



IN THE SUPREME COURT OF THE STATE OF DELAWARE

KHIHEIM HANZER,	)	
	)	
Defendant Below,	)	
Appellant,	)	
	)	No. 496, 2025
v.	)	
	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff Below,	)	
Appellee.	)	

APPELLANT'S OPENING BRIEF

**ON APPEAL FROM THE SUPERIOR COURT IN AND OF NEW
CASTLE COUNTY**

Santino Ceccotti, Esquire [#4993]
Office of the Public Defender
Carvel State Building
820 N. French St.
Wilmington, Delaware 19801
(302) 577-5150

Attorney for Appellant

DATE: May 18, 2026

TABLE OF CONTENTS

TABLE OF CITATIONS	ii
SUMMARY OF THE ARGUMENT.....	1
NATURE AND STAGE OF THE PROCEEDINGS.....	2
STATEMENT OF FACTS	3
ARGUMENT	
I. BECAUSE POLICE RELIED UPON AN INVALID CAPIAS, FAILED TO CORROBORATE ANY ACTUAL CRIMINAL ACTIVITY, AND POSSESSED NO REASONABLE ARTICULABLE SUSPICION JUSTIFYING THE SEIZURE, THE SUPERIOR COURT ERRED IN DENYING SUPPRESSION.....	6
CONCLUSION	18
Oral Ruling Denying Suppression Of Evidence	Exhibit A
Sentence Order.....	Exhibit B

TABLE OF CITATIONS

Cases

<i>Caldwell v. State</i> , 780 A.2d 1037 (Del. 2001)	8
<i>Dorsey v. State</i> , 761 A.2d 807 (Del. 2000)	7
<i>Harris v. State</i> , 806 A.2d 119 (Del. 2002)	13, 14
<i>Hudson v. State</i> , 23 A.3d 865, 2011 WL 2651089 (Del. July 6, 2011) ..	13
<i>Jones v. State</i> , 745 A.2d 856 (Del. 1999)	7
<i>Juliano v. State</i> , 254 A.3d 369 (Del. 2020)	16
<i>King v. State</i> , 633 A.2d 370 (Del. 1993)	10, 11
<i>Lopez-Vazquez v. State</i> , 956 A.2d 1280 (Del. 2008)	6, 13
<i>Mapp v. Ohio</i> , 367 U.S. 643 (1961))	7
<i>McDougal v. State</i> , 314 A.3d 1077 (Del. 2024)	13
<i>Register v. State</i> , 337 A.3d 1224 (Del. 2024)	7, 13
<i>Riley v. State</i> , 892 A.2d 370 (Del. 2006)	13
<i>State v. Heath</i> , 929 A.2d 390 (Del. Super. Ct. 2006)	16
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968)	7, 8
<i>United States v. Cortez</i> , 449 U.S. 411 (1981)	8
<i>Whren v. United States</i> , 517 U.S. 806 (1996)	16

Constitutional Provisions

U.S. Const., Amend. IV	<i>passim</i>
------------------------------	---------------

Del. Const., Art. I, § 6	<i>passim</i>
--------------------------------	---------------

Other Sources

Holland, Randy J., <i>The Delaware State Constitution: A Reference Guide 36</i> (Greenwood Press 2002)	8
--	---

SUMMARY OF THE ARGUMENT

1. The Superior Court erred in denying Mr. Hanzer's motion to suppress because police seized him based upon an invalid capias and weakly corroborated suspicion that failed to establish reasonable articulable suspicion under the Fourth Amendment and Article I, § 6 of the Delaware Constitution. Although Detective Clancy later claimed a confidential informant reported drug activity, officers never observed any hand-to-hand transaction or independently corroborated criminal conduct. Instead, officers repeatedly stated the stop was "about capias," and the State later conceded the capias should have been discharged before the stop occurred. Thus, even apart from the invalid capias, the narcotics investigation itself lacked the objective and particularized facts necessary to justify the seizure. This case resembles Delaware decisions rejecting stops based upon generalized suspicion and ambiguous conduct rather than contemporaneously corroborated criminal activity. Because Delaware does not recognize a broad good-faith exception to unlawful seizures, suppression was required, and the Superior Court's denial of suppression should be reversed.

