

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PA** :  
**vs.** : **No. CR-1311-2011**  
 :  
**VALTEZ LEWIS,** :  
**Defendant** :

**OPINION AND ORDER**

Defendant is charged by Information filed on or about October 6, 2011 with one count of Conspiracy to Possess with Intent to Deliver Cocaine and one count of Possession with Intent to Deliver Cocaine.

The charges arise out of an alleged December 23, 2010 incident in which the vehicle in which Defendant was a passenger or stopped by law enforcement officers for suspicious activity. The vehicle was eventually impounded and a search warrant was obtained. Upon the execution of the search warrant, illegal narcotics were discovered.

Defendant timely filed an Omnibus Pretrial Motion consisting of a Motion to Suppress, two Motions for Discovery, a Motion to Compel Discovery, a Motion for Leniency and JNET information, a Motion for 404 (b) Bad Acts Notice and a Motion to Reserve Rights.

The hearing in this matter was scheduled for December 29, 2011. At the beginning of the hearing, Defendant amended, without objection by the Commonwealth, the Motion to Suppress to add a request that the items seized from the Defendant following the stop were seized in violation of the Defendant's State and Constitutional protections and more specifically that the frisk was not supported by reasonable suspicion. The Motion to Suppress filed by the Defendant thus encompasses four separate issues: (1) Whether the stop of the vehicle was supported by reasonable suspicion or probable cause; (2) whether the canine sniff of the vehicle was supported by reasonable suspicion or probable cause; (3) whether the

seizure of the vehicle was supported by probable cause; and (4) whether the frisk of the Defendant was supported by reasonable suspicion.

Due to a variety of reasons beyond the Commonwealth's control, three of its witnesses were not available for the hearing. One witness was ill, another witness failed to comply with the subpoena and a third witness was out of State and apparently was not served with the subpoena. Accordingly, the parties agreed that testimony would be taken from one of the witnesses and the hearing would be adjourned to a future date and time to take the testimony of the remaining witnesses.

Additionally, the Court held argument on the remaining Motions.

With respect to Defendant's Motion for Discovery relating to the canine sniff, it was agreed that the Commonwealth would provide to Defendant selected information and documents within two weeks of the date of the hearing. If the Defendant, after review of the documents, was requesting additional information or documents, he would notify the Commonwealth and the Court. The Court would then render a decision accordingly.

With respect to what Defendant has characterized as "all" information regarding the credibility of Harold Anthony, the Court directed that the parties proceed in the same manner as with respect to the information and documents regarding the canine sniff.

Defendant's Motion to Compel Discovery of the Video Recording from Corporal Finnerty's vehicle was dismissed as moot in that the Commonwealth previously provided said video recording.

Defendant's Motion to Disclose the existence of and substance of promises of immunity, leniency or preferential treatment and complete criminal history from the National

Crime Information Center and/or the Pennsylvania Justice Network was granted. The Commonwealth indicated there were no promises of immunity, leniency or preferential treatment that were made to any potential witnesses and further that it would provide the requested criminal history (s) of the Commonwealth's witnesses.

Defendant's Motion for Disclosure of other crimes, wrongs, or acts pursuant to Pa. Rule of Evidence 404 (b) was denied. Rule 404 (b) requires the Commonwealth to provide reasonable notice in advance of trial, or during the trial if the Court excuses pretrial notice on good cause shown, of the general nature of any "bad acts" evidence it intends to introduce at trial. The Court will not direct the Commonwealth to provide said notice at this time but reminds the Commonwealth of its obligation to provide the notice in a timely manner as required by the Rule. The purpose of the notice requirement in the Rule is to prevent unfair surprise and to give the Defendant sufficient time to prepare an objection or rebuttal to the evidence. Commonwealth v. Mawhinney, 915 A.2d 107, 110 (Pa. Super. 2006), app. denied 932 A.2d 1287 (Pa. 2007). If the Commonwealth fails to provide timely notice as required, it risks preclusion of the evidence.

Finally, the Court granted Defendant's Motion to Reserve Rights giving the Defendant thirty (30) additional days from the date Defendant receives additional or supplemental discovery, to file any supplement Omnibus Pretrial Motion.

With respect to the Suppression Motion, the evidence presented at the hearings on December 29, 2011 and March 23, 2012 showed the following facts. Officer Dockey was on patrol on December 23, 2010. For the previous 10 years, he has been employed as a patrolman by the Williamsport Bureau of Police. The City is divided into three patrol zones

with his patrol zone being known as the center zone. For virtually his “entire career” he has patrolled the center zone of the city. He testified that he “knows the area best” and is familiar with the houses, vehicles and people.

