



OFFICE OF THE HUDSON COUNTY PROSECUTOR

**595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306**

**ESTHER SUAREZ
PROSECUTOR**

**TELEPHONE: (201) 795-6400
FAX: (201) 795-3365**

July 8, 2025

Josemiguel DeJesus Rodriguez
Attorney ID No. 520002025
Assistant Prosecutor
jrodriguez@hcpo.org
Of Counsel and on the Brief

LETTER BRIEF ON BEHALF OF THE STATE OF NEW JERSEY

Honorable Judges of the Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
Trenton, New Jersey 08625

Re: State of New Jersey (Plaintiff-Appellant)
v. Anthony Delbridge and Joel Lopez (Defendants-Respondents)
Docket No. A-2821-24

Criminal Action: On Leave to Appeal Granted From an
Interlocutory Order of the Superior Court of New Jersey, Law
Division, Hudson County, Granting a Motion to Suppress

Sat Below: Hon. Mitzy Galis-Menendez, P.J.Cr.

Honorable Judges:

Pursuant to Rule 2:6-2(b), this letter brief is submitted on behalf of the
State of New Jersey.

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¹ Pursuant to Rule 2:6-1(a), the parties’ trial court briefs are included because they are referred to in the trial court’s decision and the question of whether an issue was raised in the trial court is germane to the appeal.

STATEMENT OF PROCEDURAL HISTORY

On May 16, 2024, a Hudson County grand jury charged defendants Anthony Delbridge (“Delbridge”) and Joel Lopez (“Lopez”) in Indictment No. 24-05-0656 with third-degree possession of a controlled dangerous substance (“CDS”), N.J.S.A. 2C:35-10(a)(1) (count five); third-degree possession of CDS with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and (b)(3) (count six); and second-degree possession of CDS with intent to distribute within 500 feet of public property, N.J.S.A. 2C:35-7.1 (count seven). (Pa1 to Pa3).² Lopez alone was charged with second-degree unlawful possession of a handgun, N.J.S.A. 2C:39-5(b)(1) (count one); second-degree possession of a firearm while committing an enumerated CDS offense, N.J.S.A. 2C:39-4.1(a) (count two); fourth-degree possession of a large-capacity magazine, N.J.S.A. 2C:39-3(j) (count three); and third-degree possession of firearm without a serial number, N.J.S.A. 2C:39-3(n) (count four). (Ibid.).

On July 24, 2024, Lopez moved to suppress physical evidence. (Pa4 to Pa5). On January 10, 2025, Delbridge joined the motion. (Pa6). On February 25, 2025, an evidentiary hearing on the motion was held before the Honorable

² References to the record are abbreviated as follows:

Pa = State’s appendix

1T = Motion to suppress testimonial hearing, dated February 25, 2025

2T = Motion to suppress oral argument, dated March 27, 2025

Mitzy Galis-Menendez, P.J.Cr. (1T). On April 3, 2025, Judge Galis-Menendez issued an order and written opinion granting the suppression motion. (Pa19 to Pa29).

On April 23, 2025, the State sought leave to appeal from that order, which this court granted on May 12, 2025. (Pa30 to Pa31, Pa33 to Pa34). This court filed an accelerated scheduling order for merits briefs on May 28, 2025. (Pa35 to Pa36).

The State's merits brief follows.

STATEMENT OF FACTS³

On February 22, 2024, at approximately 3:20 p.m., Officers Rodriguez and Romaniello of the Jersey City Police Department ("JCPD") conducted surveillance from their unmarked vehicle in the area of Woodlawn Avenue between Garfield Avenue and Ocean Avenue. (1T4-23 to 9-25). Officers were conducting surveillance in an attempt to apprehend Delbridge on an outstanding warrant. (1T8-4 to 8). Delbridge was wanted for the charge of attempted murder. (1T33-5 to 8). At that time, officers were aware that Delbridge had a last known address in that area. (1T8-8 to 12).

³ The following facts are derived from a review of Officer Romaniello's body worn camera audio and testimony at the motion hearing. (1T).

While conducting surveillance, officers observed an unidentified male enter 23 Woodlawn Avenue and, after a short time, exit the residence. (1T8-17 to 19). While the male walked on Woodlawn Avenue, Officer Romaniello observed the male holding a small white object consistent with the packaging of heroin. (1T8-19 to 22). The individual then left the area. (1T9-17 to 18). Officer Romaniello testified that he and Officer Rodriguez did not stop this unidentified third person because they did not want to “sour [their] investigation” into Delbridge, who was wanted on attempted murder. (1T9-14 to 16).

Shortly thereafter, officers observed another male exit 23 Woodlawn Avenue and proceed to walk east on Woodlawn Avenue. (1T9-19 to 21). Believing that this male may be Delbridge, Officers Rodriguez and Romaniello followed him in their unmarked vehicle. (1T9-24 to 25). As they got closer, officers recognized the male to be Delbridge. (1T10-1 to 2). Delbridge then entered the passenger side of a vehicle that was parked on Woodlawn Avenue. (1T10-4 to 6). Officer Romaniello reversed his vehicle to block the vehicle Delbridge sat in and execute the arrest warrant. (1T58-24 to 59-2). Officers Rodriguez and Romaniello approached the front passenger side of the vehicle, opened the front-passenger door, and removed Delbridge from the vehicle. (1T10-14 to 16, 31-9).

Upon removing Delbridge from the vehicle, officers found Lopez in the driver's seat of the vehicle and a small child sleeping in the rear passenger seat. (1T10-24 to 11-3). At this point, the front-passenger door remained open, and Lopez was not removed from the vehicle. (1T11-4 to 11). Officer Rodriguez asked Delbridge his name, and he identified himself as Anthony Delbridge. (1T10-21 to 23). Delbridge was placed under arrest. (Ibid.). Officer Romaniello asked Lopez for his driver's license, which Lopez handed to Officer Romaniello through the open front-passenger doorway. (1T16-6 to 8). Officer Romaniello then left the front-passenger door ajar before entering his own vehicle to move it out of Lopez's way. (1T58-24 to 59-7). Officer Romaniello inspected Lopez's driver's license and returned to Lopez's vehicle. (1T16-9 to 21, 17-8 to 16).

Searched incident to arrest, Officer Rodriguez recovered from Delbridge's pants pocket a rubber band commonly used to package multiple glassine bags of heroin. (1T11-17 to 20).

Officer Romaniello reopened the front-passenger door and asked Lopez—with Lopez's driver's license in hand—if Delbridge had left anything in the vehicle. (1T11-22 to 12-12). Lopez then rifled through items left on the front passenger seat and reached into the area in between the driver seat and the center console to retrieve six glassine bags of suspected CDS heroin. (Ibid.). Officer

Romaniello recovered the heroin and approached the driver side of Lopez's vehicle. (1T12-14 to 15). Officer Romaniello then asked Lopez to step out of his vehicle. (1T12-17 to 18). Officer Romaniello walked Lopez away from his vehicle to place him under arrest. (1T12-22 to 23, 13-17 to 21). While walking away from the vehicle, Lopez attempted to tell Officer Romaniello that he had something on him. (1T13-3 to 5). Lopez stated that he did not have any more CDS on him, but had a gun on him. (1T13-7 to 12). Lopez was placed under arrest and officers removed and recovered the handgun that was located inside Lopez's jacket pocket. (1T13-14 to 16).

Following Officer Romaniello's testimony, the State argued that the outstanding warrant for Delbridge justified the initial stop of the vehicle. (2T6-18 to 25, 7-4 to 12). The State conceded that neither defendant was free to leave when Officer Romaniello had his gun drawn and had Delbridge step out of the vehicle, but argued that the situation changed once Delbridge was placed into custody. (2T7-4 to 7). Specifically, the State noted that by the time Delbridge was placed into custody, Officer Romaniello moved his vehicle so that it was no longer blocking Lopez's vehicle and did not stand near Lopez or pull Lopez out of the driver's seat until after Lopez revealed CDS in between his seat and the center console. (2T15-14 to 18). Moreover, because Officer Romaniello's questions to Lopez "completely surround[ed] Mr. Delbridge" and no questions

were asked “about [Lopez] himself,” Delbridge was the subject of the investigation and there was no interrogation under Miranda.⁴ (2T9-6 to 18).

In granting defendants’ motion to suppress, the trial court stated that “the initial search and seizure of Lopez were unconstitutional because the Officers’ actions rose to the level of an arrest rather than an investigatory stop,” for which probable cause and Miranda warnings were required. (Pa26 to Pa27). On that premise, the trial court rejected an alternative theory that Officer Romaniello observing the unidentified third person exit 23 Woodlawn Avenue with CDS gave probable cause to arrest Lopez. (Pa26).⁵ The trial court further held that “[e]ven assuming that the officers were permitted to temporarily detain Lopez to extract Delbridge and engage in an investigatory stop, there was no justification for detaining Lopez after he provided his driving credentials.” (Pa27). The trial court concluded that “the officers extended the detention and took the additional and unnecessary step of asking Lopez whether Delbridge left anything in the car, moving beyond the scope of the initial stop (the arrest of Delbridge) to elicit information about drug activity.” (Ibid.).

⁴ Miranda v. Arizona, 384 U.S. 436 (1966).

⁵ The State did not advance this alternative theory in its papers or at oral argument. (Pa7 to Pa13).

LEGAL ARGUMENT

POINT I

DEFENDANTS' MOTION TO SUPPRESS EVIDENCE WAS ERRONEOUSLY GRANTED BY THE TRIAL COURT. (Pa19 to Pa29).

