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Case Number 558,2017

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAKEEM MILES	:	
	:	No. 558, 2017
Defendant Below-Appellant,	:	
	:	ON APPEAL FROM
	:	THE SUPERIOR COURT OF THE
v.	:	STATE OF DELAWARE
	:	IN AND FOR NEW CASTLE
	:	COUNTY
STATE OF DELAWARE,	:	I.D. No. 1703001283
	:	
Plaintiff Below-Appellee.	:	

APPELLANT'S OPENING BRIEF

FILING ID: 62019256

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Dated: May 11, 2018

TABLE OF CONTENTS

TABLE OF CITATIONS

CASE LAW

CONSTITUTIONAL AND STATUTORY PROVISIONS

OTHER AUTHORITIES

NATURE OF THE PROCEEDINGS

On March 2, 2017, Hakeem Miles was arrested and charged with Possession of a Firearm by a Person Prohibited under 11 Del. C. § 1448(a)(9). (A1). On April 17, 2017, a grand jury returned a one-count Indictment against Mr. Miles charging him with Possession of a Firearm by a Person Prohibited. (A1).

Prior to trial, Mr. Miles filed a Motion to Suppress Evidence. (A 2). That Motion was denied. (A2). Mr. Miles then filed a Motion to File a Motion to Dismiss Out of Time which was granted. (A3). The Motion to Dismiss alleged that the statute which Mr. Miles was indicted under was unconstitutional because of an ambiguous application. (A101-105). The Motion to Dismiss was denied. (A3). Therefore, Mr. Miles proceeded to a jury trial. (A3-4).

His jury trial began on July 27, 2017 and concluded that same day. (A3-4). The Honorable Calvin L. Scott, Jr. presided over Mr. Miles' trial. (A3-4). The jury returned a guilty verdict on the single charge in the indictment of Possession of a Firearm by a Person Prohibited. (A4).

Mr. Miles was sentenced by Judge Scott on December 15, 2017. (A4). The Court sentenced Mr. Miles to two years at level five supervision suspended for one year at level two supervision. (Exhibit A).

On December 26, 2017, Mr. Miles filed a timely Notice of Appeal. This is his Opening Brief.

SUMMARY OF THE ARGUMENT

I. The trial court erred by finding that Connections, Inc., who did not physically live in the property, could consent to the warrantless government entry and search of that property. Connections, Inc. signed the lease with Chad Sturgis as a tenant and received a key, but Connections did not live in the apartment, keep belongings in the apartment or use the apartment. The true resident of the apartment was Mr. Sturgis. He had permitted Mr. Miles to stay in the apartment as an overnight guest. Connections, Inc. merely helped Chad Sturgis use his HUD voucher to lease an apartment. They also treated Mr. Sturgis for mental health and substance abuse treatment by dropping off medication to the apartment three times a week. These facts were known to police at the time of entry. Undeterred, the police entered the apartment when Connections gave the police consent and a key to enter against the express refusal of the actual inhabitant at the time, Mr. Miles. Because the police relied on invalid consent and did not obtain a warrant after an occupant objected, the entry and search of the apartment was in violation of Mr. Miles' constitutional rights.

II. The trial court erred when it failed to dismiss Mr. Miles' unreasonable felony indictment which was based on an otherwise legally possessed firearm and a civil violation amount of marijuana. The General Assembly never considered the effect decriminalization of marijuana would have on 11 *Del. C.* § 1448(a)(9) which prohibits the simultaneous possession of a firearm and a controlled substance.

With changes to the marijuana laws, this statute has become ambiguous in its application to an otherwise legally owned firearm and a civil violation amount of marijuana. It was never the intent of the legislature to create a felony by combining a legal action and a civil violation. The application of Section 1448(a)(9) to possession of an otherwise legal firearm and possession of .58 grams of marijuana was unreasonable and absurd.

III. The trial court abused its discretion when it failed to instruct the jury on the narrower definition of possession when the charged offense include a temporal element. Prior to 2011, the charge of Possession of a Firearm By a Person Prohibited ("PFBPP") was a *per se* offense and did not include any durational language. However, now 11 *Del. C.* § 1448(a)(9) includes a temporal element requiring that possession of a firearm and possession of a controlled substance be possessed "at the same time." Because of the inclusion of this temporal element in the charge of PFBPP, the court should have instructed the jury that the firearm must be available and accessible in addition to Mr. Miles' either actual or constructive possession while he was in simultaneous possession of the marijuana.

STATEMENT OF FACTS

On the morning of March 2, 2017 the New Castle County Police were called to 7 Mary Ella Drive, Apartment C, in Wilmington, Delaware ("the apartment"). (A39-40). The resident of the apartment, Chad Sturgis, was not home at the time, however his three houseguests were home. (A33, A40, A69). Mr. Sturgis' three guests were Hakeem Miles, Tyrone Miles and Daycoria Deshields-Cunningham. (A10, A67-68). Two of Mr. Sturgis' guests, Hakeem Miles and his brother, Tyrone Miles, had been staying with Mr. Sturgis for a couple of weeks. (A68-69). Mr. Sturgis had given the men a key to the apartment and were allowing them to stay at his home with his permission. (A68-69).

Chad Sturgis had been living in the apartment since October 5th of 2016 and had executed a lease prior to moving into the apartment. (A35, A85). The lease was signed by Berger Apartments ("the landlord"), Chad Sturgis and Connections Incorporated. (A35-37, A45, A85-86). Connections Incorporated is a company that provides substance abuse treatment and mental health treatment to clients. (A33). They also help clients with their federal HUD voucher in order to pay for their housing. (A34, A48). Around March 2, 2017, the landlord called Connections to complain about noise and people coming from the apartment because Connections was assisting Mr. Sturgis with maintaining his lease and apartment. (A32-33, A39-40, A46). At that time, Connections was aware that Mr. Sturgis had friends staying with him. (A47, A69).

When Chad Sturgis signed the lease to the apartment Connections was assisting him with his housing and treatment needs. (A51). Both Mr. Sturgis and Connections were listed as tenants and residents in the lease. (A35-37). The signature line read, "Chad Sturgis, Connections, ESP, Inc." (A35-37, A86, A96). Also both parties received copies of the apartment key when they signed the lease. (A37).

As a treatment provider, Connections would visit the apartment to deliver medicine and occasionally therapeutic services to Mr. Sturgis. (A38, A52). Medication was dropped off to the apartment three times a week. (A38-39, A52). Connections' agents could enter the apartment without Mr. Sturgis' permission in order to deliver the medication and check on the condition of the apartment. (A38-39) However while Connections had access to the apartment, no agent from Connections lived in the apartment. (A53). Chad Sturgis physically lived in the apartment. (A49). He kept his belongings in the apartment and allowed guests to stay at his apartment. (A49-51, A69). Even though Connections helped Chad Sturgis maintain the lease agreement, Mr. Sturgis could have overnight guests in the apartment without the approval of Connections. (A49-51). Connections was simply helping Mr. Sturgis obtain and maintain his housing using his federal HUD voucher. (A32-33, A48).

On March 2, 2017, the police did not have a warrant to enter the apartment or exigent circumstances. (A31). Prior to the police speaking to an agent of

Connections, they had been knocking on the door of the apartment and requesting that the occupants open the door. (A70-71). A person inside the apartment responded to the police's request to open the door by not opening the door and by saying, "No, Thank you." (A52, A70-71). The police never spoke to, Chad Sturgis, the physical resident and inhabitant of the apartment. (A43, A69-70). The police at the time they received the key to the apartment from Connections had not seen the lease. (A58). It was clear to them that Connections did not physically live in the apartment. (A44, A55, A58). Nevertheless, without a warrant, the police entered the apartment once they received the key and consent to enter from Connections. (A58).

Once the police entered the apartment, they immediately detained Mr. Sturgis' three overnight guests: Hakeem Miles, Tyrone Miles, and Daycoria Deshields-Cunningham. (A10, A67-68). Upon entry into the apartment Hakeem Miles was seen standing in the living room with an empty gun holster on his hip. (A59-61). Police then found a handgun on the kitchen counter approximately ten to fifteen feet away from Mr. Miles. (A143, A160). At that moment, Mr. Miles was placed under arrest. (A142). Search incident to arrest the police recovered a small plastic bag containing .58 grams of marijuana in Mr. Miles' pants pocket. (A143, A145-146, A221). Mr. Miles was then brought back to the police station for questioning where he agreed to speak with police. (A60-61, A154-156). Mr. Miles told the police he arrived at the apartment around 4 a.m., entered with a key

and had permission to stay at the apartment from Chad Sturgis. (A67). He further admitted to owning the firearm that was found at the apartment. (A67).

The other two people found in the apartment, Tyrone Miles and Ms. Deshields-Cunningham, both told police that Hakeem and Tyrone Miles had been staying at the apartment for a couple of weeks. (A68-69). Further Tyrone Miles also confirmed that they had been staying at the apartment with the permission of Chad Sturgis. (A68-69). Tyrone Miles and Ms. Deshield-Cunningham were released from police custody and did not receive any criminal charges. (Supp. 40, 41) Mr. Hakeem Miles was arrested and charged with Possession of a Firearm by a Person Prohibited under 11 Del .C. § 1448(a)(9).[1] (A1).

At trial, Mr. Miles faced the single charge. (A1). Defense counsel argued for a more limited instruction regarding the definition of possession that would be given to the jury. (A170-178). The trial court denied the argument and used the standard definition of possession for a charge of Possession of a Firearm by a Person Prohibited. (A179, A182-184). Based on the evidence and the instructions presented to the jury, Mr. Miles was convicted. (A219-220).

[1] Mr. Miles was also charged under 11 *Del. C.* § 1448(a)(1), but that charge was later *nolle prosequied* at the preliminary hearing by the State.

I. THE TRIAL COURT ERRED BY FINDING THAT A THIRD PARTY, WHO DID NOT USE OR RESIDE IN THE PROPERTY HAD THE ACTUAL AUTHORITY TO CONSENT TO A WARRANTLESS SEARCH OF THE PROPERTY AND THAT THEIR CONSENT OVERRULED MR.MILES' OBJECTION.

A. Questions Presented

(i). Whether a third party corporation who does not use or physically reside in a residence has the actual authority to consent to a warrantless entry and search of the residence.[2] (ii). If a third party gave valid consent, then can the police legally enter a home against the express objection of a present inhabitant without a warrant.[3]

B. Standard and Scope of Review

When examining constitutional claims, the standard of review is *de novo*.[4]

C. Merits of Argument

The police illegally entered and searched the apartment Mr. Miles was staying in when they entered without a warrant and lacked valid third party consent. Connections, Inc. did not have the authority to consent to a search of the apartment because they did not use the apartment or reside in the apartment. Even if Connections had the authority to consent to a warrantless search, once Mr. Miles

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[2] Issue preserved at A8-17, A29-84.

[3] Issue preserved at A8-17, A29-84.

[4] *Abrams v. State,* 689 A.2d 1185, 1187 (Del. 1997).

expressly objected to the police entering the apartment, the police were required to obtain a search warrant, which they did not.

"The United States and Delaware Constitutions protect the right of persons to be secure in their homes against 'unreasonable searches and seizures.'"[5] The Fourth Amendment of the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.[6]

Similarly, the Delaware Constitution provides:

> The people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.[7]

While the federal and state constitution tend to be in lock step of one another, "this Court has held that [the Delaware] Constitution affords our citizens protections somewhat greater than those of the Fourth Amendment."[8]

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[5] *Hanna v. State*, 591 A.2d 158, 162 (Del. 1991) (*citing* U.S. Const. amend. IV; Del. Const. art. I, § 6.)

[6] U.S. Const. amend IV.

[7] Del. Const. art. I, § 6.

[8] *Wheeler v. State*, 135 A.3d 282, 298 (Del. 2016).

In order to challenge the legality of a search or seizure and to demand the suppression of evidence seized under the exclusionary rule a defendant must have standing.[9] Standing depends on whether the person "has a legitimate expectation of privacy in the invaded place."[10] Under both federal and State law, overnight guests have a legitimate expectation of privacy in the premises, and therefore have a right to claim protection of the exclusionary remedy under the law.[11]

Mr. Miles had been an overnight guest at the apartment for a couple of weeks prior to this incident.[12] He had told police that on this particular day he arrived at the apartment in the middle of the night, around 4 a.m., before the police arrived around 9 a.m.[13] His status as an overnight guest at the apartment was also confirmed by Tyrone Miles and Ms. Daycoria Deshields- Cunningham.[14] Further, the State never charged Mr. Miles with any type of trespass or burglary offense which tends to show that Mr. Miles was staying at the apartment with the permission of the resident, Chad Sturgis.[15] Since Mr. Miles was an overnight guest at the apartment, he has standing to challenge the illegal entry and warrantless search of the apartment.[16]

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[9] *Hanna v. State*, 591 A.2d 158, 162 (Del. 1991).
[10] *Id.* at 163. (citing *Rakas v. Illinois*, 439 U.S. 128, 143 (1978)).
[11] *Id.* at 164.
[12] A68-69.
[13] A56-57, A67.
[14] A68-69.
[15] A1.
[16] The trial court found that Mr. Miles had met his burden regarding standing. (A80).

i. Connections, Inc. did not have the actual authority to consent to the warrantless entry and search of the apartment because they did not live in or use anything within the apartment.