While on patrol in a marked car, armed and in full uniform, he was specifically on the lookout for vehicles that were from “out of the area,” because of recent shootings in Williamsport. The police department’s concern was that there would be retaliation for a recent shooting. While he was on patrol, he saw what he first described as a dark in color partial limousine motor vehicle, which was later determined to be a black Lincoln Town Car, parked on the 700 block of High Street. More specifically, the vehicle was parked in front of 747 High Street which was within two houses of where a homicide took place within the past “weeks to a month.” He passed the vehicle in the opposite direction that the vehicle was facing. He could not see inside the vehicle. Because he had never seen the car before, he ran the registration. He turned his vehicle around in order that he would be traveling in the same direction as the Lincoln Town Car. By the time he turned his vehicle around, the Lincoln Town Car was in motion. The registration came back to a Josie Banks from the Scranton, PA area. The Court notes that Scranton is an approximate hour and 45 minutes to two hour drive from Williamsport.

The 700 block of High Street where the vehicle was parked is a known high crime/drug area. In the past, drug arrests have been made “in just about every one” of the houses on that block.

Due to his suspicions being raised because of Officer Dockey not being familiar with the vehicle, it being from out of the area, it being in a high drug/crime area, Officer

Dockey not being able to see inside and the vehicle being parked close to a home where a homicide recently took place, Officer Dockey decided to follow the vehicle “around a little bit.” The vehicle traveled through several streets and areas of the city that were known to Officer Dockey as other high crime/drug areas.

The vehicle subsequently pulled over and stopped in front of 419 Edwin Street. This area, as well, was known to Officer Dockey as a high crime/drug area. Officer Dockey drove past the vehicle. The rear window and back passenger windows, which Officer Dockey described as being extended, were heavily tinted. Officer Dockey was unable to see inside the vehicle.

Shortly thereafter, Harold Anthony called the police. Mr. Anthony is a resident of Williamsport who lives at 432 West Edwin Street. He is employed at Maneval Funeral Home across the street. On December 23, 2010, he noticed a black car parked on the street across from his residence in a no parking zone. As he went across the street to turn on lights at his place of employment, he saw a black male individual that he did not recognize standing on his neighbor’s front porch and talking on a cell phone. He heard the individual say something to the effect that he was sorry and that he must have the wrong address.

Mr. Anthony noted that he has been friends with the neighbors for about ten (10) years and he had never seen the vehicle or the individual previously. He did, however, concede that it was the “middle” of the holiday season in the early evening hours and although he knew those who lived in the neighborhood, it was not “out of the ordinary” for unknown cars or people to be there.

Still, he never saw the car before and did not know the individual. When the individual left the porch, he was walking in the general direction of a known drug house. As a result of his observations, he called the police station and noted that there was a suspicious vehicle in the neighborhood. He gave a description of the vehicle.

Lieutenant Tim Miller of the Williamsport Police Department was the watch commander on December 23, 2010 when he received a phone call from Mr. Anthony. Lieutenant Miller was aware of Mr. Anthony as Mr. Anthony had previously provided credible information as to criminal activity. Lieutenant Miller explained that Mr. Anthony lives in one of the highest crime areas in the city.

Lieutenant Miller testified that Mr. Anthony reported observing a suspicious vehicle in the neighborhood. Mr. Anthony also described an individual from the vehicle being at the neighbor's door, he heard an apology and he saw the individual walk toward a suspected drug house. Mr. Anthony also told Lt. Miller that a patrol unit had actually driven by the vehicle at which point he saw the individual in the driver's seat of the vehicle get on his cell phone, after which the passenger who had been walking toward the known drug house returned to the vehicle. The vehicle then drove away.

Lieutenant Miller took the information that he received from Mr. Anthony and relayed it to the other officers via the radio.

Within 20 to 30 minutes after Officer Dockey first observed the vehicle, he heard a radio dispatch from Lieutenant Miller. Lieutenant Miller reported a suspicious vehicle in the West Edwin Street area, as well as suspected drug activity. Lieutenant Miller noted that

the vehicle was apparently a black Cadillac. Officer Dockey responded that he had the vehicle under surveillance and that it was not a Cadillac but rather a Lincoln Town Car.

