



New Jersey Libertarian Party

Police Accountability Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

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May 24, 2011

Internal Affairs Unit

Merchantville Police Department

1 W Maple Ave

Merchantville, NJ 08109

RE: Sgt. Jeffrey Brocious, Sgt. Michael Reilly and Officer Matthew Rulli.

Dear Sir or Madam:

I chair the New Jersey Libertarian Party's Police Accountability Project and ask that you accept this letter as an Internal Affairs complaint. We would like your agency to investigate whether the captioned officers and other personnel employed by your agency acted in accordance with department policy and the law regarding agency interaction with Alan Donia who was stopped in Pennsauken on September 23, 2007.

According to Superior Court Judge William J. Cook's May 29, 2008 Order in the case of State v. Alan Donia, Camden County Appeal No. A-04-08 (copy attached) the three captioned officers stopped Donia's vehicle despite there being no probable cause or "any other lawful basis for the motor vehicle stop." Ultimately, the court reversed Donia's conviction.

In addition to determining whether rules or laws may have been violated, we ask that you determine if there were training and policy failures within your agency as they relate to this incident.

Please acknowledge your receipt of this complaint, investigate and notify us of the outcome.

Sincerely,

John Paff

TRUE COPY

William J. Cook

STATE OF NEW JERSEY,

-vs-

ALAN DONIA,
 Defendant

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION-CRIMINAL PART I J.S.C.
 CAMDEN COUNTY

APPEAL NO. A-04-08

ORDER FINDING DEFENDANT, ALAN DONIA, NOT GUILTY

Appearances:

Emily Singhota, Esq.
Assistant Camden County Prosecutor

Scott Schweiger, Esq.
Attorney for Alan Donia

Decided: May 29, 2008

COOK, J.S.C.

RECEIVED AND INDEXED
 05-30-08
 IN THE CRIMINAL DIVISION
 SUPERIOR COURT-CAMDEN COUNTY
C. Mallyer
 SPECIAL DEPUTY CLERK

Alan Donia appeals his January 10, 2008 Merchantville Municipal Court convictions for Driving Under the Influence of Alcohol, N.J.S.A. 39:4-50; Refusal to Submit to Breath Testing, N.J.S.A. 39:4-50.2, and Careless Driving, N.J.S.A. 39:4-97. Fines, penalties, costs and surcharges totalling \$1,022 were imposed, as well as a 7 month driver's license suspension. Judge Thomas stayed the sentence pending the outcome of this appeal.

TRIAL DE NOVO STANDARDS

A trial de novo was conducted by this Court on the evidentiary record in the Municipal Court proceedings before Judge Thomas. R. 3:23-8(a). The

evidentiary record consists of the testimony of Sgt. Jeffrey Brocius, Officer Matthew Rulli, and Sgt. Michael Reilly, and the exhibits, S-1 Alcotest reading, S-2 Drunk Driving Report, and S-3 Merchantville Police Department drinking/driving questionnaire, S-4 Merchantville Police Department statement of rights.

This Court is bound by the evidentiary record before the Municipal Court, and its function is to determine the case completely anew on the record made by the Municipal Court, giving due although not necessarily controlling regard to Judge Thomas' opportunity to assess the credibility of the witnesses. Additionally, this Court must make its own findings of fact. Middlesex Health Dept. v. Importico, 315 N.J. Super. 397, 406 (Law Div. 1998) (citations omitted). As Judge Pressler explained in State v. Ross, 183 N.J. Super. 67 (App. Div. 1983):

A trial *de novo* by definition requires the trier to make his own findings of fact. He need, furthermore, give only due, although not necessarily controlling, regard to the opportunity of the municipal court judge to judge the credibility of the witnesses. His is not the appellate function governed by the substantial evidence rule but rather an independent fact-finding function in respect of defendant's guilt or innocence. See, e.g. State v. States, 44 N.J. 285, 293 (1965); State v. Johnson, 42 N.J. 146, 157 (1964).

[Id. at 75].

FINDINGS AND CONCLUSIONS

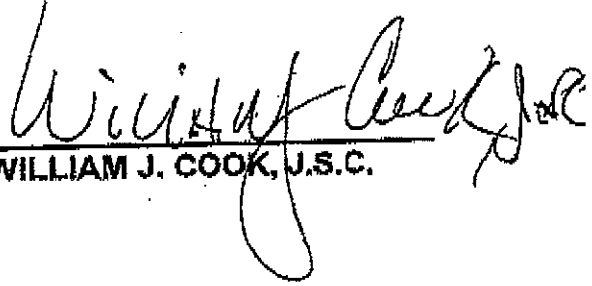
Having reviewed the entire transcript of the January 10, 2008 hearing in the Merchantville Municipal Court, as well as the exhibits, and having read and considered the parties' brief on this appeal, and having heard and considered the arguments of counsel on May 29, 2008, and for the reasons orally stated on the record at the May 29, 2008 hearing, I find and conclude as follows.

