



IN THE SUPREME COURT OF THE STATE OF DELAWARE

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

ON APPEAL FROM THE SUPERIOR COURT  
OF THE STATE OF DELAWARE

**STATE'S ANSWERING BRIEF**

Kenneth J. Nachbar (#2067)  
Deputy Attorneys General  
Delaware Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500

Date: June 17, 2026

## TABLE OF CONTENTS

|                                                                                            | PAGE |
|--------------------------------------------------------------------------------------------|------|
| Table of Citations .....                                                                   | ii   |
| Nature of the Proceedings .....                                                            | 1    |
| Summary of Argument .....                                                                  | 4    |
| Statement of Facts.....                                                                    | 5    |
| Argument                                                                                   |      |
| I.    THE TRIAL COURT PROPERLY DENIED HANZER’S<br>MOTION TO SUPPRESS .....                 | 9    |
| A. The Legal Standard for Warrantless Arrests.....                                         | 10   |
| B. A Tip From a Reliable Informant Can be the Basis for a<br>Valid Warrantless Search..... | 11   |
| C. Because Hanzer’s Arrest Was Legal, the Motion to<br>Suppress Was Properly Denied.....   | 17   |
| D. Hanzer’s Arguments Do Not Compel a Different Result .....                               | 18   |
| Conclusion .....                                                                           | 29   |

## **TABLE OF CITATIONS**

### **Cases**

|                                                                                                  |               |
|--------------------------------------------------------------------------------------------------|---------------|
| <i>Brown v. State</i> , 897 A.2d 748 (Del. 2006).....                                            | 11            |
| <i>Edgar v. State</i> , 2017 WL 5501314 (Del. Nov. 14, 2017) .....                               | 9             |
| <i>Garnett v. State</i> , 308 A.3d 625 (Del. 2023) .....                                         | 9             |
| <i>Hall v. State</i> , 14 A.3d 512 (Del. 2011) .....                                             | 9             |
| <i>Harris v. State</i> , 806 A.2d 119 (Del. 2002).....                                           | 17, 25, 26    |
| <i>Jackson v. State</i> , 643 A.2d 1360 (Del. 1994), cert. denied,<br>513 U.S.1136 (1995)) ..... | 11            |
| <i>Jones v. State</i> , 745 A.2d 856 (Del. 1999) .....                                           | 17            |
| <i>Juliano v. State</i> , 254 A.3d 369 (Del. 2020). .....                                        | 20            |
| <i>Juliano v. State</i> , 260 A.3d 619 (Del. 2021) .....                                         | 11, 16        |
| <i>King v. State</i> , 1993 WL 445484 (Del. 1993) .....                                          | 12, 22        |
| <i>Lopez-Vazquez v. State</i> , 956 A.2d 1280 (Del. 2008) .....                                  | 24            |
| <i>McDougal v. State</i> , 314 A.3d 1077 (Del. 2024) .....                                       | 9, 10, 24, 25 |
| <i>Register v. State</i> , 337 A.3d 1224 (Del. 2024) .....                                       | 9, 10         |
| <i>Riley v. State</i> , 892 A.2d 370 (Del. 2006) .....                                           | 25            |

*State v. Thompson*, 539 A.2d 1052 (Del. 1988).....11

*Whren v. United States*, 517 U.S. 806 (1996)..... 20, 21

**Other Authorities**

11 *Del. C.* §1904 .....10

## **NATURE OF THE PROCEEDINGS**

On September 11, 2024, Dover Police Corporal Bradyn Clancy received a tip from a known, reliable informant that a person known as “Benji,” who the informant later matched to a photo of Khiheim Hanzer, a “person prohibited,” was carrying a black semiautomatic firearm, and in possession of drugs, and was riding an electric bicycle, on South New Street in Dover. Corporal Clancy almost immediately located a person matching the informant’s description riding electric bicycle on a South New Street surveillance camera. Before seeking to apprehend Hanzer, Corporal Clancy ran a DELJIS check which confirmed that Hanzer was a “person prohibited” and also stated (erroneously as was later discovered) that Hanzer had an outstanding capias. Approximately 45 minutes later (and approximately an hour after the initial tip), Corporal Clancy and his partner observed Hanzer approximately two miles from South New Street. Hanzer was wearing the same clothes and riding the same electric bicycle that had been seen on the surveillance camera. Corporal Clancy and his partner saw Hanzer get off his bicycle and enter the passenger side of a white pickup truck. Corporal Clancy and his partner pulled up to the passenger side of the truck in a way that would prevent Hanzer’s escape and confronted him. They saw that he had drugs in plain sight, and saw the butt of a black handgun protruding from Hanzer’s pants pocket. The officers took Hanzer into custody.