"Searches and seizures are per se unreasonable, in the absence of exigent circumstances, unless authorized by a warrant supported by probable cause."[17] A recognized exception to the warrant requirement is for searches conducted pursuant to a valid consent.[18] To be valid, a consent to search must be voluntary and the person giving consent must also have authority to do so.[19] This Court in *State v. Ledda* adopted the standard used in *United States v. Matlock* for determining when a third party's consent will be valid.[20] The standard articulated in *Matlock* was:

> [T]hird party consent does not rest upon the law of property, . . . but rests rather on mutual use of the property be persons generally having joint or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit inspection in his own right and that the others have assumed the risk that one of the number might permit the common area to be searched.[21]

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[17] *Hanna v. State*, 591 A.2d 158, 164 (Del. 1991). (citing *State v. Poli*, 390 A.2d 415, 418 (Del. 1978); *Schramm v. State*, 366 A.2d 1185, 1189 (Del. 1976))

[18] *Scott v. State,* 672 A.2d 550, 552 (Del. 1996).

[19] *Id.* (citing *Schneckloth v. Bustamonte*, 412 U.S. 218, 221-22 (1973); *United States. v. Matlock,* 415 U.S. 164, 171 (1974)).

[20] *Ledda v. State*, 564 A.2d 1125, 1128 (Del. 1989); *United States v. Matlock*, 415 U.S. 164, 171 (1974).

[21] *United States v. Matlock,* 415 U.S. 164, 171 (1974).

In summary, valid third party authority to consent must include both possession and equal or greater control, *vis-a-vis* the owner, over the area to be searched.[22]

In Delaware, there is no good faith exception to an invalid warrant.[23] The Superior Court in *State v. Devonshire,* following the logic of *Dorsey v. State,* reasoned that the Delaware Constitution affords its citizens greater protections and as such, valid consent to search can only be given by someone with actual authority in the premises, not apparent authority.[24] In *Devonshire,* the defendant was arrested for offenses against his ex-girlfirend, Shauna Holbrook.[25] The defendant at the time of his arrest lived in his mother's house in the second floor bedroom.[26] The bedroom was the defendant's private area and he had shared it with Ms. Holbrook for two years.[27] Two weeks before the defendant's arrest, Ms. Holbrook had moved out of the room, but had left behind some of her personal belongings.[28]

After having not been at the residence for two weeks, Ms. Holbrook returned to the property with a police escort to collect her belongings.[29] During her absence

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[22] *Ledda v. State*, 564 A.2d 1125, 1128 (Del. 1989) (citing *State v. Passerin*, 449 A.2d 192, 197 (Del. 1982)).
[23] *Dorsey v. State*, 761 A.2d 807, 821 (Del. 2000).
[24] *State v. Devonshire*, 2004 WL 94724 at *4-7, Silverman, J. (Del. Super. Ct. Jan. 20, 2004) (citing *Dorsey v. State*, 761 A.2d 807, 821 (Del. 2000)).
[25] *Id.* at *1.
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*

from the residence, Ms. Holbrook continued to receive mail there.[30] When the police were escorting Ms. Holbrook to retrieve her belongs they were aware that she had broken up with the defendant and that she was not living in the house or bedroom.[31] When Ms. Holbrook went to the house with her police escort, the defendant's sister open the door and greeted Ms. Holbrook with a hug.[32] Ms. Holbrook then went in the house and up to the defendant's bedroom to collect her belongings with the police officer in tow.[33]

The police in *Devonshire* may have reasonably believed that Ms. Holbrook had the apparent authority to consent because Ms. Holbrook had lived in the bedroom for twenty four months and she had personal belongings in the bedroom when she entered.[34] However, the court noted that the police also knew at the time of entry that Ms. Holbrook had not spent nights in the bedroom since she broke up with the defendant, that she did not have a key to the house and that Ms. Holbrook and the defendant had an "ongoing strife."[35] The court held that Ms. Holbrook did not have the actual authority to consent to a search of the defendant's bedroom once she had moved out and that the defendant maintained his expectation of

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[30] *Id.*
[31] *Id.*
[32] *Id.* at *2.
[33] *Id.*
[34] *Id.* at *4.
[35] *Id.*

privacy in the bedroom.[36] The court also held that while the federal Constitution tolerates consent to search given by someone with apparent authority, the Delaware Constitution will not tolerate such searches and therefore requires the consenting party to have actual authority in the premise to be searched.[37]

In *Matlock*, the police arrested the defendant in the yard of the house where he lived with Mrs. Graff and several of her relatives.[38] The police were met at the door of the defendant's house by Mrs. Graff who had a baby on her hip.[39] Mrs. Graff allowed the police into the house and consented to the search.[40] By these actions, it was obvious to police that she lived there.[41] The Court held that Mrs. Graff had authority as a third party to consent to the search.[42]

In *Ledda*, the defendant was a rear seat passenger in his own vehicle when it was stopped on the highway.[43] The driver of the vehicle was Mr. Morzella.[44] The police asked Mr. Morzella to consent to a search of the vehicle and he agreed.[45] The defendant never objected to the search.[46] This Court held that the standard in

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[36] *Id.* at *4-5.
[37] *Id.* at *7.
[38] *United States v. Matlock,* 415 U.S. 164, 166 (1974).
[39] *Id.*
[40] *Id.*
[41] *Georgia v. Randolph*, 547 U.S. 103, 111 (2006).
[42] *United States v. Matlock,* 415 U.S. 164, 170 (1974).
[43] *Ledda v. State,* 564 A.2d 1125, 1126 (Del. 1989).
[44] *Id.*
[45] *Id.*
[46] *Id.* at 1127.

Matlock used to determine third party authority to consent was correct.[47] This Court held that Mr. Mozella had the authority to consent to the search of the vehicle.[48]

In *Scott v. State*, the defendant was being detained outside of his apartment when an adult woman, Tracy Jenkins, came to the door.[49] Ms. Jenkins told police it was her apartment and gave consent for them to search for a firearm.[50] The police found women's clothing in the apartment during their search.[51] Ms. Jenkins' name was on the lease of the apartment and she was in immediate possession of the apartment when the police arrived.[52] This Court held that Ms. Jenkins' consent to enter and search the apartment was valid pursuant to their prior holding in *Ledda*.[53]

Prior to *Matlock* and its progeny, the United States Supreme Court held in *Chapman v. United States* that a landlord could not consent to a search of the tenant's home.[54] A few years later the Supreme Court went on to expand their holding in *Stoner v. California* when the Court held that a hotel manager could not consent to a warrantless search of a guest's room.[55] In these instances, there was

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[47] *Id.* at 1128
[48] *Id.* at
[49] *Scott v. State,* 672 A.2d 550, 551 (Del. 1996).
[50] *Id.*
[51] *Id.*
[52] *Id.* at 552-53.
[53] *Id.* at 553.
[54] *Chapman v. United States*, 365 U.S. 610, 617 (1961).
[55] *Stoner v. California*, 376 U.S. 483, 489 (1964).

"no customary understanding of authority to admit guests without the consent of the current occupant."[56] Further, "[i]n these circumstances, neither state-law property rights, nor common contractual arrangements, nor any other source points to a common understanding of authority to admit third parties generally without the consent of a person occupying the premises."[57]

Here, neither Connections, Inc. nor an agent of Connections had the actual authority to consent to the warrantless police entry and search of the apartment. Unlike the consenting parties in *Matlock, Ledda* and *Scott* where the Court found valid consent was given; here, no one from Connections lived in, resided in or used the apartment in the traditional sense that a tenant or resident would. No agent from Connections kept personal belongings at the apartment or used the apartment for sleeping, cooking or bathing.

Connections may have been listed on the lease as a tenant or resident and possessed a key, but they certainly did not use the apartment in the customary ways a tenant or resident would. Even if the police reasonably believed that Connections had the apparent authority to consent to the search, Delaware law does not protect invalid consent searches based on apparent authority as noted in *Devonshire.* Furthermore, property law does not control who possesses actual

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[56] *Georgia v. Randolph*, 547 U.S. 103, 112 (2006) (citing *Chapman v. United States*, 365 U.S. 610 (1961); *Stoner v. California*, 376 U.S. 483 (1964)).
[57] *Id.*

authority, but rather actual use of the property determines who may give valid consent.[58]

The trial court erred by giving more weight to the lease enumerating Connections' relationship to the property rather than to their actual use of the property. The ways in which Connections shared access to the apartment with Chad Sturgis, and in turn his house guests, was very limited. An agent of Connections would drop off medication to the apartment three times a week and during those drop offs they would not stay at the apartment. [59] Connections would also check on the condition of the apartment and could provide therapeutic services in the form of an occasional visit.[60] None of these services required the traditional use of the apartment as often the case with a normal tenant or resident.

The police were aware at the time they received consent and the key from Connections that no agent from Connections lived in the apartment. Similar to the hotel manager in *Stoner* and the landlord in *Chapman*, Connections was functioning in a similar capacity. Merely because Connections possessed access with a key, like a hotel manager or landlord, that does not give them the actual authority to consent to a search of the apartment.

Connections did not have equal or greater possession of the apartment than Mr. Miles, who was a permitted overnight guest of the true resident, Chad Sturgis.

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[58] *United States v. Matlock,* 415 U.S. 164, 171 (1974).
[59] A38-39, A52.
[60] A38-39, A52.

Mr. Miles was sleeping in the apartment and using the apartment as a customary house guest would. As an overnight guest, Mr. Miles had an expectation of privacy that society is prepared to recognize. Thus, police needed a warrant to enter the apartment or an exception such as valid third party consent. Connections did not use the property in such a way that gave them actual authority to consent to a warrantless search. Therefore, the police illegally entered and searched the apartment and any evidence obtained subsequent to their entry must be suppressed. Accordingly, this Court must reverse the trial courts decision and remand the case back to Superior Court.

ii. Even if Connections had the authority to consent to a search of the apartment, Mr. Miles verbally and physically objected to the police entering and searching the apartment which triggered a warrant requirement.

"When a co-occupant is present and objects to a search, police may not search under the consent exception to the warrant requirement, despite having the consent of the other co-occupant."[61] The defendant in *Randolph* was asked if the police could enter and search his home.[62] He refused consent.[63] The police then asked the defendant's estranged wife for consent, which she readily gave.[64] "The

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[61] *Donald v. State*, 903 A.2d 315, 320(Del. 2006) (citing *Georgia v. Randolph*, 547 U.S. 103, 126 (2006)).

[62] *Georgia v. Randolph*, 547 U.S. 103, 107 (2006).

[63] *Id.*

[64] *Id.* (The defendant's estranged wife was found to have authority to consent. Even though she had moved out for two or more months prior to this incident, at the time the police came to the house she had been staying at the house for a few days.)

Court applied 'the rule that a physically present inhabitant's express refusal of consent to a police search is dispositive as to him, regardless of the consent of a fellow occupant.'"[65]

This Court in *Donald v. State* adopted the holding in *Randolph.*[66] In *Donald*, this Court found that while the reasoning in *Randolph* applies, the defendant never objected to the search since she opened the door for police and let the police into her home.[67]

An inhabitant's objection can be both a verbal objection and a physical display of refusal to consent.[68] In *State v. Jackson*, the defendant was arrested in close proximity to his home.[69] The defendant was a co-tenant in his home with Ms. Maddox who consented to the police officer's request to search.[70] However, the door was locked and the defendant had the keys.[71] The police then asked the defendant for consent to search which he refused in some fashion.[72] The police then went into the defendant's pocket to retrieve the keys which caused a physical struggle showing a lack of consent between the defendant and the police.[73] The

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[65] *Donald v. State*, 903 A.2d 315, 320 (Del. 2006) (citing *Georgia v. Randolph*, 547 U.S. 103, 122 (2006)).
[66] *Donald v. State*, 903 A.2d 315, 320-21 (Del. 2006).
[67] *Id.* at 321.
[68] *State v. Jackson,* 931 A.2d 452, 455 (Del. Super. Ct. 2007).
[69] *Id.* at 453.
[70] *Id.*
[71] *Id.* at 454.
[72] *Id.* (The court questioned if the defendant gave an express verbal refusal.)
[73] *Id.*

court found that in this case "finding [ ] an express question [followed] by an express refusal is not necessary."[74] The court reasoned that since the door was locked and the keys were not voluntarily handed over from the defendant, the defendant's actions show a clear absence of consent.[75]

Even if this Court determines that Connections had the actual authority to consent, the entry and subsequent search were still illegal since Mr. Miles objected both verbally and physically prior to the police making entry. Mr. Miles was living in and using the apartment as a permitted overnight guest of Chad Sturgis.[76] He had been staying with him over the course of a couple of weeks.[77] When the police arrived they requested the occupants to open the door.[78] No one ever opened the door and the door remained locked.[79] Further, an occupant inside the apartment, arguably Mr. Miles, responded verbally to the police request to open the door by saying, "No, Thank you."[80] At that point seeing that there were no signs of forced entry and no exigent circumstances, the police should have obtained a warrant to enter the apartment.

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[74] *Id.* at 455.
[75] *Id.*
[76] A68-69.
[77] A68-69.
[78] A52, A70-71.
[79] A52, A70-71.
[80] A52, A70-71.

Like the defendant in *Randolph*, Mr. Miles was physically present and objecting to the police entering and searching the apartment. Also, like the defendant in *Jackson*, Mr. Miles objected verbally and physically to police entry. The consent given by Connections to enter the apartment was invalid because Mr. Miles clearly refused to open the door. Therefore, the warrantless entry and search of the apartment was unreasonable and any evidence obtained subsequent to their entry must be suppressed. Accordingly, this Court must reverse the trial courts decision and remand the case back to Superior Court.

II. THE TRIAL COURT ERRED WHEN IT FAILED TO DISMISS MR. MILES' UNREASONABLE FELONY INDICTMENT THAT WAS BASED ON HIS LEGAL POSSESSION OF A FIREARM AND HIS POSSESSION OF LESS THAN ONE GRAM OF MARIJUANA.

A. Question Presented

Whether the felony statute of 11 *Del. C.* § 1448(a)(9) was ambiguously applied to the simultaneous legal possession of a handgun and a civil violation amount of marijuana since it resulted in absurd and unreasonable felony consequences that were never intended by the legislature.[81]

B. Standard and Scope of Review

This Court reviews issues of statutory construction and interpretation *de novo*.[82]

C. Merits of Argument

Mr. Miles' felony conviction must be vacated as the statute is ambiguous in its application. The statute, as it applies to an otherwise legal possession of a firearm and a civil violation amount of marijuana, results in absurd and unreasonable felony consequences that were never intended by our legislature.

"The starting point for the interpretation of a statute begins with the statute's language."[83] "When the statute itself is unambiguous, then its plain language

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[81] Issue preserved at A99-122.

[82] *CML V, LLC v. Bax*, 28 A.3d 1037, 1040 (Del. 2011)

[83] *State v. Barnes*, 116 A.3d 883, 888 (Del. 2015)

controls."[84] "'A statute which appears facially unambiguous can be rendered ambiguous by its interaction with, and its relation to, other statutes.'"[85] "If a statute is reasonably susceptible of different conclusions or interpretations, it is ambiguous."[86] "Ambiguity may also arise from the fact that giving a literal interpretation to the words of the statute would lead to such unreasonable or absurd consequences as to compel a conviction that they could not have been intended by the legislature."[87] "[W]hen a statute is ambiguous and its meaning may not be clearly ascertained, the Court must rely upon its methods of statutory interpretation and construction to arrive at what the legislature meant."[88] Further, when an ambiguity does exist in a statute within the criminal code, it should be construed against the government and in favor of the defendant.[89]

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[84] *State v. Murray*, 158 A.3d 476, 482 (Del. Super. Ct. 2017).
[85] *State v. O'Dell,* 2017 WL 923461 at *7, Witham, J. (Del .Super. Ct. March 6, 2017) (citing 2A Sutherland Statutory Construction § 46:4 (7th ed. 2016)).
[86] *Coastal Barge Corp. v. Coastal Zone Indus. Control,* 492 A.2d 1242, 1246 (Del. 1985) (*citing* 2A Sutherland, Statutes and Statutory Construction § 45.02 (4th ed. 1984)).
[87] *Coastal Barge Corp. v. Coastal Zone Indus. Control,* 492 A.2d 1242, 1246 (Del. 1985) (citing 73 Am. Jur. 2d *Statutes* § 195 at 392 (1974)).
[88] *Coastal Barge Corp. v. Coastal Zone Indus. Control,* 492 A.2d 1242, 1246 (Del. 1985) (*citing Carper v. New Castle County Bd. of Ed.,* 432 A.2d 1202, 1205 (Del. 1981)).
[89] *State v. Haskins,* 525 A.2d 573, 576 n. 3 (Del. 1987), *rev'd on other grounds*, 540 A.2d 1088 (Del. 1988); *Coastal Barge Corp. v. Coastal Zone Indus. Control,* 492 A.2d 1242, 1246 (Del. 1985) (*citing* 2A. Sutherland, Statutes and Statutory Construction § 45.12 (4th ed. 1984) (stating the the "golden rule" of statutory interpretation is to find in favor of the more reasonable result)).

Mr. Miles was charged and convicted under 11 *Del. C.* § 1448(a)(9), Possession of a Firearm By a Person Prohibited ("PFBPP") which states, in relevant part:

> The following person[s] are prohibited from . . . purchasing, owning, possessing or controlling a deadly weapon . . . if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, at the same time, possesses a controlled substance in violation of §4763, or §4764 of Title 16.[90]

This new felony was introduced to the Delaware Criminal Code in 2011 as part of an Act that brought significant and comprehensive changes to Delaware's criminal drug code.[91] House Bill 19 was aimed at targeting drug dealers versus drug users.[92] The preamble of the Act noted that, "drug dealers are a significant threat to society; and [ ] drug dealing is significantly associated with violent crime . . .,"[93] which shows the legislation had a clear differentiation between drug dealers and drug users.

