

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DESHAUNE D. DARLING, )  
 ) No. 558, 2003  
 Defendant Below, )  
 Appellant, ) Court Below: Superior Court  
 v. ) of the State of Delaware in  
 ) and for Kent County  
 )  
 STATE OF DELAWARE, ) Cr. ID No. 0303017264  
 )  
 Plaintiff Below, )  
 Appellee. )

Submitted: April 13, 2004  
Decided: April 29, 2004

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

***ORDER***

This 29<sup>th</sup> day of April 2004, upon consideration of the briefs of the parties, it appears to the Court as follows:

1. On March 24, 2003, Delaware State Police Sergeant John Samis informed Detective Brian Talley that a past-proven reliable confidential informant observed and identified Defendant/Appellant Deshaune Darling selling crack cocaine on Unity Lane in Williamsville, a well-known drug area. The informant described a vehicle at the scene and stated that he bought crack from Darling earlier that day. Talley ran a search on Darling, found a photograph of him and determined that he was on probation. Around 7 p.m., members of a police unit called the Governor's Task Force ("GTF") drove down Unity Lane and observed

three males standing next to a vehicle fitting the informant's description. When the GTF members got out of the car and identified themselves, the three males fled. A probation officer with the GTF caught and arrested Darling. The arresting officer and Talley returned to search the area where Darling was apprehended and found a plastic bag containing 26 grams of marijuana packaged in 26 individually wrapped smaller bags. No one observed Darling discard the package.

2. On the first day of the trial, Darling moved to suppress the evidence seized at the scene of his arrest. The trial judge conducted an evidentiary hearing on the motion and Talley testified as the sole witness. The trial judge denied the motion, finding no basis to suppress the evidence. Darling was convicted of possession with intent to deliver marijuana (PWID) and resisting arrest. He was sentenced to 42 months at Level 5 for the PWID conviction and one year Level 3 probation for resisting arrest. Darling now appeals his conviction.

3. Darling contends that the trial judge erred by not suppressing evidence because the police had neither probable cause to arrest nor reasonable suspicion to detain him. Probable cause may be established by an informant's tip where the totality of the circumstances would lead one to conclude the information was reliable.<sup>1</sup> An arresting officer may act on the belief that his fellow officer's

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<sup>1</sup> *Illinois v. Gates*, 462 U.S. 213 (1983).

judgment is correct.<sup>2</sup> Reasonable suspicion is determined by an examination of the totality of the circumstances through the eyes of a reasonably trained police officer.<sup>3</sup> We review the trial judge's evidentiary decisions for an abuse of discretion.<sup>4</sup>

4. In the case *sub judice*, Talley's reliance on the past proven reliable confidential informant coupled with his computer check and his observations from the scene established probable cause to arrest Darling.<sup>5</sup> Additionally, Darling's flight created reasonable suspicion to conduct an investigatory detention. Based on the totality of the circumstances, the trial judge acted appropriately within his discretion by denying the motion *in limine*.

5. Darling also contends that the trial judge erred by permitting Talley to offer expert testimony concerning whether Darling possessed the marijuana for personal consumption or for the purpose of resale. Darling's argument rests on Talley's admission during *voir dire* that he was not an expert. Opinion testimony by a person with knowledge, skill, experience, training or education, may be admitted if it is based on sufficient facts, is the product of reliable principles and methods, and the witness has applied the principles and methods reliably to the

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<sup>2</sup> *State v. Cooley*, 457 A.2d 352 (Del. 1983).

<sup>3</sup> Del. Const. Art. 1 § 6.

<sup>4</sup> *Viridin v. State*, 780 A.2d 1024, 1030 (Del. 2001); *Woody v. State*, 765 A.2d 1257,1261 (Del. 1990).

<sup>5</sup> See *King v. State*, 1993 WL 445484, \*\*2 (Del. Supr.).

facts of the case.<sup>6</sup> The trial judge has discretion to determine whether factual evidence supports admitting opinion testimony.

6. Here, Talley's training and experience in narcotics investigation enable him to give opinion evidence. He has been a member of the GTF for three years, where he has participated in over one hundred drug arrests. He has also attended more advanced formal training in the drug trade than regular State Troopers. Sufficient facts existed in the record to support the trial judge's determination that Talley could render an expert opinion regarding Darling's reason for possessing marijuana packaged in that particular way. Accordingly, the trial judge acted appropriately within his discretion.

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

/s/ Myron T. Steele  
Justice

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<sup>6</sup> Del. R. Evid. 702.