

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE BUNTING, )  
 ) No. 128, 2004  
 Defendant Below, )  
 Appellant, ) Court Below: Superior Court  
 v. ) of the State of Delaware in  
 ) and for New Castle County  
 )  
 STATE OF DELAWARE, ) Cr. ID. No. 0303001118  
 )  
 Plaintiff Below, )  
 Appellee. )

Submitted: September 15, 2004  
Decided: October 5, 2004

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

***ORDER***

This 5<sup>th</sup> day of October 2004, on consideration of the parties' briefs, it appears to the Court that:

1. Tyrone Bunting appeals his conviction of first and second degree robbery claiming the Superior Court judge erred where he denied a motion to suppress focused on a claim of unlawful detention. Because the arresting officers had a reasonable articulable suspicion Bunting may have committed a robbery that they were investigating, they properly detained him for further investigation. During the lawful detention they developed probable cause to believe that he had committed crimes thereby justifying the length of his keeping him in custody for

thirteen hours. Therefore we conclude that the trial judge properly denied Bunting's motion to suppress. Accordingly, we affirm.

2. Early in the morning of February 28, 2003, a then unidentified individual robbed a convenience store located at Fourth and Union Streets in Wilmington. The security camera's videotape showed the robber, wielding a pellet gun, enter the store wearing a black New York Yankees jacket. The videotape also showed the robber take two money-filled envelopes and flee the store. Wilmington police officer Tracy Hammond investigated and reviewed the videotape.

3. Several days later, on the morning of March 3, Hammond and her partner observed a man, later determined to be Bunting, walking in the vicinity of Sixth Street and Greenhill Avenue. Hammond believed that Bunting fit the description of the robber in the videotape. On seeing the officers' car, Bunting abruptly changed direction and entered the passenger's side of a nearby van. The police then stopped the van and removed Bunting for questioning.

4. After conducting a pat-down search, Hammond asked Bunting for identification. Bunting gave the officer a fictitious name, and stated that he had no form of identification. After later determining his true identity at the station, the officers learned that the Newark police sought Bunting on an outstanding first degree robbery warrant. Wilmington police held him in custody based on that warrant and a charge of criminal impersonation. About eleven hours later,

Wilmington police began questioning Bunting, who eventually confessed to the Union Street robbery and to another unrelated robbery. Approximately thirteen hours after detaining Bunting, the police took him before a justice of the peace on the robbery charge.

5. In August 2003, Bunting filed a motion to suppress challenging his arrest. After a December 2003 hearing, the trial judge denied the motion, but *sua sponte* expressed his concern about the length of Bunting's detention.<sup>1</sup> Addressing defense counsel, the trial judge offered to conduct a supplemental hearing or, in the alternative, to accept a stipulation of fact surrounding the length of Bunting's detention. Defense counsel chose the latter, stipulating that on the night he was detained, Bunting was arraigned at 3:16 a.m. on a charge of criminal impersonation, and again at 4:05 p.m. in connection with the robbery.<sup>2</sup> Bunting does not contest this stipulation.

6. After a Superior Court trial in January 2004, a jury convicted Bunting of first and second degree robbery.<sup>3</sup> Bunting now appeals the trial judge's suppression ruling, claiming that the officers seized him without a reasonable articulable suspicion that he may have committed a crime. Because he was

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<sup>1</sup>Tr. Def. Mot. to Suppress (Dec. 19, 2003), at 61-62

<sup>2</sup>Stipulation and Order, ID No. 0303001118 (Jan. 8, 2004).

<sup>3</sup>*State v. Bunting*, Del. Super., ID No. 0303001118 (Jan. 16, 2004).

arraigned on the robbery charges over thirteen hours after his arrest, Bunting also asserts that his detention violated Delaware law.

7. Police officers may “stop any person . . . who the officer has reasonable ground to suspect is committing, has committed, or is about to commit a crime . . . .”<sup>4</sup> To constitute a reasonable suspicion, the officer must be able to “point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion.”<sup>5</sup> Where suspects can neither give identification nor explain their actions “to the satisfaction of the officer,” the police are justified in detaining them for further investigation.<sup>6</sup> The total period of an *identification detention*, however, cannot exceed two hours.<sup>7</sup> Because it involves mixed questions of law and fact, we review a trial judge’s ruling on a motion to suppress *de novo*.<sup>8</sup>

8. The police had a reasonable articulable suspicion that Bunting may have committed a robbery. Hammond thoroughly investigated the Union Street robbery and was well aware of the perpetrator’s physical description. The officer witnessed Bunting, again in the early morning, walk toward another convenience store in the vicinity of the earlier robbery. Bunting immediately changed direction

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<sup>4</sup>11 Del. C. § 1902(a). See also *Terry v. Ohio*, 392 U.S. 1 (1968).

<sup>5</sup>*Backus v. State*, 845 A.2d 515, 517 (Del. 2004) (citations omitted).

<sup>6</sup>11 Del. C. § 1902 (b).

<sup>7</sup>*Id.* § 1902(c).

<sup>8</sup>*Upshur v. State*, 2004 Del. LEXIS 130.

when he saw Hammond and her partner. Bunting's evasiveness and the fact that he fit the general description of a robbery suspect gave the police an articulable reason to stop Bunting and make further investigation. The trial judge correctly concluded that the police lawfully detained Bunting initially and we affirm the trial judge's denial of the Motion to Suppress.

9. Bunting's lengthy detention was also justified under the circumstances. Although a Section 1902 detention is limited to two hours, Section 1902 no longer controlled Bunting's custodial status once the officers discovered Bunting's outstanding charges. It is well-settled that "an investigatory detention must be minimally intrusive and reasonably related in scope to the circumstances which justify the interference."<sup>9</sup> Here, Bunting 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. Bunting's claim that his detention was improper on these facts has no merit.

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<sup>9</sup>*Hicks v. State*, 631 A.2d 6, 11 (Del. 1993), citing *Coleman v. State*, 562 A.2d 1171, 1176 (Del. 1989), cert. denied, 493 U.S. 1027 (1990).

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice