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## IN THE SUPREME COURT OF THE STATE OF DELAWARE

AOUAN HILTON,

V.

Defendant Below,

: Case No. 193, 2022

Appellant,

: Court Below- Superior Court

: of the State of Delaware

STATE OF DELAWARE,

: Cr. ID No. 2008002632 (N)

Plaintiff Below,

Appellee.

DEFENDANT APPELLANT'S AMENDED OPENING BRIEF ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR SUSSEX COUNTY

LAW OFFICE OF THOMAS A. PEDERSEN

/s/\_Thomas A. Pedersen\_\_\_\_

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Dated: January 4, 2023

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## NATURE OF THE PROCEEDINGS

The defendant, Aquan Hilton, was charged with drug and weapons offenses by the Wilmington Police Department. A motion to suppress was filed by counsel and a hearing took place on March 11, 2022 before the Honorable Mary Johnston. At the conclusion of the hearing the Court denied the defense motion. The matter then proceeded to trial on May 9, 2022. By agreement, the parties proceeded with a bench trial at which time they presented the Honorable Francis Jones with a stipulation of facts. The Court accepted the stipulation at which time the defendant was found guilty of the single charge of Possession of a Firearm by Person Prohibited. Mr. Hilton was then sentenced to 10 years of Level V, followed by 1 year of Level 3 probation. The defendant served a timely notice of appeal and respectfully submits that this is the appellant's opening brief in support of the appeal.

#### SUMMARY OF THE ARGUMENT

I. THE SUPERIOR COURT IMPROPERLY DENIED THE DEFENDANT'S MOTION TO SUPPRESS.

Detective Wilkers of the Wilmington Police Department received information from an anonymous caller that Aquan Hilton would be in the area of West Eighth and West streets and may possibly be in possession of a firearm. The detective then passed this message along to Patrolman Johnson, also of the Wilmington Police Department who was on duty that evening. In turn, Patrolman Johnson made arrangements with two additional officers to meet him at the described location. Shortly after arriving Patrolman Johnson exited his car and indicated that he observed some minor alterations with respect to the manner in which Mr. Hilton was walking towards the intersection where police just arrived. At that point Patrolman Johnson indicated that he asked Mr. Hilton to speak with him and based upon his observations, Patrolman Johnson began to remove his firearm. In response, Mr. Hilton began to run and he was apprehended a short distance later.

On behalf of Mr. Hilton, a motion to suppress was filed arguing that police lacked a reasonable articulable suspicion at that time Hilton was seized by the police. Following a hearing on the matter, the Court denied Mr. Hilton's motion.

The parties then entered into a stipulated trial on a single count of Possession of a

Firearm by Person Prohibited, found guilty and sentenced to ten years of level V followed by probation.

The Superior Court's error in denying the Motion to Suppress caused prejudice to Mr. Hilton and should be reversed.

## STATEMENT OF THE FACTS

On August 7, 2020, the defendant was arrested by Officer Keith Johnson of the Wilmington Police Department. Prior to the encounter between Officer Johnson and Mr. Hilton, the officer was not aware of the defendant nor did he have any intelligence that he may be involved in illegal activity. (A-1) While working that day Officer Johnson received information from a fellow Wilmington Police Officer, Detective Wilkers, that Mr. Hilton may be in the area of West 8th and North Tatnall streets and that he may possibly be in possession of a firearm. (A-1) The basis of the information provided by Detective Wilkers was information which he had received from a confidential informant. According to discovery provided to counsel and testimony presented at the suppression hearing, there was nothing to suggest that the informant was past, proven and reliable. In addition to the information that Hilton may be armed, the informant indicated that the defendant was wearing a blue t-shirt with a Captain America logo on the front. (A-2)

Upon receiving this information, Officer Johnson proceeded to the intersection of North West Street and West Eighth Street in the City of Wilmington. Shortly after arriving, Officer Johnson observed an individual wearing clothes that matched the description provided by the informant. According to the officer, he observed the defendant walking in a manner consistent with someone who was carrying a firearm in an unholstered manner. (A-3)

Furthermore, Officer Johnson testified that upon seeing the presence of a police officer, Mr. Hilton altered the cadence and direction of his walk. (A-4)

According to Officer Johnson, he then asked Mr. Hilton to stop so that he could talk with him. The officer testified that Hilton slowed his pace, slightly changed direction and then began to run and ignored several commands to stop. Officer Johnson, with the assistance of other members of the Wilmington Police Department then chased Mr. Hilton. Following a short pursuit, the defendant was apprehended. Officers claim that during the chase they observed the defendant attempt to discard a firearm. Following the apprehension of the defendant, police located a handgun under a nearby vehicle. (A4-8)

Following his apprehension, the defendant was searched. On Mr. Hilton's person police located a small quantity of Marijuana, a small amount of cocaine, a digital scale and twenty-one hundred dollars of United States Currency. Following the defendant's arrest, police discovered that he was prohibited from owning or possessing a firearm based upon a previous felony conviction. (A6-8)

A preliminary hearing was held in the case on August 21, 2020. The case was then bound over for Superior Court. The state presented the matter before a Grand Jury who returned an indictment against Mr. Hilton charging him with Possession of a Firearm During the Commission of a Felony, Drug Dealing, two

counts of Possession of a Firearm by Person Prohibited, Possession of Ammunition by a Person Prohibited, Carrying a Concealed Deadly Weapon, Resisting Arrest and Possession of Marijuana.

Counsel filed a motion to suppress on behalf of Mr. Hilton on January 21, 2022. (A-9) A hearing in the matter was convened on March 11, 2022. Following the hearing the Court denied the defendant's motion. On May 9, 2022, a bench trial was held before the Honorable Judge Francis Jones. The parties presented a stipulation of facts to the Court at which time the defendant was found guilty of the Possession of a Firearm by Person Prohibited charge and sentenced to 10 years of Level 5 followed by 1 year of Level 3 probation.

#### **ARGUMENT**

I. THE STATE FAILED TO PROVE THAT THE OFFICER HAD A REASONABLE AND ARTICULABLE SUSPICION OF CRIMINAL ACTIVITY ON BEHALF OF THE DEFENDANT AT THE TIME THE DEFENDANT WAS SEIZED BY THE POLICE OFFICER IN THIS CASE. AS A RESULT, ALL EVIDENCE SEIZED SUBSEQUENT TO THE UNLAWFUL SEIZURE SHOULD HAVE BEEN RENDERED INADMISSIBLE BY THE SUPERIOR COURT.

## A. QUESTION PRESENTED

Did the Superior Court Improperly deny the Defendant's Motion to Suppress? This issue was preserved for appeal through the motion to suppress filed by counsel (A-9) as well as during the argument at the conclusion of the hearing on the motion. (A10-16)

#### **B. SCOPE OF REVIEW**

A trial Court's determination whether a police officer possessed reasonable and articulable suspicion to detain an individual is an issue of law and fact. Here, there are no disputed issues of fact, therefore, this Court reviews <u>de novo</u> the Superior Court's alleged errors in formulating and applying the law. <u>State V.</u>

<u>Jones</u>, 745 A.2D 856 (1993) and <u>State V. Maxwell</u>, 624 A.2D 926 (1993).

#### C. MERITS OF THE ARGUMENT

The state failed to prove that the officer had a reasonable and articulable suspicion of criminal activity on behalf of the defendant at the time the defendant

was seized by the police officer in this case. As a result, all evidence seized subsequent to the unlawful seizure should have been rendered inadmissible by the Superior Court.

The defendant filed a motion to suppress in the Superior Court. In filings, the defense argued that the police officer, Ptlm. Johnson of the Wilmington Police Department, lacked reasonable suspicion to believe that the defendant was engaged in criminal activity. (A-9) Consequently, the defendant argued to the Court that any evidence seized following the illegal encounter should be suppressed as unlawfully seized. (A-9) By testimony at the suppression hearing and stipulation between the parties, there is little dispute to the facts in this case.

On August 7, 2021, Detective Wilkers of the Wilmington Police Department received information that Mr. Hilton may possibly be in possession of a firearm.

(A-1) Further, according to the testimony at the suppression hearing, the person providing the information indicated that Mr. Hilton may be in the area of West Eighth and North Tatnall Streets. (A-1) There was no indication that Detective Wilkers knew the individual providing the information, the circumstances under which the information came to Detective Wilkers, the motivation of the person supplying the information and lastly, no mention that the informant was in any way past proven and reliable.

On a cellular phone, away from official police channels, Detective Wilkers communicated this information to Patrolman Johnson. (A-17) In short order, Patrolman Johnson responded to the intersection of West Eighth and North Tatnall Streets, along with two additional officers he called to assist him. It is unclear if the additional officers arrived in a single car or separate police vehicles. Upon arrival Patrolman Johnson observed an individual who matched the description provided by the unknown informant. (A-3) According to Patrolman Johnson, he also observed the defendant to be walking in a manner consistent with someone who was carrying an unholstered handgun. (A-3) The last observation of note provided by the Patrolman is that upon observing the police officer, Mr. Hilton altered the cadence and direction of his walk. (A-4)

At this point, Patrolman Johnson indicated that he exited his patrol car and "asked" Mr. Hilton to stop so that he could speak with him. (A-4) According to the officer, Mr. Hilton then placed his hands on his waist and "bladed" his body by turning to the right. (A-5) According to his testimony, Patrolman Johnson then began to draw his weapon. (A-7) Upon observing the defendant start to run away, Johnson testified that he re-holstered his gun and began chasing the defendant giving him several commands to stop. (A-7) At the suppression hearing the defendant argued two things; that patrolman Johnson lacked a reasonable

articulable suspicion to stop the defendant and in the event the Court disagreed, the officer lacked probable cause to arrest the defendant by ordering him to stop. (A-9) For purposes of this appeal, the defendant is relying solely on the argument that the officer did not have reasonable articulable suspicion at the time Hilton was *seized* as defined by Delaware law.

## WHEN DOES A SEIZURE TAKE PLACE?

Delaware Superior and Supreme Courts have had the opportunity to address situations similar to the one at bar many times. Key to the analysis of addressing Fourth Amendment questions in situations like this is when exactly did a "seizure" of the individual take place. The landmark case addressing these types of encounters between citizens and police officers in the United States Supreme Court is Terry v. Ohio, 392 U.S. 1, 88S.Ct. 1868, (1968). In this case the Supreme Court held that a police officer may detain an individual for investigatory purposes for a limited scope and duration, but only if such detention is supported by a reasonable and articulable suspicion. The Terry Court held that a seizure occurs when the officer, by means of physical force or show of authority, has in some way restrained the liberty of the individual. Terry at p. 19. Later, the Supreme Court clarified the definition of seizure in the case of INS v. Delgado, 466 U.S. 210, (1984). There the Court held that a seizure has occurred only if, in view of all the

circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. In order to be a lawful arrest, reasonable suspicion must exist at the time of the seizure. **Terry**.

## WHAT IS REASONABLE ARTICUABLE SUSPICION?

The Delaware Supreme Court has defined reasonable articulable suspicion as an "officer's ability to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion". Coleman v. State, Del.Supr., 562 A.2d 1171, (1989), and Jones v. State, 745 A.2d 856 (1999). The legislature has taken the case law noted above and put it into law. 11 Del.C. 1902. In Jones, the Court held that at the time of the "seizure", the officer must be in possession of the reasonable articulable suspicion that the individual being encountered by the police is somehow engaged in illegal behavior. For purposes of the case at bar, the two critical questions which need to be answered is when was the defendant "seized" by Patrolman Johnson, and at the time of the seizure, did the officer have the necessary reasonable articulable suspicion.

