

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GALEN COLLINS,	§	
	§	No. 274, 2000
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	I.D. No. 9802013395
Plaintiff Below,	§	
Appellee.	§	

Submitted: July 10, 2001
Decided: September 6, 2001

Before **HOLLAND**, **BERGER** and **STEELE**, Justices.

ORDER

This 6th day of September 2001, on consideration of the briefs of the parties, it appears to the Court that:

1) Galen Collins was convicted, following a jury trial, of trafficking in cocaine, possession with intent to deliver cocaine, possession of a firearm during the commission of a felony, and resisting arrest. He argues on appeal that: i) the trial court erred in admitting hearsay evidence identifying him as one of the perpetrators; ii) the prosecutor's improper remarks during rebuttal summation deprived him of a fair trial; and iii) the trial court erred in sentencing Collins as an adult on all charges except the possession of a firearm charge.

2) Collins was tried with his co-defendants, Dion Oliver and Abraham Farnum. In affirming Oliver's convictions, this Court considered and rejected the same claims advanced by Collins concerning the prosecutor's comments to the jury and the propriety of being sentenced as an adult. For the reasons stated in *State v. Oliver*,¹ we find Collins' claims with respect to those two issues to be without merit. Collins' claim concerning the hearsay evidence as to his identity remains for consideration.

3) In February 1998, Wilmington Police Detective Liam Sullivan and FBI Special Agent Gordon Cobb were watching a home on Henderson Drive in Wilmington, Delaware. They had been tipped that Oliver, Farnum, and Collins were carrying a large quantity of drugs and that they would be found at the Henderson Drive home. The officers saw the three men leave the home and get into a green Buick Riviera. Oliver drove, Collins sat in the front passenger seat, and Farnum sat in the back.

4) After following the car for a short distance, Sullivan and Cobb coordinated with other police units and conducted a "felony stop." An unmarked police car pulled in front of the Riviera and two plainclothes detectives jumped out with guns

¹Del. Supr., No. 289, 2000, Berger, J. (August 21, 2001).

drawn. At the same time, Sullivan and Cobb pulled behind the Riviera in their unmarked Ford Explorer. Sullivan and Cobb were not in uniform, but they had used their siren and flashing lights and they identified themselves as police officers as soon as they got out of the Explorer.

5) The two officers saw the Riviera's tail lights go on and dove back into the Explorer right before the Riviera backed into it. Oliver continued driving in reverse for a short distance until the Riviera hit a telephone pole. Collins and his co-defendants jumped out of the car and started running in opposite directions. Oliver and Farnum were apprehended quickly. Collins was found later in Connecticut.

6) The officers searched the Riviera and found a brown paper bag containing 450 grams of crack cocaine and a loaded handgun on the rear floorboard behind the driver's seat. The police found Collins' thumb print on the paper bag containing the cocaine.

7) At trial, Sullivan testified that he was working on a task force investigating drug trafficking when, based on information he received about the three defendants, he and Cobb set up surveillance of the Henderson Drive home. Collins objected on the ground that the informant who tipped Sullivan about the three defendants was not available to be cross-examined. The trial court gave the jury a limiting instruction:

At the beginning of his testimony, Detective Sullivan testified that he received information that the three defendants, by name, were in the house on ... Henderson Drive. You can consider that testimony only to show why the officer went to the house. You cannot consider that testimony to establish that these three named defendants were, in fact, in the house.

8) Collins argues that Sullivan's identification testimony should have been excluded and, without that testimony, there was insufficient evidence to establish that Collins was one of the people in the green Riviera at the time of the felony stop.

9) As in *Oliver*, we find that the trial court acted within its discretion in allowing Sullivan to explain the reason that he was watching the Henderson Drive home and that the court gave an appropriate limiting instruction. Since Sullivan's hearsay testimony could not be used to establish Collins' identity, however, the question becomes whether there was sufficient identification evidence. Collins says that the only other evidence was his thumb print on the paper bag found in the car. Since the State was unable to establish when the thumb print was made, Collins argues that it does not place him at the scene of the crimes.

10) Collins' premise is factually flawed. There was ample identification evidence, in addition to the thumb print. Cobb testified that he got a good look at Collins, who was known to Cobb as "Gilly" or "Gillybop," as Collins exited the front passenger side door of the Riviera. Sullivan also saw Collins jump out of the

car, and both officers identified Collins in court. Thus, we find Collins' identification claim to be without merit.

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

BY THE COURT:

/s/ Carolyn Berger
Justice