On January 13, 2025, Hanzer was indicted for Possession of a Firearm During the Commission of a Felony (“PFDCF”), Possession of a Firearm by a Person Prohibited (“PFBPP”), Carrying a Concealed Deadly Weapon (“CCDW”), Drug Dealing and two counts of Possession of a Controlled Substance. D.I. 7. The State entered a *nolle prosequi* as to one count of Possession of a Controlled Substance. D.I. 10.

On April 8, 2025, Hanzer filed a Motion to Suppress Evidence. D.I. 19; A40-56. The State filed its response on April 29, 2025. D.I. 23; A57-64. After an evidentiary hearing and argument held on April 30, 2025, the Superior Court denied the motion for the reasons stated on the record. A147-53.<sup>1</sup>

The Superior Court granted Hanzer’s motion to sever the “Person Prohibited” counts, resulting in a separate proceeding on those counts. D.I. 35. A three-day jury trial on the non-“person prohibited” counts occurred on August 4-6, 2025, followed by a bench trial on the remaining counts. Hanzer was convicted of all charges. D.I. 44. On November 12, 2025, the Superior Court sentenced Hanzer to 64 years at Level V followed by various levels of probation. See OB Ex. B (Sentence Order).

---

<sup>1</sup> Exhibit A to the Opening Brief, which Hanzer represents to be the Superior Court's ruling on his Motion to Suppress (OB 2), in fact contains only the portion of that ruling that appears at A152.

Hanzer filed a timely notice of appeal and Opening Brief (“OB”). The sole issue raised by Hanzer is whether the Motion to Suppress was properly denied. This is the State’s answering brief in opposition to Hanzer’s appeal.

## SUMMARY OF ARGUMENT

I. Denied. Evidence seized during a lawful arrest is properly admitted into evidence. Here, Hanzer's seizure and arrest was not justified by the *capias*, which had been discharged and remained listed in DELJIS only because of an administrative error. However, Hanzer's arrest was clearly justified based on the specific information provided by the known and reliable confidential informant. Contrary to Hanzer's characterization, this case does not resemble Delaware decisions rejecting stops "based upon generalized suspicion and ambiguous conduct rather than contemporaneously corroborated criminal activity." OB 1. Rather, the case is almost identical to *King v. State*, which upheld the seizure and subsequent search of a suspect based upon specific information provided by a known, identified, and reliable confidential informant. Here, the known and reliable informant told Corporal Clancy the name of the individual, the weapon he possessed (a black semiautomatic handgun), the clothes he was wearing (a black skullcap and sunglasses), the fact that he was riding electric bicycle, and his location (South New Street). The informant then identified a photograph of Hanzer as the person he had seen. Under *King v. State*, the information provided by the informant established probable cause for the arrest, and Hanzer's Motion to Suppress was therefore correctly denied.



## STATEMENT OF FACTS

### A. The Informant's Tip

On the afternoon or early evening of September 1, 2024, Corporal Clancy received a tip from a confidential informant that a person that the informant knew as “Benji” was in possession of illicit drugs and an illegal handgun. A73. The confidential informant advised Corporal Clancy that the illicit drugs were “hard and bags”, which Corporal Clancy understood to be crack cocaine and heroin. A75. The confidential informant advised Corporal Clancy that the firearm was a black semi-automatic handgun, which Hanzer was carrying in his pocket. A74. The exact time of the initial tip from the informant is not in the record, but Corporal Clancy testified that the informant’s initial contact occurred approximately one hour before Hanzer was located. A93.<sup>2</sup> The confidential informant was well known to Corporal Clancy and had provided information in approximately 20 prior cases that had led to firearm

---

<sup>2</sup> Hanzer was apprehended at 7:04 on September 11, 2024 (A55), so Corporal Clancy’s testimony would indicate that the tip was received at around 6 p.m. that day. This is consistent with Corporal Clancy’s testimony that he saw Hanzer on a surveillance camera shortly after receiving the tip (A101), as the evidence shows that the surveillance camera observation occurred at 6:18 on September 11. A48. Corporal Clancy agreed on cross-examination that less than an hour passed between the initial tip and when he saw the person matching Hanzer's description on the Dover surveillance camera at 6:18 p.m. A101. Thus, the record as a whole indicates that Corporal Clancy received the tip at approximately 6 p.m. on September 11 2024, and certainly no earlier than 5:18 p.m. that day. A111.

and drug arrests. A75. The confidential informant advised Corporal Clancy that “Benji” was riding an electric bicycle on South New Street in Dover. A73; A95. The confidential informant further advised Corporal Clancy that “Benji” was wearing a black skullcap and sunglasses. A74.

Corporal Clancy knew that Hanzer went by the name “Benji,” and he texted a photo of Hanzer to the confidential informant. A73-74. The confidential informant identified the person in the photo as the person named “Benji” who he had described. A74.