## WHEN WAS HILTON SEIZED UNDER DELAWARE LAW?

The defendant submits that in the case at bar, the defendant was "seized" for

purposes of this analysis when Patrolman Johnson arrived on scene with two additional officers, got out of his car and immediately "asked" the defendant if he could talk to him and shortly thereafter began to draw his firearm. Based upon the manner in which the officers arrived, the near simultaneous removal of his weapon, and the officers' reaction to Hilton's failure to stop and speak with him, Hilton was not free to walk away and was therefore "seized" by the officer under the Fourth Amendment and relevant Delaware precedent. The removal of the weapon was a clear demonstration of authority sufficient under the holding in Terry to restrain the liberty of an individual to come and go as he or she pleases. Terry. Further, under the holding in INS v. Delgado, adopted by the Delaware State Supreme Court in Jones, it is clear that once the officer withdrew his weapon that any citizen would have determined that to mean that he or she was not free to walk away from the situation. Having determined the point at which the defendant was "seized", the analysis now turns to whether or not Patrolman Johnson had a reasonable articulable suspicion that Hilton was engaged in criminal activity at the time of the seizure.

# DID THE OFFICER HAVE REASONABLE ARTICULABLE SUSPICION AT THE TIME OF SEIZURE

The appellant submits that under this analysis, Patrolman Johnson did not possess the necessary reasonable articulable suspicion at the time Hilton was "seized". Appellant asserts that at best, Johnson had a suspicion that Hilton may be armed but needed more information before he could reach the critical reasonable suspicion threshold. At the conclusion of the suppression hearing in this case the state argued that reasonable suspicion existed based upon the fact that the defendant walked in a manner consistent with someone holding an unholstered firearm, changed his pace upon seeing the police officers, grabbed something in his waistband and that the defendant turned and ran away from the officer. (A-18) Not mentioned during the state's argument to the Court was the 911 call. By its absence the state seems to concede that the call does and should not factor into the reasonable suspicion analysis. Nevertheless, the defense will address this factor, along with those articulated by the state.

## THE 911 CALL

According to the testimony at the hearing, Detective Wilkers received an anonymous call that the defendant "may" be in possession of a firearm without any additional information. Appellant submits that the call was essentially meaningless

as it says no more about Mr. Hilton than the officer, or any other officer already knew; that an individual that he may encounter that evening could potentially be carrying a firearm. The call had no details about where the defendant may have obtained the weapon, what he may have been using it for or how he may be carrying it.(A19-20) Simply put, any citizen encountered by the officer on that night was "possibly" in possession of a firearm.

## THE DEFENDANT'S MANNER OF WALKING

In its argument to the Court the state relied heavily upon the fact that the defendant altered his pace and manner of walking when he initially observed the police officers. In addition, the state relied upon the testimony of Patrolman Johnson that Hilton was walking in a way consistent with someone who is carrying an unholstered firearm on their person. The defendant submits that the state's argument assumes criminal behavior when in fact the defendant's reactions to the circumstances that night were perfectly reasonable. Furthermore, the testimony at the suppression hearing does not support the state's position that Hilton walked in a manner consistent with someone carrying an unholstered firearm.

Patrolman Johnson testified that at his request, two additional officers arrived simultaneous to his arrival and were tactically deployed to assist him.

(A21-22) The defendant was walking up the street when either two or three

police cars arrived suddenly on what was an otherwise quiet street. In response, the defendant slowed his pace. This is a perfectly natural reaction to the sudden arrival of either two or three police cars and three separate police officers. This reaction is very similar to the natural reaction that virtually all drivers have upon seeing a stationary police car when driving on the highway; to immediately apply the brakes and slow down. Patrolman Johnson then exited his car and "requested" to speak with Hilton. The officer then testified that Hilton placed his hands at his waist (A-5) and then bladed his body. At the conclusion of the suppression hearing the state argued that Hilton "grabbed" at something on his waist however a closer look at Patrolman Johnson's testimony clearly indicates that Hilton simply moved his hands toward his waist area and "appeared to hold onto an item through his clothing". (A-5) Upon making these observations, the officer then began to draw his weapon. In response, Hilton began to run. Johnson testified that he made these observations within a very short period of time and that Hilton began to run almost immediately upon Johnson's request to speak with the defendant. (A6-7) This clearly indicates that Hilton had little or no time to process what was going on and immediately upon seeing the officer begin to unholster his weapon, he began to run. Again, appellant submits that this is a natural reaction to the introduction of a weapon to this sudden encounter and not indicative of criminal behavior. During

