

NJ LAWS EMAIL NEWSLETTER E523 Kenneth Vercammen, Attorney at Law

GREETINGS!

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2. Thank you summer Volunteer interns for the Public Defender program and Law Office
3. Fun Upcoming Running Races & Charity

1. Reasonable articulable suspicion was not present when this investigative detention began. Therefore, the statements and evidence obtained thereafter must be suppressed. State v. Rosario ___N.J. ___ (2017.

Defendant was faced with an investigative detention once the officer blocked in her vehicle, directed the patrol car's alley light to shine into her car, and then approached her driver's-side window to address her. Under the totality of the circumstances, a reasonable person would feel the constraints on her freedom of movement from having become the focus of law enforcement attention. Accordingly, an investigative detention had begun. Reasonable articulable suspicion did not ripen prior to the officer's subsequent exchanges with defendant.

In this appeal, the Supreme Court addressed whether and at what point defendant's interaction with the police officer escalated from a field inquiry into an investigative detention.

1. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." U.S. Const. amend. IV; N.J. Const. art. I, ¶ 7. Warrantless searches and seizures presumptively violate those protections, but not all police-citizen encounters constitute searches or seizures for purposes of the warrant requirement.

2. Three categories of encounters with police have been identified by the courts: (1) field inquiry; (2) investigative detention; and (3) arrest. The test of a field inquiry is whether a defendant, under all of the attendant circumstances, reasonably believed he could walk away without answering any of the officer's questions. In contrast to a field inquiry, an investigative detention, also called a Terry stop or an investigatory stop, occurs during a police encounter when an objectively reasonable person would feel that his or her right to move has been restricted. Because an investigative detention is a temporary seizure that restricts a person's movement, 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 arrest requires probable cause and generally is supported through an arrest warrant or by demonstration of grounds that would have justified one.

3. The key issue in this case lies in the distinction between a field inquiry and an investigative detention. The difference between a field inquiry and an investigative detention always comes down to whether an objectively reasonable person would have felt free to

leave or terminate the encounter with police. The encounter is measured from a defendant's perspective.

4. A person sitting in a lawfully parked car outside her home who suddenly finds herself blocked in by a patrol car that shines a flood light into the vehicle, only to have the officer exit his marked car and approach the driver's side of the vehicle, would not reasonably feel free to leave. Here, the officer immediately asked for defendant's identification. Although not determinative, that fact only reinforces that this was an investigative detention. It defies typical human experience to believe that one who is ordered to produce identification in such circumstances would feel free to leave. That conduct is not a garden-variety, non-intrusive, conversational interaction between an officer and an individual.

5. Because it was an investigative detention from the point that Officer Campan took those directed actions toward defendant, the Court must consider whether, based on a totality of the circumstances, the encounter was "justified at its inception" by a reasonable and articulable suspicion of criminal activity. An anonymous tip, standing alone, inherently lacks the reliability necessary to support reasonable suspicion. Mere furtive gestures of an occupant of an automobile do not give rise to an articulable suspicion suggesting criminal activity. The suspicious behavior identified by the State in defendant's later responses to Campan's questioning occurred after the investigative detention had begun. Neither those responses, nor her blurted-out incriminatory

statements, nor the surrendered contraband can be used, post hoc, to establish the reasonable and articulable suspicion required at the outset of the investigative detention that here began earlier in time.

6. Reasonable articulable suspicion was not present when this investigative detention began. Therefore, the statements and evidence obtained thereafter must be suppressed, and it is unnecessary to address the Miranda arguments advanced by the parties.

2. Thank you summer Volunteer interns for the Public Defender program and Law Office

Ariella - Sweeney Penn State Law Class of 2019

Natali Taglic - Boston College Law Class of 2020

Eric Redler - Rutgers New Brunswick Class of 2018

Congratulations to past Monroe High School Law Clerk Nishant Nagalia for achieving Eagle Scout.

We look forward to educating our Fall 2017 Volunteer interns in the Public Defender program and Law Office. The Public Defenders provide indigent out of work individuals charged with criminal or serious motor vehicle charges with free or limited cost legal defense. The Public Defender invites interested students from Law students, to colleges students and even senior & junior high school students interested in law, criminal justice or a career in

law enforcement to apply to serve as volunteer interns. Volunteer Law Clerk interns can also attend Wednesday evening 5:15 court sessions.

The Kenneth Vercammen & Associates Law Office in Edison also offers an "intro to law" volunteer internship. Excellent for student interested in Pre-Law, Criminal Justice or Law Enforcement careers, Please post this position. General details on internships at <http://www.njlaws.com/intern.html>

Interested students must mail or fax a cover letter indicating the internship they are applying for and resume. If no personal cover letter by student, the resume will not be considered. Not available in the summer

3. Fun Upcoming Running Races & Charity events selected by Kenneth Vercammen

Aug 24 Edison Elks Thirsty Thursday

Aug 25 WFAN at Bar Anticipation

Aug 26 Belmar SOL

5k<https://runsignup.com/Race/NJ/Belmar/BelmarSOL5k>

9/2 Scranton Capt. Minicozzi 5k

10am<https://runsignup.com/Race/Donate/PA/Scranton/Minicozzi5k>

Sept 4. Monday Pier House 5K, Long Branch 8:30 - benefiting Valerie Center of Monmouth Medical

Sept. 9 Fallen Heroes Memorial Run Bar Anticipation, Lake Como 5k 9:30
Co-Sponsor Wakefern Shoprite

Sept. 9 Edison Elks End of Summer Bash

Sept. 10 Hightstown Triathlon starting at 7:00am

Sept. 10 JSRC Picnic at Monmouth Park Racetrack

Sept. 11 every year 911 Memorial run Belmar boardwalk to Spring Lake
6pm [not a race]

Sept. 16 Ocean Grove Run for Arts 5k 9am Co-Sponsor Wakefern Shoprite

Sept. 24 Steeplechase 5k & 10k Hillsborough 8:45

Sept. 26 Sayreville Senior Center Wills, Estate Planning & Probate
Seminar

September 30, 2017 A "Knight" of Comedy
Presented By: The Valdez Agency, LLC of
The Knights of Columbus
St. Bartholomew Parish Hall

470 Ryders Lane, East Brunswick, NJ 08816

Dinner at: 7:00 PM Show Starts at: 8:00PM

Doors Open at: 6:00 PM

\$45.00 Per Person \$80.00 Per Couple

Proceeds Donated to the National Breast Cancer Foundation, Inc.

Buffet Dinner, Beer, Wine, Dessert, and Laughter!

Headline Comedians:

Lenny Venito - (Men in Black 3, ABC "The Neighbors," CBS Hit Comedy Show Kevin Can Wait)

Rob Magnotti - (Mall Cop 2, Stand Up Comedian, David Letterman)

Chris Monty - (Mall Cop 2, CBS Hit Comedy Show Kevin Can Wait)

For Tickets Call: 732- 955-6730 or 732-322-4008

Email: valdezagency@mail2@kofc.org or John.forcella@kofc.org

50/50 Raffle and Many Prizes

TICKETS AVAILABLE BY ADVANCED PURCHASE ONLY

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