In 2011, possession of a controlled substance in violation of § 4763 or § 4764 of Title 16 was a criminal offense and punishable as either a Class A Misdemeanor, a Class B Misdemeanor or an Unclassified Misdemeanor.[94] In order

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[90] 11 *Del. C.* § 1448(a)(9); A1.

[91] Del. H.B. 19 syn., 146th Gen. Assem., 78 Del. Laws ch. 13 (2011).

[92] Del. H.B. 19 syn., 146th Gen. Assem., 78 Del. Laws ch. 13 (2011); *State v. Murray*, 158 A.3d 476, 478 (Del. Super. Ct. 2017).

[93] Del. H.B. 19 syn., 146th Gen. Assem., 78 Del. Laws ch. 13 (2011).

[94] 16 Del. C. § 4763- 4764. (Enacted in 2011).

to avoid a felony charge for marijuana possession, the weight of the marijuana needed to be less than 175 grams.[95] Therefore, if a person possessed 174 grams or less of marijuana, they could be charged with misdemeanor possession and the penalty they faced was an unclassified misdemeanor.

In 2015, "Delaware reduced the penalties for simple possession of marijuana even further."[96] When the laws regarding simple marijuana possession were rewritten they remained in Title 16 Section 4764. The new law decriminalized possession of less than one ounce ("personal use quantity") of marijuana.[97] The law now provides:

> Any person 21 years of age or older who knowingly or intentionally possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be assessed a civil penalty of $100… Private use or consumption by a person 21 years of age or older of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title shall likewise be punishable by a civil penalty under this subsection.[98]

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[95] 16 Del. C. § 4751C(5)(c). *See also* 16 Del. C. § 4756. (as enacted in 2011).

[96] *State v. Murray*, 158 A.3d 476, 478 (Del. Super. Ct. 2017).

[97] Del. H.B. 39 syn., 148th Gen. Assem., 80 Del. Laws ch. 38 (2015); *id* at § 2 (creating new a civil violation for possession of less than one ounce of marijuana for personal use and leaving that offense within § 4764 of Title 16). One ounce is equivalent to 28.3495 grams.

[98] 16 Del. C. § 4764(c).

This new law makes possession of a personal use quantity amount of marijuana a civil, not criminal, offense.[99] "When simple possession of marijuana became a civil offense, no change was made to the 2011 PFBPP statute prohibiting a person from possessing a handgun and a controlled substance at the same time."[100]

Recently in *State v. Murray*, the Superior Court opined about this exact issue.[101] In *Murray* the defendant was found in his bedroom asleep when the police executed an arrest warrant for the defendant's mother.[102] The defendant's bedroom was searched and within his bedroom the police recovered two "caches" of marijuana: one found in his dresser and another found in his closet.[103] In the same closet, the police found a loaded handgun.[104] The amount of marijuana that the defendant was alleged to have possessed was not clearly under the personal use quantity amount when the police arrested Mr. Murray.[105] The court in *Murray* held that the Section 1448(a)(9) was unambiguous and that the "language [of the statute] means precisely what it says- in Delaware one is prohibited from possessing a handgun and even a small amount of marijuana at the same time."[106]

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[99] *State v. Murray*, 158 A.3d 476, 479 (Del. Super. Ct. 2017).
[100] *Id.* at 478.
[101] *Id.* at 476.
[102] *Id.* at 478-79.
[103] *Id.* at 479.
[104] *Id.*
[105] *Id.*
[106] *Id.* at 485.

The court acknowledged that since marijuana possession was never a civil violation in 2011 when Section 1448(a)(9) was enacted then certainly the General Assembly could have never intended to prosecute individuals for a personal use quantity of marijuana while simultaneously possessing a handgun.[107] The court then noted that, "the General Assembly is presumed to be aware of extant statutes relating to the same subject matter when it enacts a new provision."[108] However, this presumption was rebutted in subsequent news article where a lawmaker confirmed that they "never considered [an] issue with a firearm would arise when they passed marijuana decriminalization."[109] The General Assembly in 2011 could not have contemplated this scenario and in 2015 the General Assembly did not contemplate it. Thus, the General Assembly never intended to create a felony from the possession of a personal use quantity of marijuana and simultaneous legal firearm possession.

Since the decision from the Superior Court of Delaware in *State v. Murray,* a new bill has been sponsored by the legislators and currently has been tabled at committee.[110] Shortly before the General Assembly concluded for their term, House Bill 234 was introduced on June 15, 2017 in response to the Superior

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[107] *Id.* at 483.
[108] *Id.*
[109] Jessica Masulli Reyes, *Marijuana decriminalized but still triggers gun felony*, The News Journal, April 25, 2017 (see Table of Citations for full website link).
[110] Del. H.B. 234 syn., 149th Gen. Assem. (2017).

Court's decision in *State v. Murray*.[111] The bill seeks to amend 11 Del. C. § 1448(a)(9) to exclude possession of a personal use quantity of marijuana as a violation preventing the simultaneous possession of a firearm.[112] Less than two months after the court's decision in *Murray*, lawmakers introduced this bill which took swift action against the court's recent interpretation of 11 Del. C. § 1448(a)(9).

In *State v. Barnes*, this Court reasoned that "[a] fundamental canon of statutory construction states that '[t]he long time failure of [the legislature] to alter [a statute] after it had been judicially construed . . . is persuasive of legislative recognition that the judicial construction is the correct one.'"[113] Logically it must follow that the swift action of the legislators to amend a statute after it had been judicially construed is persuasive that the judicial construction was incorrect. Through public statements and a newly sponsored bill to address the incorrect judicial construction, the legislators have shown that their intent behind Section 1448(a)(9) was not meant to prosecute legal gun owners who also happen to possess civil violation amounts of marijuana.

While the court in *Murray* found the literal language of Section 1448(a)(9) simple and unambiguous, this Court has noted that "'[a] statute which appears

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[111] *Id.*

[112] *Id.*

[113] *State v. Barnes*, 11 A.3d 883, 892 (Del. 2015) (citing *Apex Hosiery Co. v. Leader*, 310 U.S. 469, 488 (1940)).

facially unambiguous can be rendered ambiguous by its interaction with, and its relation to, other statutes.'"[114] That was precisely what was occurring in this instance with the problematic statute and .58 grams of marijuana. The application of Section 1448(a)(9) to possession of a civil violation amount of marijuana and simultaneous legal firearm possession is ambiguous as it makes an individual a convicted felon who, without a firearm in the same scenario, would at worst only have received a $100 fine and no criminal conviction. The consequences of combining a legally possessed firearm and civil violation of marijuana together to create a felony is patently absurd and unreasonable.

