn’t Chomo. At that point wouldn’t you just say, ‘Thank you, goodbye’?

Officer Lynch: We wanted to identify him, to make sure he didn’t have any outstanding warrants.

Third, Devalle points to a second interaction between his counsel and Officer Lynch in support of his claim:

Mr. Collins: You were interested in stopping the individual because you thought he was Fernardini, a wanted suspect; right?

Officer Lynch: Yes

Mr. Collins: You learned it was not Fernardini; right?

Officer Lynch: Right

Mr. Collins: Okay. At that point, you had no further reason to be in contact with this individual; right?

Officer Lynch: Other than to verify his identity.

11) The success of Delvalle’s argument depends on whether the Officers had a reasonable articulable suspicion throughout the whole of the

“investigatory stop.”<sup>12</sup> We define reasonable suspicion “as the officer’s ability ‘to point to specific and articulable facts, which taken together with rational inferences from those facts, reasonably warrants the intrusion.’”<sup>13</sup> “In determining whether reasonable articulable suspicion exists, we ‘must examine the totality of the circumstances surrounding the situation as 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.’”<sup>14</sup> In making such a determination, we rely upon title 11, section 1902, which states:

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

(b) *Any person so questioned who fails to give identification or explain the person's actions to the satisfaction of the officer may be detained and further questioned and investigated.*

(c) The total period of detention provided for by this section shall not exceed 2 hours. The detention is not an arrest and shall not be recorded as an arrest in any official record. At the end of the detention the person so detained shall be released or be arrested and charged with a crime.<sup>15</sup>

---

<sup>12</sup> See *Jones v. State*, 745 A.2d 856, 861 (“For the purpose of this analysis, ‘reasonable ground’ as used in Section 1902(a) has the same meaning as reasonable and articulable suspicion.”).

<sup>13</sup> *Holden v. State*, 23 A.3d 843, 847 (Del. 2011) (citation omitted).

<sup>14</sup> *Id.* (citation omitted).

<sup>15</sup> Del. Code Ann. tit. 11, § 1902 (2013) (emphasis added).

12) In *Bunting v. State*, police officers stopped an individual who matched the description of a man who had recently robbed a convenience store in a nearby neighborhood.<sup>16</sup> When asked for identification, the individual could produce none and gave the officers a fictitious name.<sup>17</sup> He was then taken to the police station to determine his identity, where it was established that police sought the individual on a robbery warrant.<sup>18</sup> The individual filed a Motion to Suppress Evidence, which was denied by the Superior Court, and affirmed by this Court on appeal.<sup>19</sup> On appeal, we held, “[h]ere, [the defendant] was detained to determine his actual identity (which resulted in probable cause to arrest for criminal impersonation and a diligent, prompt arraignment on that charge) and to await processing by Newark Police on a warrant for an unrelated robbery charge. [The defendant’s] claim that his detention was improper on these facts has no merit.”<sup>20</sup>

13) Similarly, in *Brown v. State*, this Court, in addressing a Motion to Suppress, held, “[e]ven if a seizure occurred, on the facts of this case the police had a reasonable articulable suspicion of criminal activity to justify an

---

<sup>16</sup> *Bunting v. State*, 2004 WL 2297395 at \*1 (Del. Oct. 5, 2004). It is important to note that, unlike in this case, the suspect in *Bunting* “abruptly changed direction and entered the passenger’s side of a nearby van” when he saw the police officers’ car. Here, while there was no abrupt change in direction, officer Lynch testified that Delvalle “disappeared” after seeing the police vehicle. (A33.)

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at \*2.

investigatory stop under title 11, section 1902 after [the appellant] provided false identification to the officers.’’<sup>21</sup>

14) In this case, there is no question that the officers initially had reasonable suspicion to stop Delvalle, as he matched the description of a wanted burglar. The record shows that upon stopping Delvalle, Officer Lynch was not entirely sure whether Delvalle was Chomo. He asked for identification pursuant to section 1902(a). Delvalle failed to produce any documentation proving his identity, and could not tell the officers his social security number. This peculiar response did not satisfy the officers.

15) Accordingly, the officers entered the name and date of birth given to them by Delvalle in DELJIS. When no match was found, the Officers decided to further investigate, pursuant to Section 1902(b), by taking Delvalle to the police station for fingerprinting in an attempt to discover his true identity. It was on the way to the station that Delvalle confessed to giving the officers a false date of birth and having multiple capias. Delvalle’s irregular responses, nervous behavior, and the fact that

---

<sup>21</sup> *Brown v. State*, 2011 WL 5319900 at \*3 (Del. Oct. 31, 2011) (citation omitted). *See also Stafford v. State*, 59 A.3d 1223 (Del. 2012) (finding that probable cause existed to arrest a suspect who could not produce any identification; gave a false name, address, and birth date; and could not be found in DELJIS despite claiming to be a Delaware resident).



he provided a fictitious date of birth gave the police a continued reasonable articulable suspicion to continue their detainment and investigation.<sup>22</sup>

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

---

<sup>22</sup> Officer Nolan stated in his testimony: “[Delvalle’s] behavior was raising my suspicions about if he was in possession of anything or if he had some outstanding capias or maybe had a violation of probation that he didn’t want to tell us.”