#### B. Corporal Clancy and Detective Jackson Search For and Locate Hanzer

After confirming Hanzer’s identity, Corporal Clancy called up surveillance cameras from downtown Dover and, at 6:18 p.m., saw an individual matching the description provided by the confidential informant riding an electric bicycle near South New Street. A48; A77. Corporal Clancy consulted DELJIS before setting out to pursue Hanzer. The search confirmed that Hanzer had prior felony convictions and was thus a person prohibited from possessing firearms. A76-77. Corporal Clancy also learned from the DELJIS search that Hanzer had an outstanding capias. A77.

Corporal Clancy and his partner, Detective Jackson, then drove to the area of South New Street to contact Hanzer but did locate him. A78. Corporal Clancy and

Detective Jackson canvassed downtown Dover but still did not locate Hanzer. A78-79. They decided to drive to Route 13 to see if he might be at a motel located there. A78-79. While they were driving, they spotted Hanzer on the same electric bike seen on the surveillance camera, and wearing the same clothes, proceeding through the Big Lots parking lot, about two miles from where they had earlier seen him on the surveillance camera. A79; A111. While Corporal Clancy and Detective Jackson were stopped at a traffic light they saw Hanzer stop his bicycle near a white pickup truck in the Big Lots parking lot, and they saw Hanzer enter the passenger side of the pickup truck. A79-80; 109. As Corporal Clancy entered the parking lot he saw that Hanzer “had his hands in the area of his lap” and “it appeared he was handling like items in his — in his lap.” A80. From his training, it appeared to Corporal Clancy that Hanzer was engaged in a drug transaction with the driver of the truck. *Id.*

Corporal Clancy and Detective Jackson continued to drive their unmarked vehicle toward the white pickup truck and stopped with the front of their vehicle positioned near the passenger door side of the pickup truck, to prevent Hanzer from being able to open the passenger door and flee. A81-82; A110. Because Corporal Clancy and Detective Jackson had been told that Hanzer had an illegal handgun, they drew their firearms as they approached the pickup truck. A81-82. As Corporal

Clancy looked through the window of the pickup truck he could see what appeared to be illicit drugs on Hanzer's lap. A82. When Hanzer exited the vehicle Corporal Clancy was also able to see the butt of a handgun protruding from the pocket of Hanzer's pants. A83. Hanzer was taken into custody and the substances seized pursuant to the arrest were analyzed and found to be crack cocaine and heroin. A20; A22; A50.

## ARGUMENT

### I. THE TRIAL COURT PROPERLY DENIED HANZER’S MOTION TO SUPPRESS.

#### Question Presented

Whether the Superior Court erred in denying Hanzer’s pretrial Motion to Suppress.

#### Standard and Scope of Review

This Court applies a mixed standard of review to a trial court’s decision denying a motion to suppress evidence after an evidentiary hearing.<sup>3</sup> The Court reviews findings of fact for clear error<sup>4</sup> and will not disturb a trial judge’s factual findings if they are supported by competent evidence, especially when they are based on the credibility of a witness.<sup>5</sup> The trial court’s determinations of witness credibility are entitled to substantial deference.<sup>6</sup> The trial court’s legal conclusions,

---

<sup>3</sup> *Register v. State*, 337 A.3d 1224, 1231-2 (Del. 2024), citing *McDougal v. State*, 314 A.3d 1077, 1086 (Del. 2024).

<sup>4</sup> *Register v. State*, 337 A.3d at 1232, quoting *Garnett v. State*, 308 A.3d 625, 641 (Del. 2023).

<sup>5</sup> *Register v. State*, 337 A.3d at 1232, quoting *Edgar v. State*, 2017 WL 5501314 (Del. Nov. 14, 2017) (internal citations omitted).

<sup>6</sup> *Hall v. State*, 14 A.3d 512, 518 (Del. 2011) (citations omitted) (“[t]he Superior Court’s acceptance of the officers’ explanations is a credibility determination that is entitled to deference on appeal”).

including whether the facts found by the trial judge constituted a reasonable basis to stop a person, are reviewed *de novo*.<sup>7</sup>

## **Merits of Argument**

### **A. The Legal Standard for Warrantless Arrests**

It is undisputed that, while DELJIS records indicated that there was an outstanding capias for Hanzer on September 11, 2024, that record was erroneous — the conditions for the capias to be discharged had been met, and the capias was reported as outstanding only because of an administrative error. A120. Accordingly, Hanzer was arrested without a valid warrant.

Warrantless arrests are governed by 11 *Del. C.* §1904(b), which provides in relevant part:

(b) An arrest by a peace officer without a warrant for a felony, whether committed within or without the state, is lawful whenever:

(1) The officer has reasonable grounds to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed; . . . .