NATURE AND STAGE OF THE PROCEEDINGS

On January 13, 2025, Khiheim Hanzer (“Mr. Hanzer”) was indicted for Possession of a Firearm During the Commission of a Felony (“PFDCF”), Possession of a Firearm by a Person Prohibited (“PFBPP”), Possession of Ammunition by a Person Prohibited (“PABPP”), Carrying a Concealed Deadly Weapon (“CCDW”), Drug Dealing, and two counts of Possession of a Controlled Substance. Indictment. The State *nolle prossed* one count of Possession of a Controlled Substance. D.I. #10.

On April 8, 2025, Mr. Hanzer filed a Motion to Suppress evidence. D.I. #18. The State responded on April 29, 2025. D.I. #23. After briefing and an evidentiary hearing held on April 30, 2025, the Superior Court denied the motion for reasons stated on the record. D.I. #25. (*See Oral Ruling, attached as Ex. A*).

A three-day jury trial commenced on August 4, 2025. The court granted the defense motion to sever PFBPP and PABPP charges, resulting in separate proceedings under Criminal Action Nos. 2409005987A and 2409005987B. D.I. #37. Mr. Hanzer was convicted on all counts. D.I. #44. On November 12, 2025, Mr. Hanzer was sentenced to 64 years at Level 5 followed by various levels of probation (*See Sentence Order, attached as Ex. B*).

Mr. Hanzer filed a timely notice of appeal. This is his opening brief in support of that appeal.

STATEMENT OF FACTS

On September 11, 2023, Detective Clancy (“Clancy”) of the Dover Police Department received information from a confidential informant (“CI”). The CI reported that a Black male known as “Benji” was riding an electric bicycle in the area of South New Street in Dover, Delaware, was in possession of a black semiautomatic handgun, and was conducting hand-to-hand drug transactions. (A94). The CI contacted Clancy by cell phone through calls and text messages sometime between approximately 5:18 p.m. and 6:18 p.m. (A93; A101).

Clancy acknowledged, however, that he never included any allegation of hand-to-hand drug transactions in his probable cause affidavit, police report, or preliminary hearing testimony. (A94). He conceded that allegations of hand-to-hand drug transactions would have been important information to document. (A108). Although he documented the allegation that Mr. Hanzer possessed a firearm, he omitted any allegation concerning drug activity. (A107-108).

The CI did not provide Clancy with a specific location on South New Street. Clancy testified that the CI merely stated that Mr. Hanzer was on “South New Street,” and conceded that Mr. Hanzer therefore “could have been anywhere on South New Street.” (A95). Using downtown surveillance cameras, Clancy located a person matching the CI’s description standing on a bicycle in

the middle of South New Street. (A96). Portions of South New Street were obscured by trees and camera limitations, creating blind spots where officers could not observe activity. (A97). Several nearby cameras were either malfunctioning, fixed in place, or produced footage of poor quality. (A98-100). Clancy also acknowledged that officers failed to preserve the downtown surveillance footage from the relevant time period. (A102-103).

Before leaving the station, Clancy conducted a DELJIS search and learned that Mr. Hanzer had an active capias issued by Justice of the Peace Court 2 for failure to pay a financial obligation. (A48). Clancy testified that he left the station intending to apprehend Mr. Hanzer on that capias. (A103). At the suppression hearing, the State conceded that the capias should have been discharged before Mr. Hanzer's arrest.¹ (A120).

At the preliminary hearing, Clancy testified that officers stopped Mr. Hanzer because of the JP Court capias and did not mention any CI information. (A29). Likewise, when officers stopped Mr. Hanzer on September 11, 2023, Clancy repeatedly told him the stop was "about capias." (A110). Clancy acknowledged at the suppression hearing that the capias "allow[ed] us to attempt to protect the CI's identity a little bit better." (A106-107).

