

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,)	
)	
v.)	ID. No. 0909005388
)	
MONTE RUFFIN.)	
)	

ORDER

AND NOW, TO WIT, this 17th day of August, 2012, **IT IS HEREBY**

ORDERED as follows:

Before the Court is Defendant's second motion to file a motion to suppress out of time. On February 1, 2010, Defendant filed his first motion to suppress. Although the motion was untimely, this Court permitted the motion to be heard on February 19, 2010. However, the Defendant failed to appear. Additionally, the Defendant failed to appear for Final Case Review on April 22, 2010 or Trial on April 27, 2010. Subsequently a capias was issued for the Defendant's arrest. The capias was returned on June 27, 2012 from Virginia, bail was set at \$100,000.00 cash only, and the Defendant was committed to the custody of the Department of Correction. On July 17, 2012, this Court dismissed Defendant's Motion to Suppress.

On August 1, 2012, Defendant filed a motion to suppress evidence and then on August 6, 2012, filed a motion to permit delayed filing of the motion to suppress evidence. Defendant contends in his motion that: (1) current counsel was not involved in the case when the first motion to suppress was filed; (2) the Defendant left the State of Delaware and his charges in Virginia prevented his return to the State of Delaware; and (3) upon review of the case, Defense counsel wants to challenge the search and seizure leading up to the discovery of evidence.

The Defendant's arguments do not meet the standard necessary to permit a delayed filing of the motion to suppress. The second motion to file out of time was filed on August 6, 2012, nearly three years past the deadline set forth in the scheduling order. "Untimely motions to suppress need not be considered in the absence of exceptional circumstances."¹ The Defendant claim that he was unable to return to Delaware because he was detained in Virginia is without merit. The Defendant failed to appear for Final Case Review on April 22, 2010 or Trial on April 27, 2010. According to the record, Defendant was not taken into custody in Virginia until January 28, 2011. The Court finds no exceptional circumstances in this case warranting consideration of the motion to suppress. Therefore, as this

¹ *Pennewell v. State*, 822 A.2d 397, at *1 (Del. 2003) (citing *Barnett v. State*, 691 A.2d 614, 615 (Del. 1997)).

Court has broad discretion to enforce its rules set forth in pretrial orders,² the Defendant's motion is **DENIED**.

IT IS SO ORDERED.

Judge Calvin L. Scott, Jr.

² *Miller v. State*, 3 A.3d 1098, at *2 (Del. 2010).