The trial court erred in granting defendants' motion to suppress because officers did not unreasonably extend the motor vehicle stop.

When reviewing a trial court's decision on a motion to suppress, an appellate court defers to a trial court's factual findings when those findings "are supported by sufficient credible evidence in the record." State v. Gamble, 218 N.J. 412, 424 (2014) (citing State v. Elders, 192 N.J. 224, 243 (2007)). Legal conclusions "are not entitled to any special deference" and are reviewed de novo. State v. Hagans, 233 N.J. 30, 38 (2018) (citing Gamble, 218 N.J. at 425)).

Under the Fourth Amendment of the United States Constitution and Article I, paragraph 7 of the New Jersey Constitution, a search or seizure by the government must be reasonable. Terry v. Ohio, 392 U.S. 1, 9 (1968); State v. Davis, 104 N.J. 490, 498 (1986).

"[T]he State bears the burden of proving by a preponderance of the evidence that a warrantless search or seizure falls within one of the few well-delineated exceptions to the warrant requirement." State v. Chisum, 236 N.J. 530, 545 (2019) (quoting State v. Mann, 203 N.J. 328, 337-38 (2010)).

“New Jersey has long recognized that a temporary street-detention based on less than probable cause may be constitutional.” Davis, 104 N.J. at 503. Temporary detentions, wherever they may occur, are known as “investigative stops.” State v. Rosario, 229 N.J. 263, 272 (2017). Investigative stops are valid “only if the officer has a ‘particularized suspicion’ based upon an objective observation that the person stopped has been or is about to engage in” criminal activity. Davis, 104 N.J. at 504. “The ‘articulable reasons’ or ‘particularized suspicion’ of criminal activity must be based upon the law enforcement officer’s assessment of the totality of circumstances with which he is faced.” Ibid.

A valid arrest warrant can serve as the basis for an investigative stop because “the warrant would support a reasonable suspicion that the person named in the warrant committed a crime.” State v. Caldwell, 158 N.J. 452, 467 (1999) (Handler, J., concurring) (internal quotation marks omitted) (citing United States v. Hensley, 469 U.S. 221, 232 (1985)).

In the absence of a valid arrest warrant, “[n]o mathematical formula exists for deciding whether the totality of circumstances provided the officer with an articulable or particularized suspicion that the individual in question was involved in criminal activity.” Davis, 104 N.J. at 505. Our courts “must conduct a ‘sensitive appraisal’ of the facts” and decide “if the officer’s observations, in ‘view of the officer’s experience and knowledge, taken together with rational

inferences drawn from those facts,’ warrant a ‘limited intrusion upon the individual’s freedom.’” Caldwell, 158 N.J. at 459 (quoting Davis, 104 N.J. at 504).

“[A]n investigative stop becomes a de facto arrest when ‘the officers’ conduct is more intrusive than necessary for an investigative stop.’” State v. Dickey, 152 N.J. 468, 478 (1998) (quoting United States v. Jones, 759 F.2d 633, 636 (8th Cir. 1985)).

“There is no simple test for determining at which point a prolonged investigative stop turns into a de facto arrest, but important factors include unnecessary delays, handcuffing the suspect, confining the suspect in a police car, transporting the suspect, isolating the suspect, and the degree of fear and humiliation engendered by the police conduct.” State v. Shaw, 237 N.J. 588, 612-13 (2019) (citing State v. Coles, 218 N.J. 322, 344 (2014)).

Probable cause to arrest exists when “the facts and circumstances within . . . [the officers’] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a [person] of reasonable caution in the belief that an offense has been or is being committed.” State v. Moore, 181 N.J. 40, 46 (2004) (alterations in original) (quoting Schneider v. Simonini, 163 N.J. 336, 361 (2000)).

The remedy for officers' unreasonable conduct is exclusion of physical evidence seized. This exclusionary rule "continue[s] as a deterrent to law enforcement officers" who by their unreasonable actions "violate the Fourth Amendment" and our State Constitution. State v. Williams, 192 N.J. 1, 17 (2007).

"[P]olice may conduct general on-the-scene questioning of a suspect, as authorized by Terry v. Ohio, without giving Miranda warnings." State v. Toro, 229 N.J. Super. 215, 220 (App. Div. 1988), abrogated on other grounds by State v. Velez, 119 N.J. 185 (1990); accord. Berkemer v. McCarty, 468 U.S. 420, 435-42 (1984) ("Fidelity to the doctrine announced in Miranda requires that it be enforced strictly, but only in those types of situations in which the concerns that powered the decision are implicated."). This is because "[t]he protections provided by Miranda apply only when a person is both in custody and subjected to police interrogation." State v. Hubbard, 222 N.J. 249, 270 (2015) (citing State v. P.Z., 152 N.J. 86, 102 (1997)).

"'Custody' for the purposes of Miranda requires a 'formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.'" State v. Erazo, 254 N.J. 277, 298 (2023) (quoting California v. Beheler, 463 U.S. 1121, 1125 (1983)). Determining whether a person is in custody entails "a fact-sensitive inquiry" that turns on "whether there has been a significant

deprivation of [his] freedom of action based on the objective circumstances.” State v. Ahmad, 246 N.J. 592, 611 (2021) (quoting P.Z., 152 N.J. at 103). “[S]ignificant deprivation” of the freedom to act is the “critical determinant of custody,” and it rests on “objective circumstances, including the time and place of the interrogation, the status of the interrogator, the status of the suspect, and other such factors.” P.Z., 152 N.J. at 103; see also State v. Hickman, 335 N.J. Super. 623, 628 (App. Div. 2000) (no Miranda warnings required during traffic stop conducted “for only a few minutes” while the defendant passenger “was still sitting in the car and was not restrained in any way,” whereupon officer asked the passenger whether he had any contraband and the defendant retrieved CDS from his shoe).

The custody “inquiry is an objective one,” State v. Bullock, 253 N.J. 512, 533 (2023) (alteration in original) (quoting Hubbard, 222 N.J. at 267), determined by whether “a reasonable person in [the] defendant’s position, based on the nature of the police encounter,” would have “believed that he was free to leave,” State v. O’Neal, 190 N.J. 601, 616 (2007).

An “interrogation” for Miranda’s purposes occurs “whenever a person in custody is subjected to either express questioning or its functional equivalent.” Hubbard, 222 N.J. at 267 (emphasis added) (quoting Rhode Island v. Innis, 446

U.S. 694, 300-01 (2000)). Our Supreme Court “has adopted the Innis standard,” State ex rel. A.A., 240 N.J. 341, 354 (2020), which provides:

[I]nterrogation refers 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 from the suspect.”

[Ibid. (quoting Innis, 446 U.S. at 301).]

The “ultimate . . . ‘touchstone’” of the Fourth Amendment is “reasonableness.” Hickman, 335 N.J. Super. at 638 (quoting Florida v. Jimeno, 500 U.S. 248, 250 (1991)). Relatedly, Miranda and its progeny recognize the unreasonableness of holding law enforcement officers “accountable for the unforeseeable results of their words or actions.” Innis, 446 U.S. at 301.

Here, the State met its burden of proving that the evidence seized comported with our State and federal Constitutions. Delbridge’s outstanding warrant on attempted murder gave probable cause to arrest him. See, e.g., Rosario, 229 N.J. at 272; State v. Pinson, 461 N.J. Super. 536, 548 (App. Div. 2019) (citing State v. Jones, 179 N.J. 377, 388 (2004)).

The trial court erroneously concluded that probable cause was needed to justify detaining Lopez—the driver of the vehicle in this case—reasoning that officers’ “inquiries should have ceased once they obtained [Lopez’s] information.” (Pa27). The trial court came to this holding by applying the

wrong standard for investigative stops. Rather than assess whether “the encounter was preceded by activity that would lead a reasonable police officer to have an articulable suspicion that criminal activity had occurred,” Davis, 104 N.J. at 503, the trial court determined that officers’ investigation was complete once information was gathered about Lopez.

As was established by the State below, it was Delbridge—not Lopez—who was the subject of the investigation. (2T9-6 to 18). Because a valid arrest warrant for attempted murder can give rise to reasonable suspicion that the person named in the warrant committed a crime, Caldwell, 158 N.J. at 467 (Chandler, J., concurring) (citing Hensley, 469 U.S. at 232), here, officers were entitled to conduct an investigative stop that was no “more intrusive than necessary” to gather information on their attempted-murder suspect, Dickey, 152 N.J. at 478.

This case does not present any of the factors triggering an overly intrusive investigative stop. Shaw, 237 N.J. at 612-13. There was no unnecessary delay because less than four minutes passed between the time that Officer Romaniello exited his vehicle and the time Officer Romaniello asked Lopez if Delbridge left anything in the vehicle. (1T15-3 to 17-19). Furthermore, Officer Romaniello’s question to Lopez was less than two minutes from the time Lopez provided his identification. (1T16-6 to 17-16).

During the mere minutes of officers' initial encounter with Lopez, Lopez was neither handcuffed nor removed from his vehicle. (1T16-1 to 17-16, 18-23 to 25). Several minutes prior to Lopez's arrest, when Delbridge was placed in custody, Officer Romaniello moved his unmarked vehicle so that it was no longer blocking in Lopez's vehicle. (1T16-9 to 18). And there is no indication of even minimal fear or humiliation engendered by police conduct in this case, given that a small child in the rear passenger seat of Lopez's vehicle slept through the entirety of Lopez and Delbridge's encounter with police—all told, just eleven minutes. (1T10-24 to 11-3).