¹ On August 12, 2024, the \$2 balance remaining for financial obligations in Case No. 2206011011 was discharged. Despite the balance being discharged, JP Court 2, in error, failed to clear the capias. On September 12, 2024, the day after Defendant's arrest, the erroneous capias was cleared by JP Court 2. (A42; A59).

Police ultimately encountered Mr. Hanzer in the Big Lots parking lot on North DuPont Highway at approximately 7:04 p.m., between forty-six minutes and one hour and forty-six minutes after the CI first contacted Clancy. (A111). Mr. Hanzer was observed getting off his bicycle and entering the front right passenger seat of a white Chevy Silverado truck. (A80).

Although Clancy reported that Mr. Hanzer's movements inside the vehicle appeared consistent with a drug transaction, he admitted that he never observed Mr. Hanzer engage in any hand-to-hand transaction. (A96; A102). The officers blocked the vehicle in so that Mr. Hanzer could not leave. (A110). Clancy agreed that Mr. Hanzer was not free to leave once officers blocked the passenger side of the vehicle. (A110). Officers approached the vehicle with weapons drawn and ordered both occupants to raise their hands.

Following the stop, officers searched Mr. Hanzer and recovered narcotics and a loaded handgun. (A117). The items recovered ultimately formed the basis for the crimes charged.

I. BECAUSE POLICE RELIED UPON AN INVALID CAPIAS, FAILED TO CORROBORATE ANY ACTUAL CRIMINAL ACTIVITY, AND POSSESSED NO REASONABLE ARTICULABLE SUSPICION JUSTIFYING THE SEIZURE, THE SUPERIOR COURT ERRED IN DENYING SUPPRESSION.

Question Presented

Whether the warrantless seizure of Mr. Hanzer violated the Fourth Amendment and Article I, Section 6 where police used an invalid capias to justify a stop otherwise based only upon generalized suspicion and conduct merely “consistent with” criminal activity? The issue was preserved by a motion to suppress. (A39).

Standard And Scope Of Review

When reviewing a denial of a motion to suppress evidence, this Court reviews the trial court’s legal conclusions *de novo*. When reviewing the trial court’s factual findings, this Court determines whether the trial court abused its discretion in deciding whether there was sufficient evidence to support the findings and whether those findings were clearly erroneous.²

Argument

This Court, on *de novo* review, should reverse the Superior Court's finding that the officers’ actions were not violative of the Delaware or U.S. Constitution based on an unjustified seizure. The rights of Delaware citizens in public places to

² *Lopez-Vazquez v. State*, 956 A.2d 1280 (Del. 2008).

be free from arbitrary police practices are secured by two constitutional provisions. The United States Constitution provides that individuals are to be free from unreasonable searches and seizures.³ The Due Process Clause of the Fourteenth Amendment applies this right to the states.⁴ Article I, § 6 of the Delaware Constitution also provides protection against unreasonable searches and seizures.⁵

The Delaware Constitution provides even greater protections than the Federal Constitution. It is also well-settled law that Delaware does not recognize a good faith exception to the warrant requirement. “Exclusion is the constitutional remedy for a violation of the search and seizure protections set forth in Article I Section 6 of the Delaware Constitution.”⁶ “Simple ‘good faith on the part of the arresting officer is not enough.’⁷ While, Delaware cannot give fewer rights to its citizens than the Federal Government, it can give more rights. This Court has firmly held that exclusion of evidence from trial is the required remedy for a violation of the Delaware Constitution's protection against illegal searches and seizures. *Id.* at 872.⁸

³ U.S. Const. amend. IV.

⁴ *Mapp v. Ohio*, 367 U.S. 643, 655 (1961).

⁵ See also *Jones v. State*, 745 A.2d 856, 860 (Del. 1999).

⁶ *Dorsey v. State*, 761 A.2d 807, 821 (Del. 2000).

⁷ *Register v. State*, 337 A.3d 1224, 1249 n.87 (Del. 2025)(citing *Terry v. Ohio*, 392 U.S. 1, 22 (1968)).

