New Jersey Supreme Court Suppresses Two Firearms Illegally Seized By Police

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In a February 5, 2019 decision, the New Jersey Supreme Court in State v. Chisum reversed an Appellate Division decision and suppressed two firearms that had been seized by the police. The Court remanded the matter to the trial court for withdrawals of the Defendants' guilty pleas.

Defendants Chisum and Woodard had each been charged with Unlawful Possession of a Firearm related to their arrests on February 7, 2014 in Neptune. On that night, Neptune Police were dispatched to a motel on a noise complaint. The officers were familiar with the motel due to previous calls for service and crimes that had occurred at the location. Upon their arrival to the specific room complained of, the officers informed the occupants that they were there in response to a noise complaint. One of the officers could see about ten people in the room. The renter of room was located and identified. She apologized for the noise and invited the officers inside. The renter lowered the volume of the music at the officer's request.

The officers determined not to issue a summons as the renter immediately complied with their request to turn down the music. However, the police still asked the renter and the other occupants for their identification. The officers relayed the occupants' information to dispatch to check for outstanding warrants. The occupants were not allowed to leave until the results of their individual warrant checks came back. It was estimated that this process took approximately 20 minutes.

As a result of the warrant check, the police arrested Chisum for an outstanding warrant. He was searched incident to his arrest and a concealed firearm was discovered on his person.

As a result of the discovery of Chisum's firearm, the police had the remaining occupants show their hands, and subsequent pat down searches were completed. During the searches, the police

discovered a firearm on Woodard.

The Defendants moved to suppress the firearms. During a hearing on the motion to suppress, the investigating officer testified that the investigation was complete once the music was turned down. He also testified that he decided not to give the renter a summons for the ordinance violation. When asked why the officers did not leave once the renter turned the music down, the officer testified that the officers wanted to identify who was in a room or at least get the renter's name. According to the officer, one of the reasons that identification is obtained in such cases is in the event of a callback to that location. The officer further testified that the issuance of a summons for a noise complaint was discretionary and that warrant checks are performed "for any call of service."

The trial court denied Defendants' motions to suppress the firearms. The Appellate Division affirmed.

The Court disagreed with the decisions of the courts below. The question at issue was the permissible scope of the investigative detention of the occupants of the motel room after the noise had been turned down and a decision had been made not to issue a summons.

The Court went through an analysis of the investigative detention at issue. An investigative detention, which is also referred to as a Terry stop, is a temporary seizure that restricts a person's movement. As such, it must be based on an officer's reasonable and particularized suspicion that an individual has just engaged in, or was about to engage in, criminal activity. An investigative detention can be justified if the officer has specific and articulable facts which, taken together with rational inferences from those facts, which give rise to a reasonable suspicion of criminal activity.

An investigative detention that is premised on less than reasonable and articulable suspicion is an unlawful seizure, and evidence discovered as a result is subject to the exclusionary rule. There is no set time for the duration of a Terry stop, as law enforcement must be able to respond to the fluidity of an encounter where there is a reasonable suspicion of wrongdoing. As such, the duration of the investigative stop may be extended for a reasonable, but limited period for investigative purposes. However, an investigatory detention may become too long if it involves a "delay unnecessary to the legitimate investigation of the law enforcement officers." In sum, the detention must have been

reasonable at its inception, and the scope of the continued detention must be reasonably related to the justification for the initial interference.

The Court held that once the renter of the motel room lowered the music and the police declined to issue summonses, the police no longer had any reasonable suspicion that would justify the continued detention of the room's ten occupants. As such, the police no longer had an independent basis to detain the occupants, much less a basis to run random warrant checks on them that were not supported by individualized suspicion. The Court determined that such continued action was unconstitutional.

The Court summed up their holding as follows: ". . . it would be both burdensome and problematic if at every public gathering where a noise complaint was reported, responding police officers would be allowed to detain and run warrant checks on each and every individual in attendance."

Because the Court determined that the investigative detention was based on less than reasonable suspicion, an unlawful seizure took place. As such, the firearm discovered on Chisum in the search incident to his arrest was subject to the exclusionary rule. As a consequence of this violation, the need to pat-down Woodard after finding the firearm on Chisum was also unnecessary, and the firearm found on Woodard was also subject to the exclusionary rule.