Because the stop here was an investigative stop that was not unreasonably prolonged—and because there was no confinement, fear, or humiliation brought upon Lopez—the investigative stop did not become a de facto arrest. The trial court's decision was incorrect and should be reversed.

Additionally, the recovery of CDS gave probable cause to arrest Lopez. From the rare sight of a person revealing CDS to an officer, that officer can derive “reasonably trustworthy information” of constructive CDS possession (based on proximity of the CDS to the driver's seat) and actual CDS possession (based on having the CDS in hand), Moore, 181 N.J. at 46—unless his eyes deceive him.

Having probable cause to arrest Lopez, the recovery of the handgun from Lopez's person was a valid search incident to arrest.

Any suggestion that Officer Romaniello acted improperly by opening the front-passenger door is misplaced. Cf. State v. Mai, 202 N.J. 12, 21-22 (2010) (holding that officers may open car door and order passengers out of vehicles even without an arrest warrant when approaching parked car with five occupants and surrounded by a half-dozen people outside in response to early-morning radio calls of "man with a gun").

"In the realm of defining reasonable searches and seizures, no meaningful or relevant difference exists between the grant of authority to order an occupant of a vehicle to exit the vehicle and the authority to open the door as part of issuing that lawful order." Id. at 22-23. Likewise, under the totality of circumstances here, no meaningful difference existed between reopening a front-passenger door that had been lawfully opened pursuant to an arrest warrant for the sole purpose of inquiring whether the subject of that warrant left items behind, and posing this same question through the rolled-down driver-side window. Because the exclusionary rule is intended to deter officer misconduct, Williams, 192 N.J. at 17, exclusion should not have been the remedy for Lopez's voluntary actions.

In any event, the trial court's decision turned on whether officers unreasonably extended the stop. (Pa26). Officers' encounter with defendants comported with the Fourth Amendment and its companion in our State's Constitution. Accordingly, the trial court's decision should be reversed.

The key components of Miranda—custody and interrogation—were lacking in this case. First, because “police may conduct general on-the-scene questioning of a suspect, as authorized by Terry v. Ohio, without giving Miranda warnings,” Toro, 229 N.J. Super. at 220, Miranda warnings were not required for Lopez during the investigative stop.

Even assuming this was not an investigative stop, Miranda's custody prong is not met because there was no significant deprivation of Lopez's freedom to act. See P.Z., 152 N.J. at 103. As seen on body-worn camera, officers did not initially remove Lopez from the vehicle, stand near Lopez, or confine Lopez with their vehicle. (1T11-4 to 11).

This case is like Hickman, in which this court held that no Miranda warnings were required during a traffic stop conducted “for only a few minutes” while the defendant passenger “was still sitting in the car and was not restrained in any way.” 335 N.J. Super. at 628. However, unlike the officer in Hickman, Officer Romaniello did not ask Lopez so pointedly whether he had contraband. Ibid. Just like the CDS that Hickman recovered from his shoe, the CDS that

Lopez recovered from in between his seat and the center console should not have been suppressed.

Second, Miranda's interrogation prong is met only by words or actions that an officer "should know are reasonably likely to elicit an incriminating response," A.A., 240 N.J. at 354 (quoting Innis, 446 U.S. at 301). Therefore, by asking Lopez if Delbridge had left "anything" in the vehicle, Officer Romaniello could not foresee that "anything" to Lopez meant "everything" up to and including CDS near where Lopez was sitting. (1T11-22 to 12-12).

In short, Miranda warnings were not required for Lopez in this case.

For these reasons, the trial court's order granting defendants' motion to suppress should be reversed.

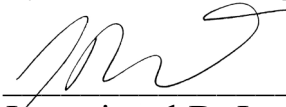
CONCLUSION

For the foregoing reasons, the State urges this court to reverse the order granting defendants' motion to suppress evidence.

Respectfully submitted,

ESTHER SUAREZ
Hudson County Prosecutor
Attorney for Plaintiff-Appellant

BY:



Josemiguel DeJesus Rodriguez
Attorney ID No. 520002025
Assistant Prosecutor
jrodriguez@hcpo.org

Dated: July 8, 2025



PHIL MURPHY
Governor

TAHESHA WAY
Lt. Governor

**State of New Jersey
OFFICE OF THE PUBLIC DEFENDER**

Appellate Section

ALISON PERRONE

Deputy Public Defender

31 Clinton Street, 9th Floor, P.O. Box 46003

Newark, New Jersey 07101

Tel. 973-877-1200 · Fax 973-877-1239

Stefan.VanJura@opd.nj.gov

JENNIFER N. SELLITTI
Public Defender

July 30, 2025

STEFAN VAN JURA

ID. NO. 039952004

Assistant Deputy Public Defender

Of Counsel and

On the Letter-Brief

**LETTER BRIEF ON BEHALF OF DEFENDANT-RESPONDENT,
ANTHONY DELBRIDGE**

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

DOCKET NO. A-2821-24

INDICTMENT NO. 24-05-00656-I

STATE OF NEW JERSEY,

: CRIMINAL ACTION

Plaintiff-Appellant,

: On Leave to Appeal Granted From
an Interlocutory Order of the

v.