the suppression hearing the state also relied upon the fact that Hilton was walking in a manner consistent with someone who was in possession of a firearm as support for their position that reasonable suspicion existed at the time of the seizure. (A-3) However, during the suppression hearing the defense played a brief video clip of the defendant walking in the direction of the intersection where the patrolman initially arrived. (A23-24) While there was some dispute over later portions of the video, the state did not express any concerns about this portion of the video. After watching the video, Patrolman Johnson testified that as he watched the defendant walk in the direction of his patrol car, the defendant was not walking with his right arm held close against his body and that he appeared to be holding or twirling something with his right hand extended from his body. (A23-24) According to the general description of individuals walking with unholstered weapons, this would be directly opposite of what you would expect to see. (A25-27) In addition, defendant submits that this admitted conflict in Johnson's testimony casts doubt upon the remaining portions of his testimony which related to observations not captured on video.

## **RUNNING FROM THE POLICE**

In support of their argument that reasonable suspicion existed at the time of the seizure, the state lastly cited the fact that the defendant ran away from the

police. In <u>Woody v. State</u>, 765 A.2d 1257 (2001), the Delaware supreme Court, citing their holding in <u>Jones v. State</u>, <u>id</u>, held that individuals have the right to walk and run away from police officers who are requesting to speak with them and the refusal to stop and comply cannot be used to form the basis for reasonable suspicion. The Court further held that if the officer attempts to seize someone before possessing a reasonable and articulable suspicion, that person's action stemming from the attempted seizure may not be used to manufacture the suspicion the police lacked initially. See also <u>Florida v. Royer</u>, 460 U.S. 491 (1983). In the present case Hilton ran after he was seized and, therefore, the fact that he turned and ran away from the police officer cannot be used to determine reasonable suspicion.

The facts in <u>Jones v. State</u>, <u>id</u>, are similar to the case at bar and support the position that at the time Hilton was seized, the state did not have a reasonable articulable suspicion that Hilton was somehow engaged in criminal activity. In <u>Jones</u>, police received an anonymous call that a "suspicious black male wearing a blue coat had been standing for some time in front of 98 Karyln Drive" which is located in the Garfield Park neighborhood of New Castle County. There was no further information added. A few minutes later police arrived to the location and did not observe anyone in the area of the target address. The police left the area

and returned a few minutes later. This time they noticed two black males standing on the sidewalk in front of a nearby address. One of the two men was wearing a blue coat and had his hands inside of his pockets. During a suppression hearing in the case, the state also presented evidence that this was a high crime area. The officer then parked his car and approached the gentleman in the blue coat who turned out to be Jones. At that time the officer ordered Jones to stop and remove his hands from his pockets. When the suspect did not respond to the officer's initial request, the officer eventually grabbed the defendant's hands in an attempt to remove them from his pockets. At that time Jones threw an object over the officer's head which was later recovered and determined to contain cocaine and paraphernalia.

The Court determined that Jones was seized when the officer ordered the suspect to stop and remove his hands from his coat. While the <u>Jones</u> Court felt that it was a close call, the Court determined that the balance ought to be struck on the side of the freedom of the citizen from governmental intrusion. <u>Jones</u> at 868. The Court analyzed the criteria used by the trial court in denying the original motion to suppress. The Court held that the lower court over-valued the 911 call reasoning that what the caller reported was readily observable to anyone and that when he arrived, the officer did not observe anything that would corroborate what the 911

caller deemed "suspicious" behavior. Further, the Court held that the defendant's mere presence in a high crime area did not amount to reasonable suspicion but was only one factor to be considered. **Illinois v. Wardlaw**, 528 U.S. 119, (2000). Accordingly, the Court reversed the lower Court's decision.

