

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDRA L. MANUEL,	§	
	§	
Defendant Below-	§	No. 95, 2003
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for Kent County
STATE OF DELAWARE,	§	Cr. A. Nos. IK02-02-0605 thru
	§	0611
Plaintiff Below-	§	
Appellee.	§	

Submitted: January 30, 2004  
Decided: March 25, 2004

Before **BERGER, STEELE** and **JACOBS**, Justices

**ORDER**

This 25<sup>th</sup> day of March 2004, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Andra L. Manuel, was found guilty by a Superior Court jury of Trafficking in Cocaine, Possession of a Firearm During the Commission of a Felony, Possession with Intent to Deliver Cocaine, Possession with Intent to Deliver Marijuana, Carrying a Concealed Deadly Weapon and Resisting Arrest.<sup>1</sup> He was sentenced to a total of 46 years incarceration at Level V,

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<sup>1</sup> Manuel also was convicted of Possession of a Deadly Weapon By a Person Prohibited in a separate Superior Court bench trial.

to be suspended after 37 years for decreasing levels of probation. This is Manuel's direct appeal.<sup>2</sup>

(2) Trial took place on November 4, 2002. The Superior Court conducted a suppression hearing immediately prior to trial at which there was testimony from Aisha Benson, Manuel's girlfriend, as well as Corporal Reginald Capitan and Officer Bianca Ranger of the Dover Police Department. Benson testified that she was awakened at around 2:30 a.m. on February 6, 2002, by a knock on the front door of her home at 463 Sussex Avenue, Dover, Delaware. When she opened the door, she saw several police officers, later identified as Officer Ranger, Corporal Capitan and Officer Konnick. When Corporal Capitan asked her if Manuel was there, she said no, because she knew him only as "Donte." When she tried to close the door, Officer Ranger held out her hand and prevented the door from closing. Benson stated that Officer Ranger and Corporal Capitan did not ask permission to enter, but simply walked through the door with their guns drawn.

(3) Corporal Capitan testified that, early in the morning of February 6, 2002, he, Officer Ranger and Officer Konnick responded to a call from the Dover Police dispatcher about Manuel. A neighbor had reported that Manuel, who was wanted on outstanding warrants, one of which involved a weapon charge, was at

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<sup>2</sup> By Order dated October 21, 2003, this Court permitted Manuel to proceed pro se on appeal following an evidentiary hearing in the Superior Court. Supr. Ct. R. 19(c) and 26(d) (iii).

463 Sussex Avenue. The dispatcher described Manuel as a dark-skinned African American man, around 5 feet, 8 inches tall, and weighing 160 pounds. Corporal Capitan testified that, when Benson opened the door, he could see an African American man generally fitting that description sitting on a couch near the door. He stated that he assumed the man was Manuel. He remembered that Officer Ranger asked Benson twice if they could enter the house, but did not hear Benson's reply. After entering the house, Corporal Capitan immediately approached Manuel, felt his pockets and placed him in handcuffs. Manuel then tried to run, but was subdued outside the residence with the help of Officer Konnick. A search of Manuel's person yielded a bag of marijuana, a bag of crack cocaine, a large sum of money, and a .45 caliber handgun.

(4) Officer Ranger testified that, when Benson opened the door, she asked her if Manuel was in the house. Benson said no and pushed the door towards the officers. In order to prevent being hit in the face, Officer Ranger put out her hand to stop the door. She watched as Benson walked through the living room into the kitchen and then turned back to face the officers. At that point, Officer Ranger asked Benson twice if they could enter and the second time Benson said yes.

(5) In its oral ruling denying Manuel's motion to suppress, the Superior Court stated that it found the police officers' testimony concerning the

circumstances of their entry into the residence to be more credible than that of Benson. The Superior Court also made the following findings: first, based on the dispatcher's call, the officers had a sufficient basis to proceed to 463 Sussex Avenue to look for Manuel; second, there was no need for the officers to further corroborate the neighbor's tip before proceeding to that address; third, once at the residence, the officers entered with the consent of Benson; and, fourth, once it was apparent that a man fitting the description of Manuel was present, the officers reasonably took immediate action to conduct a pat down search of Manuel.

(6) In this appeal, Manuel claims that the Superior Court abused its discretion and committed an error of law by failing to suppress the evidence found on his person during the search. He contends that the evidence should have been suppressed because: a) the police did not have a reasonable belief he was present at 463 Sussex Avenue when they knocked at the door because they did not corroborate the neighbor's tip; b) the police did not have permission from Benson to enter the residence; and c) the police improperly failed to obtain a nighttime search warrant.

(7) Even when deciding an issue of constitutional dimensions, this Court applies a deferential standard of review to the factual findings of the Superior

Court following an evidentiary hearing.<sup>3</sup> Moreover, Manuel's conviction may be reversed only if this Court finds the Superior Court's denial of the motion to suppress to be clearly erroneous.<sup>4</sup>

(8) The Superior Court found that there was no need to corroborate the neighbor's tip, since the information from the dispatcher provided a sufficient basis for the officers to proceed to 463 Sussex Avenue to look for Manuel. The Superior Court also found that the testimony of the officers was more credible than Benson's and, therefore, found that she gave her consent to the police entry. Finally, the Superior Court found that, given the weapon charge against Manuel, the pat down search was reasonable in the interest of the officers' safety.<sup>5</sup> Under the applicable standard of review, we find no abuse of discretion or error on the part of the Superior Court with respect to any of these findings.

(9) Manuel's final claim that the police were required to obtain a nighttime warrant is incorrect as a matter of law. The police sought to locate Manuel in connection with the outstanding warrants, not to search the residence at 463 Sussex Avenue; as such, a nighttime warrant was not required.<sup>6</sup>

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<sup>3</sup> *Woody v. State*, 765 A.2d 1257, 1261 (Del. 2001).

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

<sup>5</sup> *Morrow v. State*, 603 A.2d 835, 837 (Del. 1992).

<sup>6</sup> Del. Code Ann. tit. 11, § 2308 (2001).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Justice