: Superior Court of New Jersey,
Law Division, Hudson County.

ANTHONY DELBRIDGE AND
JOEL LOPEZ,

: Sat Below:

Defendants-Respondents

: Hon. Mitzy Galis-Menendez

DEFENDANT IS CONFINED

Your Honors:

This letter is submitted in lieu of a formal brief pursuant to R. 2:6-2(b).

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COUNTERSTATEMENT OF PROCEDURAL HISTORY

Hudson County indictment number 24-05-0656 charged the defendant, Anthony Delbridge, with third-degree possession of heroin, contrary to N.J.S.A. 2C:35-10a(1) (count five), and third-degree possession of heroin with intent to distribute, contrary to N.J.S.A. 2C:35-5a(1) and N.J.S.A. 2C:35-5b(3) (count six).¹ (Pa 1-2)²

On February 25, 2025, defendant appeared before the Honorable Mitzy Galis-Menendez, J.S.C., for an evidentiary hearing on a motion to suppress physical evidence seized without a warrant. (1T) In a written opinion and order dated April 3, 2025, Judge Galis-Menendez granted the motion. (Pa 19-29)

On May 12, 2025, this Court granted the State's motion for leave to appeal and subsequently issued a scheduling order for briefing. (Pa 33-36)

¹ Counts one through four charged the co-defendant, Joel Lopez.

² The following abbreviations will be used:

Pb – State's brief, dated July 8, 2025

Pa – appendix to the State's brief

1T – transcript of February 25, 2025

2T – transcript of March 27, 2025

COUNTERSTATEMENT OF FACTS

A. Facts Adduced at the Evidentiary Hearing.

The State called a single witness in opposition to the motion to suppress physical evidence: Officer Jonathan Romanella³ of the Jersey City Police Department. (1T 5-17 to 6-2) Romanella testified that in the afternoon of February 22, 2024, he and his partner were wearing plain clothes and were seated in an unmarked vehicle, conducting surveillance of Woodlawn Ave., between Garfield Ave. and Ocean Ave. (1T 6-20 to 8-1) Their assignment was to locate Anthony Delbridge (defendant), who had previously lived on Woodlawn Ave., and who had an active warrant for his arrest. (1T 8-2 to 12)

Romanella testified that he saw a man enter a home at 23 Woodlawn Ave. and exit it “after a short time.” As the man walked away from the scene, Romanella purportedly saw him holding a small white square object that Romanella believed was consistent with the packaging of heroin. (1T 8-13 to 22) However, the officers did not stop the man because they did not want to “sour” their surveillance. (1T 9-7 to 16) According to Romanella, after a “short time,” another man left the 23 Woodlawn home and walked eastward down the street. The police suspected it was defendant, so they drove down the street to

³ The officer’s name is spelled “Romanella” in the transcript but “Romaniello” in the opinion. Cf. (1T 4-21) with (Pa 20).

get a better look. (1T 9-19 to 25) When they got close, they recognized him as defendant. He was entering the passenger side of a vehicle that was parked in front of 11 Woodlawn Ave. (1T 10-1 to 7)

Romanella called for backup and approached the vehicle. Four officers converged on the vehicle. Romanella pointed his handgun at it and yelled, “Don’t fucking move!” (1T 10-9 to 19; 26-15 to 20; 31-5 to 32-2; 39-2 to 16) A police vehicle was positioned to prevent the suspect vehicle from leaving the scene, and Romanella acknowledged that no reasonable person would have felt free to leave. (1T 33-11 to 34-7) Defendant was removed from the passenger seat and handcuffed without incident. While searching him, police discovered a small rubber band that Romanella believed was consistent with the type used to package drugs. (1T 10-21 to 11-20) Police noted that there was a male – later identified as co-defendant Joel Lopez – seated in the driver’s seat and a small child in the backseat. (1T 10-24 to 12-4) Romanella testified that because a rubber band was discovered on defendant, he decided to approach Lopez and ask him if defendant had left anything inside the vehicle. (1T 11-21 to 12-1) Lopez reached into an area between the driver’s seat and the center console and handed police a small amount of “CDS heroin.” Lopez was then ordered out of the vehicle. (1T 12-5 to 20)

