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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4964-13T2

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

CHRIS HARDLEY, a/k/a  
CHRIS COVIL,

Defendant-Appellant.

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Argued March 1, 2017 – Decided May 9, 2018

Before Judges Fuentes, Carroll and Gooden  
Brown.

On appeal from Superior Court of New Jersey,  
Law Division, Somerset County, Indictment Nos.  
10-08-0474 and 10-08-1075.

Tamar Y. Lerer, Assistant Deputy Public  
Defender, argued the cause for appellant  
(Joseph E. Krakora, Public Defender, attorney;  
Tamar Y. Lerer, of counsel and on the brief).

Ian C. Kennedy, Deputy Attorney General,  
argued the cause for respondent (Christopher  
S. Porrino, Attorney General, attorney; Ian  
C. Kennedy, of counsel and on the brief).

The opinion of the court was delivered by

FUENTES, P.J.A.D.

A Somerset County Grand Jury indicted defendant Chris Hardley<sup>1</sup> and charged him with first degree possession of cocaine with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and N.J.S.A. 2C:35-5(b)(1), (count one); second degree conspiracy to distribute cocaine, N.J.S.A. 2C:5-2,; and second degree possession of a firearm while committing crimes related to a controlled dangerous substance, as more particularly described in N.J.S.A. 2C:39-4.1, (count four). The Grand Jury also returned a separate indictment charging defendant with one count of second degree possession of a firearm by an individual previously convicted of one of the offenses listed in N.J.S.A. 2C:39-7.

Defendant moved to suppress the evidence against him, arguing that the warrantless seizure and subsequent search of the package that contained the cocaine by an agent of the Somerset County Prosecutor's Office (SCPO) violated his rights under the Fourth Amendment of the United States Constitution and Article I, Paragraph 7 of the New Jersey Constitution. The Criminal Part denied defendant's motion.

Pursuant to a negotiated plea agreement with the State, defendant pled guilty to first degree possession of cocaine with

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<sup>1</sup> Defendant's brother, Roger Covil, and defendant's wife, Keisha Hardley, were also charged as co-defendants in count one of the indictment.

intent to distribute, second degree conspiracy to distribute cocaine, and second degree possession of a firearm under N.J.S.A. 2C:39-7. In exchange, the State agreed to dismiss a disorderly persons offense charge of possession of drug paraphernalia, N.J.S.A. 2C:36-2, and recommend that the court sentence defendant to an aggregate term of twenty-five years, with seventy-two months of parole ineligibility.<sup>2</sup> The trial judge questioned defendant directly at the plea hearing and determined he was aware of his rights to a trial on the charges against him, and with the assistance of counsel, defendant made a knowing, informed, and intelligent decision to waive those rights and plead guilty. The judge also found defendant provided a sufficient factual basis to sustain his culpability on these charges.

Defendant appeared before the court for sentencing on December 6, 2013. After merging the second degree conspiracy to distribute cocaine charge with the first degree possession of cocaine with intent to distribute charge, the court sentenced defendant to a term of eighteen years, with a period of seventy-two months of parole ineligibility. On the separate charge of second degree possession of a firearm under N.J.S.A. 2C:39-7, the

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<sup>2</sup> The State also agreed to dismiss all charges against defendant's wife, Keisha Hardley, and to proceed separately against his brother, Roger Covil.

court sentenced defendant to a term of eight years with sixty months of parole ineligibility, to run concurrent with the eighteen-year term, and imposed the mandatory fines and penalties.

Pursuant to Rule 3:5-7(d), defendant now appeals the denial of his motion to suppress, raising the following arguments.

POINT I

BECAUSE THE PACKAGE WAS UNLAWFULLY SEIZED AND SEARCHED, ALL EVIDENCE FOUND PURSUANT TO BOTH WARRANTS MUST BE SUPPRESSED AS FRUITS OF THE UNLAWFUL POLICE ACTION.

- A. The Package Was Unlawfully Seized When Police Officers Removed It From UPS Without Any Reasonable Suspicion That It Contained Contraband And Brought It To An Undisclosed Location To Continue Their Investigation Of The Package.
  - i. The Physical Taking Of The Package By The Police Constituted A Seizure That Must be Supported By Cause.
  - ii. There Was No Reasonable Suspicion That The Package Contained Contraband To Justify The Warrantless Search Of The Package.
- B. The Dog Sniff Of The Package Constituted A Warrantless Search. Because The Search Was Unsupported By Reasonable Articulable Suspicion, That Search was Unlawful.
- C. Because Both Warrants Were Issued On The Basis Of Information Discovered As A Result Of The Unlawful Seizure and Search Of The Package, All Evidence Found

Pursuant To Each Warrant Must Be  
Suppressed As A Fruit Of The Unlawful  
Seizure.

We reject these arguments substantially for the reasons expressed in our unpublished opinion in State v. Covil, A-802-14 (App. Div. April 30, 2018), slip op. at 16 to 25. We also incorporate by reference the factual background that led the SCPO to discover the package containing the cocaine. Id. at 4 to 15.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION