

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NATHANIEL SHEPPARD,	§
	§
Defendant Below,	§
Appellant,	§ No. 61, 2001
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
STATE OF DELAWARE,	§ for Sussex County
	§ Cr.A. Nos. IS00-07-0386 through
Plaintiff Below,	§ 0389 and IS00-07-0393
Appellee.	§

Submitted: September 17, 2001

Decided: September 27, 2001

Before WALSH, HOLLAND, and STEELE, Justices.

O R D E R

This 27th day of September 2001, upon consideration of the briefs of the parties, it appears to the Court that:

(1) The appellant, Nathaniel Sheppard (“Sheppard”), appeals his Superior Court conviction of certain drugs and weapons offenses arising out of his arrest on June 28, 2001.

(2) Sheppard contends that his arrest was based on a stop sign violation observed by the police the previous day and was thus pretextual. He argues that the evidence seized during his arrest should have been suppressed. Sheppard also alleges error in the Superior Court permitting the State to reopen its presentation of

evidence during a pretrial suppression hearing to recall a State's witness after closing arguments.

(3) On careful review of the record, we conclude that neither claim of error has merit. Although there was a delay in arresting Sheppard for the stop sign violation, the officer who observed the violation had sufficient grounds for not making an immediate arrest, including the facts that the officer was out of his jurisdiction and operating in an undercover status. The police can secure a warrant for a traffic violation and execute that warrant at a later date, as occurred here. We agree with the Superior Court that the execution of the warrant and the subsequent seizure of the defendant's vehicle incident to the towing of the vehicle was not pretextual since it was subject to an outstanding arrest warrant. *Tatman v. State*, Del. Supr., 494 A.2d 1249 (1985).

(4) With respect to Sheppard's claim that the Superior Court erred in permitting the State to reopen its case to present additional evidence, we review that claim under the standard of abuse of discretion. Under the circumstances, and in the absence of a clear showing of prejudice, we find no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

AFFIRMED.

BY THE COURT:

s/ Joseph T. Walsh
Justice