⁸ Delaware's 1776 Declaration of Rights contains Delaware's early search and seizure protection for its citizens. These protections were codified in Section 17 of that document, which stated: “That all warrants without oath to search suspected

The Fourth Amendment of the United States Constitution allows police officers to stop an individual for investigatory purposes if the officer has a “reasonable articulable suspicion that the individual to be detained is committing, has committed, or is about to commit a crime.”⁹ Moreover, the actions of an officer may not exceed the proper scope of the seizure and any additional intrusive measures must be supported by independent facts, known to the officer at the time.¹⁰ A reasonable suspicion has been defined by the United States Supreme Court as an officer's ability to “point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant[s] the intrusion.”¹¹ To determine if reasonable articulable suspicion exists, the Court “must examine the totality of the circumstances surrounding the situation as viewed through the eyes of a reasonable, trained police officer in the same or similar circumstances, combining objective facts with such an officer's subjective interpretation of those facts.”¹²

places or to seize any person or his property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend all persons suspected, without naming or describing the place or any person in special, are illegal and ought not to be granted.” See Holland, Randy J., *The Delaware State Constitution: A Reference Guide* 36 (Greenwood Press 2002).

⁹ *State v. Henderson*, 892 A.2d 1061, 1064 (Del. 2006) (citing *Terry v. Ohio*, 392 U.S. 1, 30 (1968)).

¹⁰ *Caldwell v. State*, 780 A.2d 1037, 1046 (Del. 2001).

¹¹ *Terry*, 392 U.S. at 21.

¹² *United States v. Cortez*, 449 U.S. 411, 417-18 (1981).

The backdrop of this case is unique and rather troubling because the alleged legal basis for the stop was objectively invalid, was repeatedly invoked contemporaneously and was admittedly useful for concealing the actual investigative purpose. The defense's initial theory was that the seizure was unlawful because it was premised on an invalid capias. The motion alleged that although a capias for failure to pay had been issued by Justice of the Peace Court 2 in March 2024, the underlying financial obligation was fully discharged on August 12, 2024; nearly one month before the September 11, 2024 arrest; and that the capias remained outstanding only due to clerical error. (A42). The capias was cleared the day after Mr. Hanzer's arrest. The defense argued that because the warrant was invalid at the time of the stop, officers lacked lawful authority to seize Mr. Hanzer and that all evidence recovered was the fruit of an unconstitutional search and seizure under Article I, Section 6 of the Delaware Constitution and the Fourth Amendment of the US Constitution. (A42).

The constitutional deficiencies in this case are further underscored by the evolution of the State's justification for the seizure over time. In its response to the Motion to Suppress, the State pivoted and disclosed for the first time that the stop and arrest were not dependent on the existence of the capias. (A59). Instead, the State asserted that officers had independent probable cause to arrest Mr. Hanzer based on the confidential informant's tip; corroborated by surveillance

observations and officer experience; that Mr. Hanzer was armed and actively engaged in drug dealing. The State argued that even if the *capias* were invalid, the arrest and subsequent searches were lawful because probable cause existed independent of the warrant. (A62). The Superior Court denied the Motion to Suppress, accepting the State's position that officers possessed probable cause to arrest Mr. Hanzer independent of the *capias* and that the seizure and searches were constitutionally permissible. (A152). Both the State and the Superior Court relied heavily on this Court's decision in *King v. State*¹³ for arguing against suppression. (A121; A149).

Reliance on *King* is vulnerable because *King* involved materially stronger indicia of reliability, immediacy, and corroboration than exist here. Unlike the officers in *King*, the police here lacked sufficiently reliable and contemporaneous information establishing probable cause or reasonable suspicion at the time Mr. Hanzer was seized. In *King*, this Court emphasized that officers received information from a "past proven reliable confidential informant" who had provided reliable information "on numerous occasions in the past," including a precise physical description and exact location of a suspect allegedly possessing "a large amount of crack cocaine." *Id* at *2. Officers immediately responded to the scene and observed the suspect exactly where and how the informant described him. *Id*.

¹³ 633 A.2d 370 (Del. 1993).

