IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER HERRING,	)	
	)	No. 109, 2006
Defendant Below,	)	
Appellant,	)	Court Below: Superior Court
	)	of the State of Delaware in
v.	)	and for New Castle County
	)	
STATE OF DELAWARE,	)	Cr. Nos. IN-04060389, IN-04060397,
	)	IN-04060398, IN-04060400
Plaintiff Below,	)	
Appellee.	)	

Submitted: September 20, 2006
Decided: October 30, 2006

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

O R D E R

This 30th day of October 2006, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

(1) Christopher Herring appeals from his convictions for Robbery First Degree, Possession of a Firearm During the Commission of a Felony, Possession of a Destructive Weapon and Receiving Stolen Property. Herring claims that the Superior Court judge abused her discretion when she denied his motion to suppress evidence seized when police executed an allegedly deficient search warrant. Herring argues that the police obtained the search warrant using information from

statements he made before receiving *Miranda* Warnings.[1] Without that information, Herring argues, the search warrant application lacked probable cause. We find that the Superior Court judge properly denied Herring's motion to suppress evidence the police obtained while executing the search warrant. Accordingly, we affirm the Superior Court's judgment.

(2) On the morning of May 26, 2004, Herring robbed Patricia Taylor at gun point. Taylor observed Herring flee in a red sports car with an "H" on the hood. The New Castle County and Wilmington police responded and canvassed the neighborhood looking for the car. They located a red Honda that fit Taylor's description at the Cedar Wood Apartment Complex. Officers determined that the car had false tags and was stolen. Officers transported Taylor to the car's location where she identified the Honda as the car the assailant had driven. The police apprehended Herring when he returned to the car and attempted to drive away.

(3) Before the officers gave any *Miranda* warnings, the officers asked Herring for his pedigree information, his name, date of birth, address and telephone number. Herring identified himself and stated that his address was 508 Cedar Wood Drive. The police then incorporated this address information into their

[1] In *Miranda v. Arizona*, 384 U.S. 436 (1966), the United States Supreme Court held that one in custody who is interrogated by officers about matters that may tend to incriminate him is entitled to be warned "that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires." Herring was in custody when he provided his pedigree information.

application for a warrant to search Herring's residence. During the ensuing search, police discovered a sawed-off shotgun, documents pertaining to the stolen Honda and items belonging to the victim, Taylor.

(4) Herring moved to suppress the evidence seized under the warrant's authority. The Superior Court judge denied his motion, ruling that the officer's booking inquiries did not violate *Miranda*. As a result, the judge held that the police properly used that information in their application for a search warrant. On appeal, Herring contends that the officers should have read his *Miranda* rights to him before they began questioning that constituted investigative custodial interrogation. Because the police did not Mirandize him before questioning and used the information they obtained from their interrogation in an application to secure a search warrant, Herring argues that the fruits of the search must be suppressed.[2]

---

[2] Herring argues that, without the address information he supplied when he answered the officers' inquiries, the officers would not have had the information necessary to complete the application for the search warrant. Specifically, without Herring's address, the officers would not have been able to specify the location to be searched, as required by *Dorsey v. State*. 761 A.2d 807, 811 (Del. 2000). *Dorsey* dictates that "the affidavit in support of a search warrant must set forth facts adequate for a neutral judicial officer to form a reasonable belief that an offense has been committed and that seizable property would be found *in a particular place*…" *Id*. (emphasis added). Herring contends he was the only source for the address information. Herring also argues that, without the address information, the application for the warrant lacked probable cause because there was no "nexus" between the items sought in the warrant and 508 Cedar Wood Apartments. *Dorsey*, the case to which Herring cites for support, is inapposite; in *Dorsey* there was no logical connection between the items sought and the place to be searched. *Id*. at 812. Here, one could logically deduce that the stolen items could be found in an apartment located within the Cedar Wood complex when the police located the car, unoccupied, in the apartment complex shortly after the crime occurred.

(5) We review the Superior Court judge's denial of a motion to suppress after an evidentiary hearing for an abuse of discretion.[3]

(6) Delaware law recognizes an exception to *Miranda* for booking-type information. In *Laury v. State*,[4] we "decline[d] to extend the *Miranda* rules to the routine, initial, on-scene investigation by the police."[5] We are permitted to except these questions from *Miranda* because the United States Supreme Court also has recognized this exception: "[T]he term 'interrogation' under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (*other than those normally attendant to arrest and custody*) that the police should know are reasonably likely to elicit an incriminating response."[6] Pedigree

---

[3] *Virdin v.State*, 780 A.2d 1024, 1030 (Del. 2001) (citing *Downs v. State*,, 570 A.2d 1142, 1144 (Del. 1990): "To the extent the trial court's legal decision is based on its own factual findings, it is reviewable to determine whether there was sufficient evidence to support the findings, and to determine whether those findings were the result of a logical and orderly deductive process."); *Gregory v. State*, 616 A.2d 1198, 1200 (Del. 1992).

[4] *Laury v. State*, 260 A.2d 907 (Del. 1969).

[5] 260 A.2d at 908.

[6] *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980) (emphasis added); *see also Pennsylvania v. Muniz*, 496 U.S. 582, 601 (1990) (recognizing the "routine booking question" exception to *Miranda* "which exempts from *Miranda*'s coverage questions to secure the 'biographical data necessary to complete booking or pretrial services.'"); *Rosa v. McCray*, 396 F.3d 210, 221 (2d Cir. 2005) ("The collection of biographical or pedigree information through a law enforcement officer's questions during the non-investigative booking process that typically follows a suspect's arrest, however, does not ordinarily implicate the prophylactic protections of *Miranda*, which are designed to protect a suspect only during investigative custodial interrogation. Such interrogations customarily involve questions of a different character than those that are normally and reasonably related to police administrative concerns.").

information, such as the information the police here elicited, falls within the ambit of booking-type information (words normally and reasonably related to police administrative concerns attendant to arrest and custody) contemplated by the Supreme Court of Delaware and the Supreme Court of the United States.

(7) Because we are satisfied that the pedigree questions fall within a recognized exception to *Miranda*, even though they also furthered the police's investigation,[7] we conclude that any incorporation of that information into an application for a search warrant in order to establish probable cause for a search or to establish the premises to be searched is permissible. Officers are allowed to ask for pedigree information. The application for the search warrant properly contained that information even though it was also used to establish probable cause for the search and the location of the premises to be searched. The Superior Court judge did not err when she denied the motion to suppress.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

[7] We note that the officers' pedigree questions developed facts used for a dual purpose including furthering their investigation; without Herring's answers, the police would have nonetheless inevitably gone door to door in the apartment building with a photograph of Herring to determine his address.