This Court has expressly held that the term “reasonable grounds to believe” in Section 1904(b) is the legal equivalent of “probable cause,” which is necessary for

---

<sup>7</sup> *Register v. State*, 337 A.3d at 1232, quoting *McDougal*, 314 A3d at 1086 (internal quotation omitted).

a warrantless search to pass muster under Article Fourth of the United States Constitution and Article 1, Section 6 of the Delaware Constitution.<sup>8</sup>

This Court has long held that “probable cause” to make a warrantless arrest is established when the “totality of circumstances” establish that “there is a fair probability that the defendant has committed a crime”:

Probable cause is an elusive concept which avoids precise definition. It lies somewhere between suspicion and sufficient evidence to convict. To establish probable cause, the police are only required to present facts which suggest, when those facts are viewed under the totality of the circumstances, that there is a fair probability that the defendant has committed a crime. A finding of probable cause does not require the police to uncover information sufficient to prove a suspect’s guilt beyond a reasonable doubt or even to prove that guilt is more likely than not.[<sup>9</sup>]

B. A Tip From a Reliable Informant Can be the Basis for a Valid Warrantless Search.

It is well-established that “[a]n informant’s tip may provide probable cause for warrantless arrest where the totality of circumstances, if corroborated, indicates that the information is reliable.”<sup>10</sup>

---

<sup>8</sup> *State v. Thompson*, 539 A.2d 1052, 1055 (Del. 1988).

<sup>9</sup> *Juliano v. State*, 260 A.3d 619, 628 (Del. 2021), quoting *Jackson v. State*, 643 A2d 1360, 1365 (Del. 1994) (internal quotation marks, citations and alterations omitted), *cert. denied*, 513 U.S.1136 (1995)).

<sup>10</sup> *Brown v. State*, 897 A.2d 748, 751 (Del. 2006) (citations omitted).

*King v. State*<sup>11</sup> applied this principle in circumstances nearly identical to those of the present case. In *King*, an officer received a phone call from a past-proven and reliable confidential informant who relayed that “there was a black male wearing a black baseball cap and cut-off blue jeans at a card table on South Kirkwood Street who was in possession of a large amount of crack cocaine.”<sup>12</sup> The area in which the defendant was reported to be was known by police as an “open air drug market” where several arrests had been made in the past.<sup>13</sup> Immediately after receiving the tip, officers went to the area described by the informant and saw the defendant “in clothing which matched the [informant’s] description.”<sup>14</sup> The defendant was placed under arrest and handcuffed.<sup>15</sup>

The Delaware Supreme Court held that the tip in the *King* case, “coupled with the detectives’ observations at the scene, clearly establish probable cause to arrest [the defendant].”<sup>16</sup> In so holding, the Court reasoned that “[t]he informant, who had provided similar information which had proven reliable on numerous occasions in the past,” provided the officers with “(1) a description of an individual which

---

<sup>11</sup> *King v. State*, 1993 WL 445484 (Del. 1993).

<sup>12</sup> 1993 WL 445484, at \*1.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at \*2.



matched that of [the defendant], (2) a location known to be a drug area and (3) information that the person was in possession of a large amount of cocaine.”<sup>17</sup> The Court held that this “totality of the circumstances” meant that “when police arrived at the scene and saw [defendant] who matched the description, they had probable cause to arrest him for the felony of Possession with Intent to Deliver. . . .”<sup>18</sup>

The facts of the present case are nearly identical to those in *King*. As in *King*, police received a tip from an informant who had provided similar information which had proven reliable on numerous occasions in the past — here, the informant’s information had led to approximately 20 arrests for drug and firearms violations.<sup>19</sup> As in *King*, the informant provided a description of an individual which matched that of the defendant.<sup>20</sup> Specifically, the informant said that “Benji” was wearing a black skullcap and sunglasses and riding an electric bicycle, and when shown a photograph of Hanzer, the informant identified him as the individual named “Benji.”<sup>21</sup> When police saw Hanzer on surveillance camera, and when they saw him in person a short time later, he was riding an electric bicycle and wearing a black

---

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See pp. 5-6, *supra*.