Under those circumstances, the Court found that the informant's tip, coupled with immediate police corroboration, established probable cause. *Id.*

The circumstances here bear little resemblance to *King*. For example, Clancy admitted that the CI merely reported that Mr. Hanzer was somewhere on "South New Street" and conceded that Mr. Hanzer "could have been anywhere on South New Street." (A95). Unlike *King*, the CI did not provide a precise location capable of immediate corroboration. Nor did officers observe conduct independently corroborating criminal activity. Although Clancy later characterized Mr. Hanzer's movements as "consistent with" a drug transaction, he admitted he never observed any actual hand-to-hand transaction. (A96; A102).

Further undermining reliability, Clancy omitted the CI's alleged claim regarding hand-to-hand drug dealing from every contemporaneous official record, including the police report, probable cause affidavit, and preliminary hearing testimony. (A94; A106-107). Clancy acknowledged that such information would have been important to document. (A108). The omission is significant because the alleged drug dealing allegation became central only later, after the State's response to the Motion to Suppress. Unlike *King*, where the informant's allegations were consistently documented and immediately corroborated, the alleged criminal conduct here was unsupported by contemporaneous records and never independently verified by police observation.

Moreover, the record reflects that the officers' own conduct demonstrates uncertainty regarding the legal basis for the stop. Clancy repeatedly informed Mr. Hanzer that the detention was "about capias," and previously testified at the preliminary hearing that officers stopped Mr. Hanzer because of the JP Court capias without mentioning any CI information whatsoever. (A29). The State later conceded that the capias should have been discharged before the arrest. (A120). Clancy further admitted that reliance on the capias allowed officers to "protect the CI's identity." (A106-107). Unlike *King*, where police openly acted on a corroborated narcotics tip establishing probable cause, the record here reflects shifting and inconsistent justifications for the seizure. Accordingly, *King* does not control. The corroborated, immediate, and highly specific informant tip present in *King* is absent here, and the officers lacked the objective, reliable basis necessary to justify the warrantless seizure of Mr. Hanzer.

Delaware reasonable-suspicion jurisprudence draws a constitutional distinction between cases involving objectively corroborated criminal conduct and those resting upon generalized suspicion, hindsight interpretation, and conduct equally consistent with innocent behavior. This case falls squarely within the latter category.

This Court has upheld investigative detentions where officers observed specific conduct meaningfully corroborating criminal activity in real time. In cases

such as *Register v. State*,¹⁴ *Hudson v. State*,¹⁵ and *King*, officers observed conduct directly associated with narcotics trafficking, corroborated detailed informant information, or witnessed contemporaneous interactions objectively indicative of criminal activity. Those cases rested upon identifiable facts capable of objective judicial review, not retrospective officer intuition.

By contrast, this court has rejected seizures premised upon conduct merely “consistent with” criminal activity where meaningful corroboration is lacking. Decisions such as *Lopez-Vazquez v. State*,¹⁶ *Riley v. State*,¹⁷ *Harris v. State*,¹⁸ and *McDougal v. State*¹⁹ reflect this Court’s repeated warning that constitutional protections cannot depend upon an officer’s unsupported assertion that innocent conduct appeared suspicious in hindsight.

That distinction is dispositive here. Officers never observed Mr. Hanzer engage in a hand-to-hand transaction, exchange narcotics or money, or otherwise engage in independently verifiable criminal conduct. Clancy conceded only that Mr. Hanzer’s movements appeared “consistent with” a drug transaction. (A96). But entering a parked vehicle, moving inside a car, riding a bicycle, or being somewhere on South New Street are facially innocent acts absent reliable

¹⁴ 337 A.3d 1224 (Del. 2024).

¹⁵ 23 A.3d 865, 2011 WL 2651089 (Del. July 6, 2011).

¹⁶ 956 A.2d 1280 (Del. 2008).

¹⁷ 892 A.2d 370 (Del. 2006).

¹⁸ 806 A.2d 119 (Del. 2002).

¹⁹ 314 A.3d 1077 (Del. 2024).

corroboration connecting them to criminal activity.