Officer Dockey had lost sight of the vehicle but upon returning to the 700 Block of High Street noticed that the vehicle was stopped or stationary in front of the same residence where he first observed the vehicle. Officer Dockey noted that the vehicle's headlights were off but that the brake lights occasionally went on and off indicating to Officer Dockey that someone was inside the vehicle.

The vehicle then turned on its headlights, pulled away from the curb, and traveled east on High Street. Officer Dockey "loosely" followed the vehicle. It traveled south on Spruce Street and then east on Little League Boulevard to the intersection of Little League Boulevard and Market Street. It then turned south on Market Street, appeared that it was going to stay in the city but then shifted lanes and traveled south over the bridge intersecting Williamsport and South Williamsport.

The vehicle pulled into a Uni-Mart south of the bridge located in South Williamsport. Officer Dockey then traveled past the Uni-Mart and parked his vehicle at West Central Avenue in South Williamsport.

Officer Snyder, who has been employed by the Williamsport Police for the last 17 ½ years, also heard Lt. Miller's radio transmission regarding Mr. Anthony's report. He started moving toward West Edwin Street and then turned on High Street and saw the black Lincoln on Green Street at Park Avenue. As Officer Dockey was loosely following the vehicle, Officer Snyder paralleled the vehicle on another street. He then fell in behind Officer Dockey as the vehicle was traveling south bound in Williamsport toward South Williamsport.

As the vehicle crossed the bridge, he followed. He pulled in on the north side of the Uni-Mart and made contact with Corporal Finnerty of the South Williamsport Police Department, who also had been listening to the radio transmissions and positioned himself in the north parking lot of the Uni-Mart in the event the black sedan crossed the Market Street bridge into South Williamsport.

Although Officer Snyder did not observe any of the suspicious activity involving the vehicle and its occupants, and he wasn't sure if the black sedan at the Uni-Mart was, in fact, the vehicle that was involved in the suspicious activity, Officer Snyder told Corporal Finnerty that they had a sufficient basis to stop the vehicle. Officer Finnerty suggested letting the vehicle leave the gas pumps and get back onto Route 15 before making the traffic stop.<sup>1</sup> When the vehicle started to leave the gas pumps, Officer Finnerty pulled out to follow it onto Route 15, but the driver then changed direction and backed into a parking space in front of the Uni-Mart. The driver, later identified as Raymond Diaz, exited the vehicle and entered the Uni-Mart. While the driver was in the store, Corporal Finnerty activated his emergency lights, pulled up to the car and instructed the Defendant to stay in the car. The Defendant had started to open the door to exit but he did not exit because he was ordered to stay in the car.

Upon being notified that the vehicle was stopped, Officer Dockey returned to the Uni-Mart. The Defendant was still seated in the right front passenger seat. Officer Dockey approached the driver's side but could "hardly see" the Defendant in the passenger seat.

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<sup>1</sup> Once one crosses the Market Street Bridge into South Williamsport, Market Street becomes Route 15 South.



He went to the passenger side of the vehicle and requested Defendant to step out. Officer Dockey believed that the passenger side window was down.

For “officer safety” reasons, Officer Dockey did a pat-down of the Defendant. Officer Dockey was concerned that the vehicle was from out of the area, it had stopped three times in high crime areas of the city, which included twice in front of a residence that was close to where a recent homicide took place. He could not see inside the vehicle to determine what if anything was going on or what if anything the Defendant had access to. During the pat down, Officer Dockey felt a large stack of currency in Defendant’s pocket.

Upon Corporal Finnerty stopping the vehicle, Officer Snyder walked from the north side corner of the Uni-Mart toward the vehicle. He noticed that there was a cluster (4-6) of air fresheners in a portion of the vehicle as well as numerous other air fresheners on the floor and on the seat. In his opinion it was not uncommon to have such air fresheners present to mask the odor of drugs. He could not see through the rear passenger windows or the back window because of the tint.<sup>2</sup>

When the driver exited the store, Corporal Finnerty approached him, had him empty his pockets, and patted him down for weapons.