<sup>20</sup> *Id.*

<sup>21</sup> See p. 6, *supra*.

skullcap and sunglasses.<sup>22</sup> The informant also advised police of “Benji’s” (*i.e.*, Hanzer’s) location on South New Street, a known high-crime area.<sup>23</sup> Hanzer was seen there almost immediately, on a surveillance camera.<sup>24</sup> And, the informant advised police that Hanzer was carrying a black semi-automatic handgun and was in possession of “hard and bags,” which Corporal Clancy knew from experience to refer to crack cocaine and heroin.<sup>25</sup>

The present case is different from *King* in only two respects. *First*, unlike in *King*, the informant told police that the defendant was in possession of an illegal firearm as well as in possession of illegal drugs. This is a distinction without a difference. *Second*, in *King*, the defendant was stationary — the informant said that the defendant was sitting at a table at a fixed location, and police found him there. Here, in contrast, the informant told police that Hanzer was not stationary, but rather was riding an electric bicycle. Accordingly, the informant said that Hanzer was on New South Street, but did not provide a specific location on New South Street. Almost immediately after receiving the tip, Corporal Clancy located Hanzer on camera riding an electric bicycle on South New Street, where the informant said

---

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*; see also n. 26

<sup>24</sup> See p. 6, *supra*.

<sup>25</sup> See p. 5, *supra*.

could be located.<sup>26</sup> By the time police were able to get to the location however, Hanzer was no longer there, because he was not stationary, but was instead riding a bicycle.<sup>27</sup>

Corporal Clancy and Detective Jackson located Hanzer a short time later, less than two miles from the location where the informant had said that he was and where Corporal Clancy had seen him on the surveillance camera.<sup>28</sup> As noted, when Corporal Clancy and Detective Jackson located Hanzer, he was riding the same electric bicycle that the informant had described and that Corporal Clancy had seen Hanzer riding on the surveillance tape, and was wearing the same skullcap and sunglasses.<sup>29</sup> Under the circumstances, the fact that approximately an hour had passed between the time of the initial tip and Hanzer's arrest, and the fact that Hanzer had ridden his bicycle approximately two miles since the initial tip and sighting of Hanzer, in no way undermined the reliability of the information provided by the confidential informant.

---

<sup>26</sup> See p. 6, *supra*. Corporal Clancy testified that, although the confidential informant did not tell him where on New South Street to look for Hanzer, he assumed that the informant was referring to the high-crime area between Reed and Division Streets (A95), and therefore pulled up camera footage from that part of New South Street and immediately saw Harvey there. A77.

<sup>27</sup> *Id.*

<sup>28</sup> See p. 7, *supra*.

<sup>29</sup> *Id.*

Accordingly, the principles set forth in *King* apply fully here. The police had specific, credible information, from a known and reliable informant, that Hanzer was actively involved in criminal activity – carrying an impermissible firearm and possessing illicit drugs – as well as information of his location on South New Street, the fact that he was riding an electric bicycle, and the description of the clothing that he was wearing.

Police immediately corroborated the informant’s tip when they observed Hanzer on a surveillance camera where the informant said would be (on South New Street), employing the mode of transportation that the informant had identified (riding an electric bike), and wearing the clothes that the informant had described (a black skullcap and sunglasses). When police located Hanzer approximately one hour after receiving the informant’s tip, he was riding the same electric bike that he had been riding on the surveillance tape and wearing the same skullcap and sunglasses.

When Corporal Clancy and Detective Jackson located Hanzer, the “totality of circumstances” established, at a minimum, not only “a fair probability that the defendant has committed a crime,”<sup>30</sup> but a fair probability that Hanzer was engaged

---

<sup>30</sup> *Juliano*, 260 A.3d at 628.

in continuing criminal conduct (*i.e.*, incurrent possession of drags and a firearm). Accordingly, police had probable cause to arrest Hanzer.

C. Because Hanzer's Arrest Was Legal, the Motion to Suppress Was  
Properly Denied.

Hanzer was “seized” when Corporal Clancy and Detective Jackson pulled their unmarked vehicle up to the passenger door of the pickup truck in which Hanzer was sitting. At that point, Hanzer was detained and not free to leave.<sup>31</sup> Moments later, Corporal Clancy and Detective Jackson exited their unmarked vehicle and approached Hanzer with their firearms drawn, and Hanzer was arrested and taken into custody.

While taking Hanzer into custody, Corporal Clancy and Detective Jackson saw drugs on Hanzer's lap, in plain sight. They also saw the butt of a firearm protruding from Hanzer's pants pocket. Accordingly, if the seizure and arrest of

---

<sup>31</sup> A110. Under Delaware law, a person is “seized” within the meaning of Article I, Section 6 of the Delaware Constitution “when a reasonable person would have believed that he or she was not free to ignore the police presence.” *Harris v. State*, 806 A2d 119, 124 (Del. 2002) (quoting *Jones v. State*, 745 A.2d 856, 869 (Del. 1999)).

Hanzer were lawful, the drugs and firearms located during that arrest were properly seized, and the motion to suppress was properly denied.<sup>32</sup>

Therefore, the merit of Hanzer's Motion to Suppress turns solely on the legality of his seizure and arrest. Because, as noted above, Hanzer was properly seized and arrested, the evidence subject to the Motion to Suppress was properly seized, and the Motion to Suppress was therefore properly denied.