In the present case police received a call essentially indicating two things: the defendant would be in the area of West Eighth and North Tatnall Streets and that he "may" be in possession of a firearm. The state did not offer any evidence that this was a high crime area. Similar to the reasoning of the Court in **Jones**, there is nothing particular to the basis of the 911 caller's information noted by simply indicating that Hilton would be in this area. Secondly, the caller indicated that Hilton "may" be in possession of a firearm. There is nothing about the 911 call which provided any information which the caller had which was not otherwise observable by police or any other citizen on that evening. Clearly it was "possible" for any individual encountered by police that night to be in possession of a firearm. In Florida v. J.L., 529 U.S. 266 (2000), the United States Supreme Court addressed a similar case where an anonymous 911 caller indicated that a suspect with a particular clothing description may be in possession of a firearm. After analyzing the facts and the case law the Court held that an anonymous tip that a person is carrying a gun is not, without more, sufficient to justify a police officer's stop and frisk of that person. Id.

Once the 911 call is removed from the reasonable suspicion analysis, the Court is left with the observations Patrolman Johnson testified about with respect to Hilton's direction, pace and manner of walking. However, as previously pointed out, when shown a brief video clip of Hilton walking in the directions of the officers' arrival, he was not walking with his right arm close to his body and in fact appeared to be holding something in his right hand with his arm extended outward. (A-23) The defendant submits that this concession from the officer that Hilton was not walking with his right arm held against his body negatively affects his credibility with respect to his testimony about the remainder of his observations that were not caught on video. On cross-examination, Patrolman Johnson testified that although he simply wanted to "talk" to the defendant, there were two additional police officers that arrived on scene with him prior to his encounter with Mr. Hilton. (A21-22) The officer further elaborated that these officers were contacted by him prior to the encounter and were tactically deployed in order to assist him. (A-15) Such a show of force, late at night on an otherwise quiet city street was clearly meant to demonstrate to the defendant that he was not free to leave. Finally the defendant submits that slowing and changing directions is a natural and understandable reaction to the sudden arrival of three officers and at least two, possibly three, police cars to an otherwise quiet city street and not indicative of criminal behavior.

## **CONCLUSION**

For the reasons stated herein, the appellant Aquan Hilton, respectfully submits that the trial Court decision denying the defendant's motion to suppress be reversed.

LAW OFFICE OF THOMAS A. PEDERSEN
\_\_\_\_\_/s/\_Thomas A. Pedersen\_\_\_\_

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#### IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

VS.

AQUAN J HILTON

Alias: AQUAN HILTON

DOB: 10/18/1993 SBI: 00523365

CASE NUMBER: N2008002632 IN AND FOR NEW CASTLE COUNTY

CRIMINAL ACTION NUMBER: IN21-03-0611

PFBPP PABPP(F)

COMMITMENT

Nolle Prosequi on all remaining charges in this case

#### SENTENCE ORDER

NOW THIS 9TH DAY OF MAY, 2022, IT IS THE ORDER OF THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged. The defendant is to pay the costs of prosecution and all statutory surcharges.

AS TO IN21-03-0611- : TIS PFBPP PABPP

Effective August 7, 2020 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for 15 year(s) at supervision level 5
  - Suspended after 10 year(s) at supervision level 5
  - Followed by 1 year(s) at supervision level 3

Probation is concurrent to any probation now serving.

#### SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE VS.

AQUAN J HILTON DOB: 10/18/1993 SBI: 00523365

CASE NUMBER: 2008002632

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

For the purposes of ensuring the payment of costs, fines, restitution and the enforcement of any orders imposed, the Court shall retain jurisdiction over the convicted person until any fine or restitution imposed shall have been paid in full. This includes the entry of a civil judgment pursuant to 11 Del.C. 4101 without further hearing.

JUDGE FRANCIS J JONES JR

#### FINANCIAL SUMMARY

STATE OF DELAWARE VS.

AMBULANCE FUND FEE

AQUAN J HILTON DOB: 10/18/1993

SBI: 00523365

CASE NUMBER: 2008002632

SENTENCE CONTINUED:	
TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	1.00
DELJIS FEE ORDERED	1.00
SECURITY FEE ORDERED	10.00
TRANSPORTATION SURCHARGE ORDERED	
FUND TO COMBAT VIOLENT CRIMES FEE	15.00
SENIOR TRUST FUND FEE	