



IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARNELL MARTIN,)	
)	
Defendant Below,)	
Appellant,)	
)	No. 301, 2024
v.)	
)	
STATE OF DELAWARE,)	
)	
Plaintiff Below,)	
Appellee.)	

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

APPELLANT'S REPLY BRIEF

**THE LAW OFFICE OF
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DATED: October 28, 2024

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ARGUMENT

CLAIM I. THE SUPERIOR COURT ERRED IN DENYING MR. MARTIN'S MOTION FOR POSTCONVICTION RELIEF DESPITE THAT TRIAL COUNSEL FAILED TO RESEARCH AND FIND CASE LAW REGARDING THE STRENGTH OF ODOR OF MARIJUANA THAT UNEQUIVOCALLY CONTRADICTED THE SUPPRESSION JUDGE'S BASIS FOR DENYING HIS MOTION TO SUPPRESS.

In its Answering Brief, the State contends that regardless of its strength, the officer's detection of *any* odor of marijuana was sufficient to give rise to probable cause and "the existence of a medical marijuana card would not have affected the analysis."¹ Yet, the trial court's analysis of Appellant's suppression motion flatly contradicts the State's claim: "And so then the question becomes . . . what is the effect of the defendant having a medical marijuana card or permission to use medical marijuana, and then, so, *there is a limitation of how much medical marijuana can be possessed.*"² Appellant's medical marijuana card was directly relevant to the Superior Court's consideration of his suppression claim, and the trial court's ultimate determination of the issue turned on the strength of the odor present.³

¹ Ans. Br. at 11.

² A111 (emphasis added).

³ See A111-12.

The holdings of the cases relied upon by Mr. Martin in his postconviction motion and here on appeal deal with the scientific reality that the pungency of an odor has no correlation to the amount of marijuana present. Appellant does not rely upon legal analyses regarding the intricacies of probable cause or interpretations of statutory or constitutional provisions, but rather facts of nature. As the prosecution conceded in *Robinson v. State*, “it is effectively impossible for law enforcement officers to identify a quantity of marijuana based on odor alone.”⁴

The State’s focus on the ultimate holdings of the *Overmyer* and *Robinson* Courts that the odor of marijuana is relevant to a probable cause determination misses the crux of Appellant’s argument.⁵ Of course the odor of marijuana can help give rise to probable cause; Mr. Martin has never argued otherwise. Trial Counsel’s failure, though, was failing to challenge the State’s contention during the suppression hearing that the strength of the odor detected by the officer indicated that Mr. Martin was in possession of an amount of marijuana beyond that which he was legally permitted to possess due to his status as a medical marijuana cardholder. Had Trial Counsel researched what link, if any, existed between the pungency of an odor and the amount of marijuana present, he would have been

⁴ *Robinson v. State*, 152 A.3d 661, 683 (Md. 2017).

⁵ See Ans. Br. at 13-14 (discussing *Commonwealth v. Overmyer*, 11 N.E.3d 1054 (Mass. 2014), and *Robinson*, 152 A.3d 661).

prepared to disabuse the Court of the notion that any such correlation exists. Given that the suppression judge's decision to deny Mr. Martin's motion turned directly on that issue, reasoning "it[is] logical to assume that that order of magnitude [of a large quantity of drugs] would create a greater aroma . . . which I think is sufficient to justify the vehicle search."⁶

Trial Counsel was not prepared to rebut such an assumption. Had he researched the issue, he could have argued that cases such as *Overmyer* and *Robinson* did not support the trial court's conclusion since, scientifically, there is no link between the strength of an odor and the amount of marijuana present. Had Trial Counsel been armed with such knowledge, the suppression court would not have reached its faulty conclusion and, instead, granted Mr. Martin's motion to suppress. As such, Mr. Martin is entitled to postconviction relief.

⁶ A112.

CONCLUSION

For the reasons stated in his Opening Brief and herein, Mr. Martin respectfully requests that this Honorable Court reverse the judgment of the Superior Court.

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