D. Hanzer's Arguments Do Not Compel a Different Result.

Hanzer attempts to elide the result compelled by *King* by pointing to facts that he contends call into question the applicability of that holding to the present case.

First, Hanzer references the invalid *capias*. It is undisputed that the *capias* was invalid, but that the police did not know of its invalidity on September 11, when they pursued and arrested Hanzer. Hanzer contends that "[t]he 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."<sup>33</sup>

---

<sup>32</sup> Moreover, if Hanzer's arrest was lawful, police would have the right to search him, and would have located the firearm and drugs even if they were not in plain sight.

<sup>33</sup> OB 9.

This argument fails because, while the *capias* was one reason for Hanzer's arrest, it was not the only reason. The timeline makes this crystal clear: after receiving the informant's tip, Corporal Clancy intended to pursue and contact Hanzer. After confirming Hanzer's identity with the informant, Corporal Clancy immediately consulted the Dover surveillance cameras to locate Hanzer, and successfully did so. Before getting into a police vehicle to physically contact Hanzer, Corporal Clancy did a criminal background check and learned for the first time of the outstanding *capias*.<sup>34</sup> Thus, the *capias* provided an additional reason to contact Hanzer. But the record is clear that Corporal Clancy was intending to contact Hanzer because of the informant's tip, before he ever learned of the outstanding *capias*.

Hanzer notes Corporal Clancy's testimony that when he left the police station, he intended to apprehend Hanzer based on the *capias*.<sup>35</sup> But as Hanzer himself points out, the decision to apprehend a suspect must be based on objective facts.<sup>36</sup> Here, as noted above, the objective facts established probable cause to apprehend and arrest Hanzer, irrespective of the *capias*.<sup>37</sup> The fact that Corporal Clancy's

---

<sup>34</sup> See p. 7, *supra*.

<sup>35</sup> OB 4, OB 15 (citing A103).

<sup>36</sup> AB 12-14.

<sup>37</sup> See pp. 14-17, *supra*.

subjective state of mind was to arrest Hanzer primarily based upon the capias is irrelevant.<sup>38</sup> In any event, the evidence establishes that Corporal Clancy arrested Hanzer based upon the informant's tip and the officers' confirmatory observations, as well as the outstanding capias – when Hanzer asked why he was being stopped, Corporal Clancy and Detective Jackson told him that he had an outstanding capias, and also that he was engaged in drug activity.<sup>39</sup>

Hanzer criticizes Corporal Clancy's reliance on the capias as "pretextual." But, an arrest or a search is wrongfully "pretextual" only when officers do not have a valid basis to conduct the arrest or search, but improperly use some other, pretextual reason — for example, a minor traffic violation — to find evidence that would otherwise be unavailable to the police. The United States Supreme Court held in *Whren v. United States*<sup>40</sup>, and this Court held in *Juliano v. State*<sup>41</sup>, that "pretextual" searches are permissible if the "pretextual" reason for the search (typically, a traffic stop) is itself valid.<sup>42</sup>

---

<sup>38</sup> As Corporal Clancy testified, he attempts to protect the identity of confidential informants where it is possible to do so. A116. Arresting a suspect based upon an outstanding capias rather than information provided by a confidential informant furthers this objective.

<sup>39</sup> A116.

<sup>40</sup> 517 U.S. 806 (1996).

<sup>41</sup> 254 A.3d 369 (Del. 2020).

<sup>42</sup> *Whren*, 517 U.S. at 817-18; *Juliano*, 254 A3d at 385-89.



The present case is essentially the opposite of *Whren* and *Juliano*. Here, the alleged “pretext” for the stop (the outstanding capias) was not valid. But, unlike the “pretext” cases, police had an independent, valid reason to arrest Hanzer — the specific, detailed tip from a reliable informant, critical details of which were confirmed by the officers’ surveillance camera and in person observations.

The fact that the police chose to rely on the capias to effect the arrest, rather than the information from the confidential informant, made sense on two levels. First, reliance on the capias protects the identity of the confidential informant,<sup>43</sup> which is a valid and legitimate police goal. And second, reliance on a valid capias is simpler than reliance on information provided by a confidential informant, as it avoids questions about the reliability of the informant, the specificity of the information, and the like. Accordingly, the fact that police initially relied on the outstanding capias to justify Hanzer’s arrest is readily explainable, and in no way indicative of wrongdoing or any absence of probable cause.