Officer Snyder began asking both Defendant and the driver about their whereabouts and their activities in Williamsport just prior to their arrival at the Uni-Mart. Officer Snyder testified that he had these conversations to try to determine if the vehicle that

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<sup>2</sup> The Court notes Officer Dockey and Officer Snyder’s testimony regarding what could be seen inside the car is somewhat inconsistent. Both officers were at the passenger side of the car speaking to Defendant and Defendant’s window was down. Officer Dockey testified he could not see inside the vehicle to see what was going on or what Defendant had access to, but Officer Snyder testified he could see numerous air fresheners on the floor. If Officer Snyder could see cardboard air fresheners lying on the floor in the front of the vehicle, then Officer Dockey should also have been able to see what Defendant was doing, as well as other objects Defendant would have had access to

they stopped was, in fact, the vehicle involved in the suspicious activity. It was of significant concern to Officer Snyder that both the Defendant and Mr. Diaz denied driving and parking in the areas of the city where they had been seen driving and stopping. There were inconsistencies in certain “detail” questions by the Defendant and Mr. Diaz. For example, one indicated that they had stopped at a relative’s house while the other indicated that the only location they had stopped was on the 600 block of Campbell Street.

Officer Snyder decided to deploy his dog to do a canine sniff of the vehicle. He explained that he had reasonable suspicion that drugs were being secreted in the vehicle. He based this reasonable suspicion on the following: Mr. Anthony’s report; Officer Dockey’s observations; the fact that the vehicle was in a high drug/crime area; the fact that the vehicle was from out of the area; the fact that the Defendant was not the owner of the vehicle yet operating it, which he explained is very common in drug transaction situations; the fact that there were numerous air fresheners in the car; and the inconsistencies between the statements of the Defendant and the driver.

Officer Snyder’s dog alerted to the front passenger area of the vehicle. As a result, Officer Snyder asked Mr. Diaz if he would consent to a search. Mr. Diaz consented to a search only of the front passenger area because that is the area as to where the dog alerted. Officer Snyder responded that he would not limit the search to the front passenger area because he believed he had sufficient cause to search the entire vehicle. As a result, the vehicle was subsequently impounded, a search warrant was obtained and illegal narcotics were found in the trunk.

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in the front of the vehicle.

After Officer Snyder conducted the canine sniff, Officer Dockey was directed to remove the suspected currency from the Defendant. Officer Dockey did so and discovered in excess of \$400.00.

Officer Dockey and Corporal Finnerty conceded that the Defendant was not free to leave until the search warrant was eventually obtained and the car was towed from the Uni-Mart area. It is estimated that the total time between the stop and the vehicle being towed was approximately 45 to 50 minutes. Officer Dockey noted that the Defendant was cooperative the entire time although Officer Dockey did suspect drug activity being conducted by the occupants of the car, specifically “dropping products off.”

Defendant first contends that when the vehicle in which he was a passenger was initially stopped by the police, they did not have reasonable suspicion to justify the stop.

Police officers may detain individuals for investigation purposes when they possess reasonable suspicion that criminal activity is afoot. Commonwealth v. Brown, 606 Pa. 198, 996 A.2d 473, 477 (2010), citing Commonwealth v. Strickler, 563 Pa. 47, 757 A.2d 884, 889 (2000).

“Reasonable suspicion exists only where the officer is able to articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and the person that he stopped was involved in that activity. Therefore, the fundamental inquiry of a reviewing court must be an objective one, namely, whether the facts available to the officer at the moment of intrusion warrant a person of reasonable caution in the belief that the action taken was appropriate.” Commonwealth v. Goldsborough, 31 A.3d 299,

306 (Pa. Super. 2011), citing Commonwealth v. Jones, 874 A.2d 108, 116 (Pa. Super. 2005); see also Commonwealth v. Gutierrez, 36 A.3d 1104, 1108 (Pa. Super. 2012), citing Commonwealth v. Holmes, 609 Pa. 1, 14 A.3d 89, 96 (Pa. 2011).

The Court concludes that the officers did not have reasonable suspicion to conduct an investigative detention of the Defendant under the circumstances. Although the vehicle was from out of the area and was traveling in a high crime area, the police did not observe the vehicle or its occupants engage in any illegal activity. After apparently going to the wrong residence, the passenger of the vehicle only walked in the general direction of a known drug house; he neither made it to that house nor was seen engaged in any type of transaction on the street. It is not illegal or indicative of criminal activity for a person or persons from out of the area to get lost and approach the wrong residence. Furthermore, the mere fact that the vehicle left Edwin Street shortly after Officer Dockey drove by does not constitute flight. Finally, and perhaps determinatively, when the police stopped the vehicle, they didn't even know if it was the same vehicle that was seen on Edwin Street and reported being suspicious.

Accordingly, the Defendant's Motion to Suppress with respect to the initial stop of the vehicle will be granted and all the evidence seized will be suppressed as "fruits of the poisonous tree."