Mr. Miles legally owned a firearm prior to this incident. He had no previous felony convictions and was not otherwise prohibited from owning or possessing a firearm.[115] Unlike the police in *Murray*, the police knew instantaneously that the marijuana found in Mr. Miles' pocket was a personal use quantity. The State charged that in this instance he was prohibited from possessing or controlling a firearm based upon the fact that he had .58 grams of marijuana in his pocket.[116] If Mr. Miles had possessed the firearm alone, there would be no criminal action against him. If Mr. Miles had possessed the .58 grams of marijuana alone, he

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[114] *State v. O'Dell,* 2017 WL 923461 at *7, Witham, J. (Del .Super. Ct. March 6, 2017) (citing 2A Sutherland Statutory Construction § 46:4 (7th ed. 2016)).

[115] Mr. Miles was not indicted on any other charges besides the singular offense under 11 Del. C. §1448(a)(9). We presume that had Mr. Miles been prohibited for another reason the State would have indicted him on those gourds as well. However, he was only indicted on the one charge.

[116] A7.

would have been cited for the violation and given a $100 fine to pay, not arrested. But together, an otherwise legal action and a $100 fine, has amounted to a felony conviction and the accompanying loss of freedoms and civil rights.

The application of this statute to Mr. Miles' conduct was unreasonable and absurd, and therefore ambiguous. As evidence by the legislators' comments after the decision in *Murray* and the subsequent introduction of a new bill to amend Section 1448(a)(9) for this exact scenario, it was not the General Assembly's intent to create a felony from civil possession of marijuana and an otherwise legal possession of a firearm. "[T]his Court must reject any reading of a statute that is inconsistent with the intent of the General Assembly."[117] Since the General Assembly never intended such an unreasonable consequence for Mr. Miles' actions, this Court must interpret the statute in favor of Mr. Miles and find the application of Section 1448(a)(9) ambiguous as it applies to a civil violation amount of marijuana and simultaneous possession of firearm. Consequently, Mr. Miles' conviction must be vacated.

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[117] *Dambro v. Meyer*, 974 A.2d 121, 130 (Del. 2009) (citing *Delaware Bay Surgical Serv. v. Swier,* 900 A.2d 646, 652 (Del. 2006)).

III. THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT FAILED TO INSTRUCT THE JURY TO APPLY A NARROWER DEFINITION OF POSSESSION BECAUSE THE STATUTE CONTAINS A TEMPORAL REQUIREMENT.

A. Question Presented

Whether the temporal requirement of "at the same time" found in Title 11 of the Delaware Code in Section 1448(a)(9) requires the trial court to instruct the jury on the narrower definition of possession that the firearm must be available and accessible to the defendant and that the defendant had either actual or constructive possession of the firearm.[118]

B. Standard and Scope of Review

When examining a trial court's refusal to give a "particular" instruction, the standard of review is an abuse of discretion.[119]

C. Merits of Argument

The trial court abused its discretion by not instructing the jury on the narrower definition of possession when the charged offense included a temporal element within the statute similar to the charge of Possession of a Firearm During the Commission of a Felony ("PFDCF"). The Appellant was charged under a subsection of Possession of a Firearm by a Person Prohibited which has a temporal element. Mr. Miles was indicted under Title 11 of the Delaware Code Section 1448(a)(9) which reads:

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[118] Issue preserved at A170-178.

[119] *Wright v. State*, 953 A.2d 144, 148 (Del. 2008).

> Except as otherwise provided herein, the following persons are prohibited from [ ] possessing or controlling a deadly weapon or ammunition for a firearm within the State: . . . Any person, if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, ***at the same time***, possesses a controlled substance in violation of § 4763, or § 4764 of Title 16.[120]

At trial, the trial court instructed the jury that:

> THE COURT: The term "possession" includes actual possession, and constructive possession. Actual possession means that the defendant knowingly had direct physical control over the firearm. Constructive possession means that the firearm was within the defendant's reasonable control; that is, in or about his person, premises, belongings, or vehicle. In other words, the defendant had constructive possession over the firearm ***if he had both the power and the intention at a given time to exercise control over the firearm***, either directly or through another person . . . Possession is proven if you find beyond a reasonable doubt that the defendant had actual or constructive possession, either alone or jointly with others.[121]

The trial court did not give an instruction that the weapon must be accessible and available to the defendant at the time of the drug possession.[122]

This Court has continued to opine that "[e]stablishing [Possession of a Firearm By a Person Prohibited] does not require evidence that the weapon was physically available and accessible to the defendant at the time of arrest."[123]

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[120] 11 *Del. C.* § 1448(a)(9). (emphasis added).

[121] A183-184. (emphasis added).

[122] A178.

[123] *Triplett v. State*, 2014 WL 1888414 at *2, Berger, J. (Del. May 9, 2014) (citing *Lecates v. State*, 987 A.2d 413, 420-21 (Del. 2009)).

However, the definition of possession can vary depending on the possessory crime charged and the elements of the offense.[124] The possession definition as it relates to 11 *Del. C.* § 1448(a)(9) has not been examined by this Court since the new PFBPP subsection was enacted in 2011, and therefore it must be examined under our long-standing precedent in Delaware.

The landmark case in Delaware regarding the definitions of possession is *Lecates v. State* which was decided in 2009.[125] In *Lecates*, the Court opined that "[p]ossession of a deadly weapon by a person prohibited [("PDWBPP")] is a *per se* violation of 11 *Del. C.* § 1448."[126] "Unlike the statute defining the crime of PFDCF, Section 1448(a) contains no requirement of temporal possession."[127] The more limited possession definition used for PFDCF does not apply to PDWBPP because the actual or constructive possession of the deadly weapon is the critical matter not the proximity of the weapon or the immediate control thereof.[128]

Unlike Section 1448(a) as written in 2009, Possession of a Firearm During the Commission of a Felony contains a requirement of temporal possession which prohibits possession of the weapon during the commission of the felony.[129] The statute of PFDCF currently reads: "A person who is in possession of a firearm

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[124] *Lecates v. State*, 987 A.2d 413 (Del. 2009).
[125] *Id.*
[126] *Id.* at 419.
[127] *Id.* at 420.
[128] *Id.* at 418-419.
[129] *Id.* at 420.