Hanzer next asserts that there was no “corroboration” that Hanzer was engaged in criminal activity, as police did not see him “engage in a hand-to-hand transaction, exchange narcotics or money, or otherwise engage in independently

---

<sup>43</sup> A107.

verifiable criminal activity.”<sup>44</sup> Hanzer contends that actions that are merely “consistent with” a drug transaction — such as entering a parked vehicle or moving inside a car — are “facially innocent acts absent reliable corroboration connecting them to criminal activity.”<sup>45</sup>

This argument fails where, as here, a reliable informant has credibly implicated the defendant in criminal activity. *King* found that the informant’s tip that the defendant was in possession of drugs in a location known to be a drug area, “coupled with the detectives’ observations at the scene”, “clearly established probable cause to arrest King.”<sup>46</sup> But the only observations by the detectives reported in the *King* decision were that King was at the location identified by the informant and was wearing clothing that matched the description provided by the informant (a black baseball cap and cut-off blue jeans).<sup>47</sup> The opinion does not state that police saw King engaging in criminal conduct, or even in activity that was “consistent with” criminal conduct. Rather, the tip itself, along with the police officers’ observations of the defendant in a location and wearing clothing consistent with what was reported in the tip, together created “a fair probability that the

---

<sup>44</sup> AB 13.

<sup>45</sup> AB 13-14.

<sup>46</sup> 1993 WL 445484, at \*3.

<sup>47</sup> *Id.* at \*1, \*3.

defendant has committed a crime” and therefore constituted “probable cause” for his arrest. Those same elements are present here.

Indeed, here there was an additional element, not present in *King*, justifying the defendant’s arrest — the “totality of the circumstances” included Corporal Clancy Detective Jackson observing Hanzer engage in activities that were “consistent with” a drug transaction — namely, riding his bicycle up to the passenger side of the pickup truck in the Big Lots parking lot, entering the passenger side of the vehicle, and positioning his hands in a way that was consistent with a drug transaction.<sup>48</sup> Hanzer asserts that this activity alone could have been innocent and therefore was not sufficient, by itself, to constitute probable cause for Hanzer’s arrest.<sup>49</sup> This argument misses the point, as Hanzer’s actions in the Big Lots parking lot did not, by themselves, result in his arrest. Rather, those actions were consistent with and further bolstered the information provided by the confidential informant.

Notably, none of the cases cited by Hanzer to support his argument that conduct “consistent with” criminal activity is insufficient to constitute probable cause for a seizure or arrest (OB 13) involved information of criminal activity by the defendant from a known, reliable informant.

---

<sup>48</sup> See p. 7, *supra*.

<sup>49</sup> OB 13-14.

*Lopez-Vazquez v. State*<sup>50</sup> involved tip from a reliable informant that a different individual was engaged in illegal drug activity.<sup>51</sup> The defendant was not mentioned by the informant and had no contact with the person identified by the informant – defendant was seized by police solely because he was in the vicinity of the person identified by the informant and seemed nervous.<sup>52</sup> The Court ruled that these circumstances did not provide probable cause for the defendant’s arrest.<sup>53</sup>

*McDougal v. State*<sup>54</sup> involved a “weeks-old tip”<sup>55</sup>, from an informant who “had not been shown to be reliable in the past”<sup>56</sup>, that four individuals other than the defendant were involved in street-level drug dealing at a certain location.<sup>57</sup> McDougal was found in that location several weeks later standing and talking to two of the people identified by the informant.<sup>58</sup> The Court found that “the confidential informant’s tip, which did not mention McDougal, was stale, unreliable and insufficient to justify a detention of any of the three men.”<sup>59</sup> The Court held that

---

<sup>50</sup> *Lopez-Vazquez v. State*, 956 A.2d 1280 (Del. 2008)

<sup>51</sup> *Id.* at 1282.

<sup>52</sup> *Id.* at 1290-91.

<sup>53</sup> *Id.* at 1291.

<sup>54</sup> 314 A.3d 1077 (Del. 2024)

<sup>55</sup> *Id.* at 1081.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 1081-2, 1088.

<sup>59</sup> *Id.* at 1089

defendant's act of standing and talking to the other two men was "not a crime" and that defendant's subsequent seizure and arrest were therefore unlawful.<sup>60</sup>

*Riley v. State*<sup>61</sup> and *Harris v. State*<sup>62</sup> did not involve confidential informants at all. *Riley* involved the arrest of a person who entered the rear passenger side of a vehicle in a liquor store parking lot that was driven by two girls who appeared to be underage.<sup>63</sup> After *Riley* returned to his vehicle, police approached that vehicle and opened the door, where they smelled and discovered marijuana.<sup>64</sup> The Court held that *Riley's* activity — entering and then exiting the passenger side of a car parked in a liquor store parking lot and occupied by girls who appeared to be underaged — did not give the police reasonable suspicion to conduct the traffic stop that resulted in the discovery of drugs.<sup>65</sup>

*Harris* involved the seizure and search of an individual who exited an Amtrak train from New York who looked over his shoulder three times as he was exiting the train station and fit the profile of a drug courier.<sup>66</sup> The Court held that *Harris'*

---

<sup>60</sup> *Id.* at 1088-9.