Even if the stop of the vehicle was not unlawful, the Court would suppress on other grounds any evidence concerning the money discovered as a result of the pat down, as well as the drugs found in the trunk of the vehicle.

The police must have reasonable suspicion that criminal activity is afoot to stop an individual and then be able to point to facts that would lead a reasonable person to believe that the individual is armed and dangerous in order to conduct a frisk or pat down of that person. Commonwealth v. Grahame, 607 Pa. 389, 7 A.3d 810 (2010); In the Interest of S.J., 551 Pa. 637, 713 A.2d 45, 48 (1998); Commonwealth v. Cooper, 994 A.2d 589, 592-93 (Pa. Super. 2010).

The only facts stated by Officer Dockey to justify the pat down were that the vehicle was from out of the area, it had tinted windows and it had been seen parked along the street and traveling in high crime areas on Edwin Street and High Street. The Court finds this evidence is insufficient to believe that Defendant was armed and dangerous. When the vehicle was stopped, it was no longer in a high crime area. Defendant complied with Corporal Finnerty's order to stay in the vehicle and was cooperative with the police. The police did not observe Defendant make any furtive movements or see any bulges on Defendant's person consistent with a weapon. There also was no evidence that Defendant had a criminal history for violent crimes or possessing weapons. No one observed any of the occupants engage in any type of transaction and there was nothing to indicate the vehicle or its occupants were in any way involved in the shooting that occurred in the 700 block of High Street three or four weeks earlier. The Court is not aware of any case law, statistics or other evidence that would show that persons who reside in places other than Williamsport, such as Scranton, are likely to be armed and dangerous. Thus, the Court cannot find that the police had specific facts to warrant a reasonable belief that Defendant was armed and dangerous.

The police also did not have probable cause to seize the money. It is not unlawful to possess money. In order to seize the money, the police had to possess sufficient facts to believe the money was derivative contraband from the sale of drugs. At the time the money was seized, the police had not discovered any drugs, and did not know whether the quantity of drugs found, if any, would be sufficient for a charge of possession with intent to deliver. They also had not observed any drug transactions or had any information from confidential informants or otherwise that any of the occupants of the vehicle were dealing drugs.

In the typical case, the money would be seized incident to an individual's arrest. The police, however, did not arrest Defendant on December 23, 2010. Instead, the police filed the criminal complaint on January 4, 2011 and at that time asked the Magisterial District Judge to issue a warrant for Defendant's arrest. Therefore, the money was not seized incident to Defendant's arrest. It also would not have been inevitably discovered, because Defendant was not arrested until approximately 8 months later. See Docket Transcript from Magisterial District Judge.

Defendant next argues that the investigative detention, even if supported by reasonable suspicion, eventually turned into a custodial detention which was not supported by probable cause.

An arrest or "custodial detention" must be supported by probable cause. Goldsborough, supra. "Probable cause is made out when the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonable trustworthy information, are sufficient to warrant a person of reasonable caution in the belief

that the suspect has committed or is committing a crime.” Goldsborough, citing Commonwealth v. Williams, 2 A.3d 611 (Pa. Super. 2010) (en banc), appeal denied, \_\_\_ Pa. \_\_\_, 19 A.3d 1051 (2011). In determining whether probable cause exists, the courts must apply a totality of the circumstances test. Id.

The focal difference between an investigative detention and a custodial detention is that a custodial detention “involves such coercive conditions as to constitute the functional equivalent of an arrest.” Goldsborough, supra, quoting Commonwealth v. Gonzales, 979 A.2d 879, 887 (Pa. Super. 2009). “The Court considers the totality of the circumstances to determine if an encounter is investigatory or custodial, but the following factors are specifically considered: the basis for the detention; the duration; the location; whether the suspect was transported against his will, how far, and why; whether restraints were used; the show, threat or use of force; and the method of investigation used to confirm or dispel suspicions.” Goldsborough, quoting Commonwealth v. Teeter, 961 A.2d 890, 899 (Pa. Super. 2008).

There is no question that following the initial stop, Defendant was not free to leave. Indeed, he remained detained by law enforcement for between 45 to 50 minutes. By a clear show of authority, that being initially two police units followed by a third police unit, the Defendant’s movement was restrained. As well, the Defendant and Mr. Diaz were subjected to individual questioning which involved, among other things, confrontational methods and accusations of not being truthful.