The lack of objective corroboration is compounded by the officers' shifting explanations for the stop. Officers repeatedly informed Mr. Hanzer the stop was "about capias." (A110). At the preliminary hearing, Detective Clancy testified the stop was based upon the JP Court capias and omitted any mention of CI information. (A106). Only after the State conceded the capias should have been discharged did the alleged CI information become the primary justification for the seizure. (A120). The evolution of the State's theory illustrates precisely why Delaware courts require objective corroboration rather than post hoc rationalizations built upon ambiguous conduct.

Indeed, the facts here present a weaker case for reasonable suspicion than many Delaware cases where suppression was nevertheless required. Officers relied upon a vague and weakly corroborated CI allegation, incomplete and unpreserved surveillance footage, an invalid capias, and conduct that Clancy admitted never included an observed transaction. The totality of those circumstances amounts, at most, to an "inchoate and unparticularized suspicion or hunch,"²⁰ not the specific and articulable facts required to justify a warrantless seizure under the Fourth Amendment or Article I, Section 6 of the Delaware Constitution.

Thus, Mr. Hanzer's detention and subsequent arrest violated the well-worn

²⁰ *Harris*, 806 A.2d at 122.

tenets of both the United States and Delaware protections against unlawful search and seizure. Consequently, all evidence obtained as a result of the unlawful seizure should have been suppressed.

Finally, Mr. Hanzer would be remiss without arguing that the stop was impermissibly pretextual under Article I, Section 6 of the Delaware Constitution. This case presents the constitutional dangers inherent in pretextual policing: officers repeatedly invoked an invalid capias as the basis for the seizure while simultaneously conducting a narcotics investigation unsupported by objectively corroborated criminal conduct.

Before leaving the station, Clancy learned that Mr. Hanzer allegedly had an active Justice of the Peace Court capias and testified that he intended to apprehend Mr. Hanzer on that basis. (A103). Officers repeatedly informed Mr. Hanzer the stop was “about capias.” (A110). Likewise, at the preliminary hearing, Clancy testified the stop was based upon the capias while omitting any reference to CI information or suspected narcotics activity. (A106). The State later conceded the capias should have been discharged before the stop occurred. (A120). Most significantly, Clancy acknowledged the capias “allow[ed] us to attempt to protect the CI’s identity a little bit better.” (A106-107). That admission demonstrates the capias functioned as the outward justification for an investigative narcotics stop officers sought to conduct without disclosing the alleged CI basis for the seizure.

Delaware courts have recognized the constitutional concerns posed by pretextual seizures. In *State v. Heath*,²¹ the Superior Court explained that Article I, Section 6 protects against “purely pretextual” stops where officers use one asserted legal justification to investigate unrelated suspected criminal activity unsupported by adequate constitutional grounds. This Court has likewise acknowledged the continuing constitutional significance of pretext analysis under Article I, Section 6. See *Juliano v. State*.²²

This case differs materially from ordinary pretext cases involving objectively lawful stops under *Whren v. United States*²³ because the justification repeatedly invoked by officers here was concededly invalid. Once the *capias* failed, the State attempted to reconstruct reasonable suspicion through allegations omitted from contemporaneous police records and unsupported by direct observation of criminal activity. Indeed, the record strongly suggests the officers themselves recognized the weakness of the narcotics basis for the stop. Officers never observed any actual hand-to-hand transaction, exchange of narcotics, or exchange of money. (A96; A102). If the CI information independently established reasonable suspicion, there would have been little reason to repeatedly characterize the stop as “about *capias*,” omit the CI

²¹ 929 A.2d 390, 401–03 (Del. Super. Ct. 2006).

²² 254 A.3d 369, 377–79 (Del. 2020).

²³ 517 U.S. 806 (1996).

allegations from the preliminary hearing, and later acknowledge that the capias served to shield the CI investigation.

Permitting the seizure under these circumstances would erode the protections guaranteed by Article I, Section 6 by allowing officers to rely upon defective legal process as a substitute for constitutionally adequate suspicion. Because the stop was also impermissibly pretextual, the evidence recovered following the seizure must be suppressed.

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Khiheim Hanzer's convictions should be reversed.

\s\ Santino Ceccotti
Santino Ceccotti, Esquire

DATE: May 18, 2026