There was no probable cause for the police to stop Alan Donia's vehicle and arrest him, nor was there any other lawful basis for the motor vehicle stop under the community caretaking function, nor was there any other lawful basis. Thus, the evidence obtained or seized from or as a result of the motor vehicle stop, as well as the fruits of that stop, including any statements of Alan Donia, are suppressed as unlawfully obtained.

There was no motor vehicle law violation nor any other offense that originated or otherwise occurred within the territory of Merchantville. Under the facts and circumstances of this case, the Merchantville Municipal Court lacked jurisdiction. N.J.S.A. 2B:12-16; State v. Boutote, 19 N.J. Super. 60 (Monmouth County Court – Criminal Division 1952).

For each and all of the reasons expressed herein, as well as the reasons orally stated on the record at the May 29, 2008 de novo hearing, I find Alan Donia not guilty of the charges in this case.

SO ORDERED, this 29th day of May, 2008.


WILLIAM J. COOK, J.S.C.



Department of Police

1 West Maple Avenue
Merchantville, NJ 08109

Phone: 856-662-0507 • Fax: 856-662-0896

Edward F. Brennan
Director of Public Safety

Wayne K. Bauer
Chief of Police

May 26, 2011

John Paff, Chairman
New Jersey Libertarian Party
Police Accountability Project
P.O.Box 5424
Somerset, New Jersey 08875-5424

Dear Mr. Paff

This will acknowledge receipt of your letter dated May 24, 2011 concerning the case State v. Alan Donia and the actions of Sgt. Brocious, Sgt. Reilly, and Ptl. Rulli that occurred on September 23, 2007.

An investigation will be conducted into the allegation contained in your report and you will be advised of the results of the investigation upon its conclusion. In the meantime, if you have any questions, please feel free to contact me at 856-662-0507, Monday through Friday, between the hours of 8:00 AM and 3:00PM.

Sincerely,

DSG. Steve Morrone
Internal Affairs



Department of Police
1 West Maple Ave.
Merchantville, NJ 08109
Bus. (856) 662-0507
Fax. (856) 662-0896

Wayne K. Bauer
Chief of Police

Internal Affairs Citizen Complaint Information Sheet

The members of the Merchantville Police Department are committed to providing law enforcement services that are fair, effective, and impartially applied. It is in the best interest of everyone that your complaint about the performance of an individual officer is resolved fairly and promptly. The Police Department has formal procedures for investigating your complaint. These procedures ensure fairness and protect the rights of both citizens and law enforcement officers.

- ✓ Your complaint will be sent to a specially trained internal affairs officer who will conduct a thorough and objective investigation.
- ✓ You might be asked to help in the investigation by giving a detailed statement about what happened or providing other important information.
- ✓ All complaints against law enforcement officers are thoroughly investigated. You will be advised in writing of the outcome of the investigation.
- ✓ If our investigation shows that a crime might have been committed, the Camden County Prosecutor will be notified. You might be asked to testify in court.
- ✓ If our investigation results in an officer being charged with a violation of department rules, you might be asked to testify in a departmental hearing.
- ✓ All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
 - *It is unlawful to provide information in this matter which you do not believe to be true.*
 - You may call Detective-Sergeant Stephen Morrone at 856-662-0507 with any additional information or questions about the case.



Department of Police

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Merchantville, NJ 08109

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Director of Public Safety

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Chief of Police

John Paff, Chairman
New Jersey Libertarian Party
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Dear Mr. Paff:

Please be advised that I am the Internal Affairs Officer of the Merchantville Police Department. In that capacity, I have completed my assessment of the information contained in your report concerning the conduct of Sgt. Brocius, Sgt. Reilly, and Ptl. Rulli relative to the incident of September 23, 2007.

A review of all information available to this Officer would indicate that the named police officers followed the appropriate departmental policies and procedures. If you have any additional information which you believe should be considered, please contact me at 856-662-0507.

Thank you for bringing this matter to the attention of the Merchantville Police Department.

Respectfully,

A handwritten signature in cursive script that reads "S. Morrone".

DSG. Stephen Morrone