According to Romanella, it appeared that Lopez was trying to tell him something. Romanella placed Lopez against vehicle to arrest him and asked him if he had more heroin on him. Lopez said no. Romanella then asked Lopez if he had a gun on him and Lopez said yes. Lopez was placed under arrest and a gun was found in his jacket pocket. (1T 12-22 to 13-16)

On cross-examination, Romanella acknowledged that he did not know whether 23 Woodlawn Ave. was a two-family home; that he did not have probable cause to arrest defendant or Lopez for a drug transaction; that he did not see defendant pass anything to Lopez; and that when he obtained Lopez's identification, he "walk[ed] around with it for a while," preventing Lopez from leaving the scene. (1T 22-18 to 23-7; 30-22 to 31-1; 34-23 to 38-14)

B. The Opinion Granting the Motion to Suppress.

The trial court found that the police lacked probable cause to arrest and search Lopez. (Pa 25) The court found there was no evidence to support the claim that Lopez had any connection with the belief that a drug transaction might have occurred at 23 Woodlawn Ave., which itself was based only on Romanella's observation of a man leaving that address with a square white object in his hand. (Pa 26) Nor was the discovery of a single small rubber band on defendant sufficient "additional evidence linking Lopez to criminal activity." Ibid. The court found that the police's interaction with Lopez

immediately rose to the level of an arrest because the police blocked in Lopez's car with their vehicle, and they alighted from their vehicle with their guns drawn, yelling, "Don't fucking move." Ibid. "At that point, Lopez was effectively under arrest." (Pa 26-27) The court continued:

The officers possessed no legitimate observed or corroborated information to justify such an arrest. They had no knowledge of drugs, firearms, ammunition, or suspicious behavior on Lopez's part – only that he was the operator of the vehicle in which Delbridge entered.

[(Pa 27)]

Furthermore, the court observed, even if the officers were permitted to temporarily detain Lopez to extract Delbridge and engage in an investigatory stop, there was no justification for detaining Lopez after he provided his driving credentials. Ibid. The court found that Lopez provided his license to Romanello as requested, but then Romanello retained the license, preventing Lopez from leaving the scene. Ibid. "Rather than concluding the encounter, the officers extended the detention and took the additional and unnecessary step of asking Lopez whether Delbridge left anything in the car, moving beyond the scope of the initial stop (the arrest of Delbridge) to elicit information about drug activity. Ibid. The court found that, because the questioning was not related to "officer safety or any immediate threat," extending the stop "effectively converted the interaction into an unjustified search." Ibid.

Accordingly, although defendant was lawfully arrested pursuant to the arrest warrant, no contraband was found on him. And, the unlawfully obtained evidence from Lopez was not admissible as to either Lopez or defendant.⁴ (Pa 28-29)

LEGAL ARGUMENT

POINT I

THE TRIAL COURT’S RULING SHOULD BE AFFIRMED BECAUSE IT CORRECTLY DETERMINED THAT LOPEZ WAS UNLAWFULLY SEIZED BEFORE THE CONTRABAND WAS DISCOVERED. (Pa 19-29)

As the trial court correctly determined, Lopez was immediately seized when the police converged on him. His car was blocked in by a police vehicle, which was followed by the police approaching him and yelling, “Don’t fucking move,” while pointing a firearm. After defendant was removed from the vehicle and handcuffed, Lopez should have been permitted to continue on his way. Instead, the police unlawfully prolonged the stop by demanding Lopez’s identification, retaining that identification, and then asking questions that were likely to elicit an incriminating response. Because the trial court’s well-

⁴ The State does not challenge the implicit finding that defendant has automatic standing to challenge the search and seizure as to possessory offenses. State v. Johnson, 193 N.J. 528, 543-44 (2008). (Pb 1-18)

reasoned decision is factually and legally supported, the order granting suppression of the heroin and handgun should be affirmed.

When reviewing a trial court's decision to grant or deny a motion to suppress evidence, this Court "must uphold the factual findings underlying the trial court's decision so long as those findings are supported by sufficient credible evidence in the record." State v. Handy, 206 N.J. 39, 44 (2011) (quoting State v. Elders, 192 N.J. 224, 243 (2007)). This Court gives deference "to those findings of the trial judge which are substantially influenced by [the] opportunity to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy." State v. Johnson, 42 N.J. 146, 161 (1964). Appellate review of a trial court's legal conclusions, however, is plenary. Handy, 206 N.J. at 45.

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. "Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a 'seizure' of 'persons' within the meaning of this provision." Whren v. United States, 517 U.S. 806, 809-10 (1996) (citing Delaware v. Prouse, 440 U.S. 648, 653 (1979); United States v. Martinez-Fuerte, 428 U.S. 543, 556, (1976); United States v.