<sup>61</sup> 892 A.2d 370 (Del. 2006).

<sup>62</sup> 806 A.2d 119 (Del. 2002).

<sup>63</sup> 892 A.2d at 372.

<sup>64</sup> *Id.* at 373.

<sup>65</sup> *Id.* at 376, 378-9.

<sup>66</sup> 806 A.2d at 122.

conduct was “lawful and ostensibly innocent.”<sup>67</sup> Accordingly, it held that the police lacked reasonable suspicion to stop Harris, and that the evidence from the search of Harris was thus inadmissible.<sup>68</sup>

None of these cases are inconsistent with or undermine the holding of *King* that specific, corroborated information of criminal activity by the defendant, from a known and credible informant, can by itself be the basis for a warrantless arrest.

Finally, Hanzer argues that the police had no basis to believe that Hanzer was in possession of illegal drugs because Corporal Clancy’s police report said only that the confidential informant told him that Hanzer was in possession of an illegal firearm, and did not mention illegal drugs.<sup>69</sup> This argument fails for two independent reasons. First, Corporal Clancy was confronted with this alleged discrepancy at the hearing on the Motion to Suppress, and he testified that it is common in some circumstances not to include in a report or testimony everything that police knew about a confidential informant tip, in part to protect the identity of the informant.<sup>70</sup> Hanzer specifically argued to the Superior Court judge that because the police report did not reference the confidential informant stating that Hanzer was in possession of

---

<sup>67</sup> *Id.* at 128.

<sup>68</sup> *Id.* at 130-31.

<sup>69</sup> OB 3, 11.

<sup>70</sup> A116.

illegal drugs, Corporal Clancy's testimony that the confidential informant did provide that information was not credible.<sup>71</sup> The Superior Court Judge directly addressed this argument and rejected it. Specifically, after considering Hanzer's argument, the Superior Court "evaluated Corporal Clancy's testimony" and expressly found Corporal Clancy to be credible:

The Court does find it believable that Corporal Clancy would not give all the details of the tip from the confidential informant in order to protect the identity of the confidential informant. And that particularly makes sense with regard to the allegations of drug activity as far as whether the confidential informant could have been present there on New South Street to observe the drug activity as it was taking place.<sup>[72]</sup>

Hanzer has not provided any convincing reason why this Court can or should overrule the Superior Court Judge's specific credibility ruling.

Hanzer's argument also fails as a matter of law. Irrespective of the drug allegations, Corporal Clancy Jackson had a specific tip from reliable informant that Hanzer was engaged in criminal conduct by carrying an illegal firearm. Under *King*, that tip alone gave the officers probable cause to interdict and arrest Hanzer.

---

<sup>71</sup> A129-131 ("I don't think there's any evidence before, you know, the filing of this motion that there was any drug investigation [,] it was a gun investigation... I just don't think it's credible to believe that this officer withheld information [concerning drugs] to protect the CI when he provided information that there was a firearm allegation").

<sup>72</sup> A147-48.

Because the arrest was lawful, the firearm recovered during that arrest, as well as drugs discovered in plain sight during the arrest, were properly admitted into evidence.



## CONCLUSION

Under *King*, the police possessed probable cause to arrest Hanzer, and his arrest was thus lawful. The evidence recovered during that lawful arrest was permitted to be introduced into evidence, and Hanzer's Motion to Suppress was properly denied. Accordingly, the judgment of the Superior Court should be affirmed.

Respectfully submitted,

/s/ Kenneth J. Nachbar

Kenneth J. Nachbar (#2067)  
Deputy Attorney General  
Delaware Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500

Date: June 17, 2026

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |               |
|--------------------|---|---------------|
| KHIHEIM HANZER,    | § |               |
|                    | § |               |
| Defendant Below,   | § |               |
| Appellant,         | § |               |
|                    | § | No. 496, 2025 |
| v.                 | § |               |
|                    | § |               |
| State of Delaware, | § |               |
|                    | § |               |
| Plaintiff Below,   | § |               |
| Appellee.          |   |               |

**CERTIFICATE OF COMPLIANCE WITH TYPEFACE  
REQUIREMENT  
AND TYPE-VOLUME LIMITATION**

1. This Answering Brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word 2016.

2. This Answering Brief complies with the type-volume limitation of Rule 14(d)(i) because it contains 5,639 words, which were counted by Microsoft Word 2016.

/s/ Kenneth J. Nachbar  
Kenneth J. Nachbar (#2067)  
Deputy Attorney General  
Delaware Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500

Date: June 17, 2026