Nevertheless, the circumstances were not so coercive as to constitute the functional equivalent of an arrest. Although Defendant was detained for 45 to 50 minutes, this

detention was not beyond that necessary for the police to investigate their suspicions. During this time, the police questioned Defendant and Mr. Diaz regarding their activities in Williamsport and Officer Snyder utilized his drug detection dog to conduct a canine sniff of the vehicle. The questioning did not occur at the police station; it occurred outside a Uni-Mart convenience store. Defendant was not transported against his will. No restraints were used, and there was no show, threat or use of force. Based on the totality of the circumstances, Defendant was not under arrest or in custody. See Commonwealth v. Douglass, 372 Pa. Super. 227, 539 A.2d 412 (Pa. Super. 1988)(two-hour detention of motorist while police investigated fatality to determine if motorist was criminally responsible for the individual's death was an investigatory detention, not a custodial detention).

Nonetheless, the Court is compelled to address Defendant's additional Motion to Suppress relating to the seizure of the vehicle because in the Court's opinion, this issue as well merits suppression of the evidence.

Defendant argues that the officer's seizure of the vehicle while they attempted to obtain a warrant to search it violated his constitutional rights.

Immobilizing a vehicle while applying for a search warrant is no different, from a constitutional perspective, than conducting a warrantless search. Commonwealth v. Joseph, 34 A.3d 855, 860-61 (Pa. Super. 2011), citing Commonwealth v. Milyak, 508 Pa. 2, 493 A.2d 1346 (1985).

The Court concludes that the officers did not have the requisite probable cause and exigent circumstances to seize the vehicle until they obtained the search warrant.

Obviously, the seizure of the vehicle for an indeterminate amount of time while the police



attempted to obtain a search warrant cannot be justified as a “**Terry** stop” based upon mere reasonable suspicion. Joseph, supra at 862.

It is the Court’s decision that the facts and circumstances within the knowledge of the law enforcement officers were not sufficient to warrant a man of reasonable caution in the belief that Defendant had committed or was committing a crime. Indeed, no Commonwealth witness testified as to probable cause. The testimony centered on reasonable suspicion only.

Accordingly, Defendant’s Motion to Suppress based upon the illegal seizure of the car will also be granted.

The Court notes that its decision on the suppression in this case is different from the decision it rendered in the co-defendant’s case. There are several reasons for this. First, determinative facts were elicited during this suppression hearing that were not elicited at the co-defendant’s hearing; specifically, Officer Snyder testified that he initially questioned the vehicle’s occupants to determine if it was, in fact, the vehicle involved in the suspicious activity in Williamsport. Therefore, the allegedly suspicious activity that occurred in Williamsport could not have been the basis for Officer Snyder telling Corporal Finnerty to stop this particular vehicle. The Court also does not believe the co-defendant challenged the pat down of his person, so that the somewhat inconsistent testimony of Officer Dockey and Officer Snyder regarding what could or could not be seen in the front of the vehicle was not presented in the co-defendant’s hearing. Second, the Superior Court’s decision in Joseph was issued after the Court issued its decision in the co-defendant’s case. The Court also does not believe the lawfulness of the police seizing and impounding the vehicle was raised as an issue in the co-

defendant's case. Finally, the Court, in all candor, based upon hearing the evidence again, reviewing the applicable law, and applying the law to the circumstances, is of the opinion that it made a mistake when it found the police had reasonable suspicion to stop the vehicle in the co-defendant's case.

It is difficult, in any case where evidence of a crime is discovered, to suppress such evidence. Nonetheless under of our system of jurisprudence, the ends may never justify the means. The exclusionary rule is soundly based on constitutional principles that protect all citizens. Those principles cannot be compromised even in circumstances where well meaning law enforcement officers act in the best interests of the citizens they are sworn to protect.

It is unfortunate that the clear result of this decision will be the dismissal of the charge against Defendant. This, however, is the price that our society must pay for doing what is not only constitutional, but right. It would be even more unfortunate, however, to abandon our most basic constitutional protections in the name of effective law enforcement. The hunch that the police acted on was correct. As a result, dangerous drugs were seized and taken off the streets. Nonetheless, the evidence seized may not be used in any criminal prosecution against Defendant.

Accordingly, the following Order is entered:

**ORDER**

AND NOW, this \_\_\_\_ day of April, 2012, Defendant's Motion to Suppress is

**GRANTED.**

BY THE COURT,

\_\_\_\_\_  
Marc F. Lovecchio, Judge

cc: DA (AB)  
Edward J. Rymza, Esquire  
Nicole Spring, Esquire  
Gary Weber, Esquire (Lycoming Reporter)  
Work File