during the commission of a felony is guilty of possession of a firearm during the commission of a felony."[130] This Court in *Lecates* agreed with the test previously determined in *Mack v. State* for possession for the charged of PDWDCF which determined that:

> [T]he word "possession" has a more limited meaning; that it requires the elements of availability and accessibility. We hold that a felon is in "possession" of a deadly weapon, within the meaning of [PDWDCF], only when it is physically available or accessible to him during the commission of the crime.[131]

This Court concluded that to establish possession for a charge of PFDCF the State must establish physical availability and accessibility of the firearm in addition to proving actual or constructive possession.[132] This Court further reasoned that PFDCF was distinguished from PFBPP because the latter does not contain a temporal requirement as it is "a crime for a prohibited person to possess a weapon or ammunition at any time" and thus, "physical availability and accessibility are not essential to establishing [the crime]."[133]

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[130] 11 *Del. C.* § 1447A(a). (emphasis added) For discussion purposes moving forward the statute of Possession of a Deadly Weapon During the Commission of a Felony, 11 *Del. C.* § 1447(a), is essentially the same as PFDCF except the term "deadly weapon" is substituted for the term "firearm."

[131] *Lecates v. State*, 987 A.2d 413, 419 (Del. 2009) (citing *Mack v. State*, 312 A.2d 319, 322 (Del .1973)).

[132] *Id.* at 421.

[133] *Id.* at 420-21.

When this Court decided *Lecates,* Section 1448(a)(9) of Title 11 did not exist and thus, this Court was correct at the time when it opined that Section 1448(a) did not include a temporal requirement. However, in 2011 Section 1448(a)(9) was enacted and it included a temporal requirement that a person could not possess a firearm *at the same time* they possessed a controlled substance in violation of § 4763 or § 4764 of Title 16.[134]

The inclusion of the temporal requirement of "at the same time" calls into question the Court's decision in *Lecates*. Similar to the temporal requirement found in Possession of a Firearm *During* the Commission of a Felony, the inclusion of the temporal requirement in this particular subsection of Possession of a Firearm by a Person Prohibited no longer makes the possession of the firearm a *per se* violation. Section 1448(a)(9) is not a *per se* violation because the statute requires possession of the firearm, possession of a controlled substance and that these possessions must be "at the same time." The temporal requirement of "at the same time" is similar to the temporal requirement of "during" in the PFDCF statute. Therefore, the trial court should have given the more limited "possession" instruction used for a change of PFDCF, which is that: "The State must establish physical availability and accessibility [of the weapon] in addition to proving actual or constructive possession."[135]

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[134] Del. H.B. 19 syn., 146th Gen. Assem., 78 Del. Laws ch. 13 (2011). (emphasis added)
[135] *Lecates*, 987 A.2d 413, 421 (Del. 2009).

Mr. Miles was not allowed to argue the more limited definition of possession to the jury and this inability was highly prejudicial. The possession of the firearm and his ability to possession the firearm while in possession of the marijuana was the crux of the matter since the police did not find Mr. Miles in actual possession of the firearm when they entered the apartment. When the police entered the apartment Mr. Miles was in the living room and the handgun was located on the kitchen counter.[136] Mr. Miles was approximately ten to fifteen feet away from the handgun.[137] While Mr. Miles was not in a large mansion, he was nonetheless in a completely separate room from the firearm. If Mr. Miles had been able to argue the narrower definition of possession which would have included the elements of availability and accessibility along with the fact that he was in a completely separate room from the firearm, the jury could have found that Mr. Miles did not possess the firearm at the same time he possessed the marijuana beyond a reasonable doubt.

[136] A59-61, A143, A160.
[137] A143, A160.

CONCLUSION

Based on the facts and legal authorities set forth above, Appellant Hakeem Miles respectfully requests that this Honorable Court either reverse his conviction and remand for a new trial where appropriate or vacate his conviction where appropriate.

Respectfully Submitted,

/s/ Christina L. Ruggiero
Christina L. Ruggiero (#6322)
Eugene J. Maurer, Jr., P.A.
1201-A King Street
Wilmington, Delaware 19801
(302) 652-7900
Attorney for Appellant,
Defendant Below

Dated: May 11, 2018

Exhibit A

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

VS.

HAKEEM MILES

Alias: See attached list of alias names.

DOB: 12/31/1984
SBI: 00369810

CASE NUMBER:
N1703001283

IN AND FOR NEW CASTLE COUNTY
CRIMINAL ACTION NUMBER:
IN17-03-0884
POSS D/W & DRUG(F)

Nolle Prosequi on all remaining charges in this case
ALL SENTENCES OF CONFINEMENT SHALL RUN CONSECUTIVE

SENTENCE ORDER

NOW THIS 15TH DAY OF DECEMBER, 2017, 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 IN17-03-0884- : TIS
POSS D/W & DRUG

Effective December 15, 2017 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for 2 year(s) at supervision level 5

- Suspended for 1 year(s) at supervision level 2

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
HAKEEM MILES
DOB: 12/31/1984
SBI: 00369810

CASE NUMBER:
1703001283

The Defendant is to pay all financial obligations pursuant to a schedule established by probation officer.

Forfeit firearm seized

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 CALVIN L SCOTT JR

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
HAKEEM MILES
DOB: 12/31/1984
SBI: 00369810

CASE NUMBER:
1703001283

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	75.00
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	100.00
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	
AMBULANCE FUND FEE	
TOTAL	302.00

LIST OF ALIAS NAMES

STATE OF DELAWARE
VS.
HAKEEM MILES
DOB: 12/31/1984
SBI: 00369810

CASE NUMBER:
1703001283

HAKEENA MILES

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAKEEM MILES	:	
	:	No. 558, 2017
Defendant Below	:	
Appellant,	:	ON APPEAL FROM
	:	THE SUPERIOR COURT OF THE
v.	:	STATE OF DELAWARE
	:	IN AND FOR NEW CASTLE COUNTY
	:	I.D. No. 1703001283
STATE OF DELAWARE,	:	
	:	
Plaintiff Below-	:	
Appellee.	:	

CERTIFICATE OF COMPLIANCE WITH
TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

FILING ID 62019256

1. This brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Pages (Version 6.0.5).

2. This brief complies with the type-volume limitation of Rule 14(d)(i) because it contains 8,743 words, which were counted by Pages (Version 6.0.5).