Brignoni-Ponce, 422 U.S. 873, 878 (1975)). An automobile stop is thus subject to the constitutional imperative that it not be “unreasonable” as that concept is defined under Fourth Amendment law. Prouse, 440 U.S. at 663. As a general rule, “the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” Whren, 517 U.S. at 810; see Prouse, 440 U.S. at 659; Pennsylvania v. Mimms, 434 U.S. 106, 109 (1977).

In Terry v. Ohio, 392 U.S. 1 (1968), the court created a two-part test designed to measure the reasonableness of an investigative stop against the intrusion on the detainee’s right to be secure from unreasonable searches.

Under this test, a reviewing court must consider

whether the officer’s action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.

[Terry, 392 U.S. at 20.]

“Courts employ this Terry standard to measure the reasonableness of a detention following a valid traffic stop.” State v. Dickey, 152 N.J. 468, 476 (1998). There is no “hard-and-fast time limit for a permissible Terry stop.”

United States v. Sharpe, 470 U.S. 675, 686 (1985). Rather, “common sense and ordinary human experience must govern over rigid criteria.” Id. at 685.

Indeed, police officers who have lawfully stopped an automobile “may question the occupants, even on a subject unrelated to the purpose of the stop, without violating the Fourth Amendment, so long as such questioning does not extend the duration of the stop.” State v. Hickman, 335 N.J. Super. 623, 636 (App. Div. 2000). “If, ... as a result of the reasonable inquiries initiated by the officer, the circumstances ‘give rise to suspicions unrelated to the traffic offense, an officer may broaden [the] inquiry and satisfy those suspicions.’” Dickey, 152 N.J. at 479-80 (alterations in original) (quoting United States v. Johnson, 58 F.3d 356, 357-58 (8th Cir.)). Nevertheless, “a continued detention may amount to an arrest if it is longer than needed or if it becomes ‘more than minimally intrusive[.]’” Baum, 199 N.J. at 425 (quoting Dickey, 152 N.J. at 478).

Crucially, here, Lopez’s vehicle was stopped only because defendant was seen entering it and the police had a warrant for defendant’s arrest. As noted above, Romanella acknowledged that he did not have any reason to suspect that Lopez had committed a drug transaction, and he did not see defendant pass anything to Lopez. Thus, the only reason to detain Lopez – which was to arrest defendant – was complete when defendant was taken into custody. As the trial court correctly determined, the police’s authority to hold Lopez had then expired. (Pa 27) See State v. Williams, 254 N.J. 8, 16 (2023) (“If, upon

stopping the vehicle [on the basis that the registered owner has a suspended license], it becomes reasonably apparent to the officer that the driver does not look like the owner whose license is suspended, the officer must cease the vehicle's detention, and communicate that the motorist is free to drive away without further delay.") But instead of letting him go, they retained his identification – which prevented him from leaving the scene – and proceeded to question him, which elicited an incriminating response about heroin allegedly belonging to defendant.

On appeal, the State counters that the investigative stop was not unreasonably prolonged, and that the recovery of heroin gave the police probable cause to arrest Lopez. (Sb 14) The second facet of this argument needs little discussion because it begs the question. Lopez revealed the heroin in response to police questioning that should not have occurred; Lopez should have been released as soon as defendant was taken into custody.

The argument that the stop was not unreasonably prolonged should likewise be rejected. By citing the transcript of the replay of the police body camera video footage, the State asserts that less than four minutes passed between Romanella exiting his vehicle and asking Lopez if defendant left anything in the car, less than two minutes passed between seizing Lopez's identification and posing the question, and the entire interaction was "just

eleven minutes.” (Pb 13-14) But this argument misses the point. The police had zero suspicion as to Lopez. The only reason he could be seized was to arrest defendant, which was promptly completed. Without reasonable suspicion to detain Lopez, extending the stop by even one minute to investigate Lopez was unacceptable. See State v. Dunbar, 229 N.J. 521, 533-34 (2017) (“[T]he incidental checks performed by a police officer may not be performed ‘in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual.’” (quoting Rodriguez v. United States, 575 U.S. 348, 355 (2015))).⁵

Accordingly, the order granting suppression should be affirmed. The trial court’s factual findings were based on sufficient credible evidence and are entitled to substantial deference. Johnson, 42 N.J. at 161. And the court’s principled application of controlling legal authority to these facts require suppression.

⁵ As noted above, the trial court found that the stop of Lopez immediately arose to the level of an arrest, which was unsupported by probable cause. (Pa 26) But even if the stop was only an investigative detention, it was unlawfully prolonged. (Pa 27)

CONCLUSION

The trial court's order should be affirmed because it was factually supported and legally correct.

JENNIFER N. SELLITTI
Public Defender
Attorney for Defendant-Respondent
Anthony Delbridge

BY: /s/Stefan Van Jura
STEFAN VAN JURA
Assistant Deputy Public Defender
Attorney ID No. 039952004

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