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INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is REDDING AUCTION SERVICE, INC.

Puhl, Eastman & Thrasher
220 Baltimore Street
Gettysburg, PA 17325
Attorneys for the corporation

7/20

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Act of Assembly No. 295 of 1982, of the filing in the Office of the Secretary of Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, a certificate for the conduct of business in Adams County, Pennsylvania, under the assumed or fictitious name of STONESIFER & SONS SANITATION and under the fictitious name of STONESIFER SANITATION with its principal place of business at 791 Sells Station Road, Littlestown, PA 17340. The name and address of the person owning or interested in said business is Foster A. Stonesifer, 791 Sells Station Road, Littlestown, PA 17340.

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COMMONWEALTH OF PENNSYLVANIA VS.
TASJUAN DELAJIS WASHINGTON

1. There are two separate requirements, custody and interrogation, that have to be found in order for *Miranda* to apply.

2. An ordinary traffic stop becomes ‘custodial’ when the stop involves coercive conditions, including, but not limited to, the suspect being forced into a patrol car and transported from the scene or being physically restrained.

3. Once it is established that a defendant is in custody (or his freedom of movement is curtailed in any significant way), *Miranda* warnings are necessary as a condition precedent to the admission of the accused’s inculpatory statements.

4. Courts have held that usual traffic stops are more analogous to ‘Terry stops’ than to a formal arrest.

5. The similarly noncoercive aspect of ordinary traffic stops prompts us to hold that persons temporarily detained pursuant to such stops are not ‘in custody’ for the purposes of *Miranda*.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CP-01-CR-340-2016, COMMONWEALTH OF
PENNSYLVANIA VS. TASJUAN DELAJIS WASHINGTON.

Brian R. Sinnett, Esq., Attorney for Commonwealth

Kristin L. Rice, Esq., Attorney for Defendant

Campbell, J., June 25, 2018

OPINION PURSUANT TO Pa. R.A.P. 1925(a)

Appellant, Tasjuan Delajis Washington, appeals this Court’s Order of Court dated March 23, 2018, denying Defendant’s request to suppress his admissions. For the reasons set forth below, it is respectfully requested this Court’s Order denying the suppression of evidence be affirmed.

On February 20, 2018 Appellant filed a motion to suppress the admissions. This Court entered an Order on February 21, 2018 determining that this issue would be decided at the time of the bench trial.

At trial, on March 23, 2018, Gettysburg Borough Officer Shannon Hilliard testified that he has undergone special training pertinent to detecting and enforcing driving under the influence laws. Specifically, Officer Hilliard completed the ARIDE seminar, which is primarily geared towards the detection of drug impairment. Officer Hilliard testified that he has made approximately 475 DUI arrests and that of these 475 DUI arrests, about 30% of them involved drug impairment.

On the evening of January 30, 2016, Officer Hilliard was working an overnight shift and was in full uniform and was operating a

marked police vehicle. Around 2:00 A.M. Officer Hilliard testified that he witnessed the Appellant fail to utilize a turning signal when pulling out of a parallel parking space and the car appeared to have dark tinted windows. Officer Hilliard witnessed the driver of the vehicle participate in suspicious behavior when he turned off of Stratton Street, onto Hazel Alley, which has no main attractions other than the SCAAP building. Almost immediately thereafter, the vehicle reemerged on Stratton Street. Officer Hilliard testified that he began to follow the car and witnessed the car cross over the center line dividing traffic at least three times. Officer Hilliard testified that he did not observe anything on the roadway that would cause the Appellant to swerve to avoid hitting something.

Officer Hilliard activated his vehicle's emergency equipment after witnessing the vehicle cross over the center line for the third time. When Officer Hilliard approached the vehicle, he noticed that Appellant was driving the vehicle and one passenger was in the car. Officer Hilliard testified that he observed that Appellant had bloodshot and glassy eyes and detected a strong odor of burnt marijuana. Officer Hilliard obtained Appellant's driver's license, registration, and insurance. Upon Officer Hilliard approaching the car to return the documents to Appellant, he noticed that an overpowering odor of cologne was emanating from the car. He testified that this smell was not detected when he originally approached the vehicle. At this point, Officer Hilliard asked Appellant to step out of the car and perform field sobriety testing.

Appellant performed both the Romberg balance test and the one-leg stand test. During the Romberg test Officer Hilliard was looking for eyelid tremors, swaying, balance, and to see how close to thirty seconds the Appellant was able to estimate. In this case, Officer Hilliard testified that he observed eyelid tremors, swaying back and forth, and completion of the test after 23 seconds. Officer Hilliard testified that he was trained that all of these observations are indications of impairment.

During the one-leg stand test Officer Hilliard testified he was looking for raising of the arms to maintain balance, if the individual is actually watching the raised foot, if the foot is parallel to the ground, if the foot is about six inches off of the ground, if the individual is swaying, and if the individual's counting is aligned with the

Officer's timing. Officer Hilliard testified that he observed the Appellant swaying back and forth and his hands were raised at shoulder height to maintain balance. Officer Hilliard testified that these are indications of impairment.

Officer Hilliard testified that the one-leg stand test can be indicative of alcohol impairment and drug impairment and the Romberg balance test is one of the primary indicators of marijuana impairment.

After he made these observations Officer Hilliard asked the Appellant if he had consumed marijuana within the past 12 hours. Appellant indicated that he had. Officer Hilliard next asked the Appellant how recently. Appellant replied that it was within the past four hours. Appellant was not read his *Miranda* rights before these two questions were asked. At the time these two questions were asked, two additional officers were five feet away from Officer Hilliard and Appellant. Officer Hilliard testified that to his knowledge, neither of the officers interacted with Appellant in any way during this time. Officer Hilliard testified that at the time these questions were asked, he was standing with Appellant in between Appellant's vehicle and his police cruiser. Appellant was not handcuffed at this time and he was not told that he was not free to leave, and he was not told that he was under arrest. Approximately six to eight minutes had passed from the time the stop was initiated to the time these two questions were asked.

Officer Hilliard testified that these questions were asked to confirm his suspicions that Appellant used marijuana.

On March 23, 2018, after a bench trial, this Court found Appellant guilty¹ of Driving Under the Influence of a Controlled Substance, as an ungraded misdemeanor (Count 3)² and turning movements and required signals, as a summary offense (Count 5)³. On May 14, 2018, Appellant was sentenced on Count 3⁴ to seventy-two (72) hours to six (6) months partial confinement at the Adams County

¹ Counts 1 and 2 were previously withdrawn as the blood tests were inadmissible under *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016). Without blood evidence the Commonwealth could not prosecute Counts 1 and 2. This Court found Appellant not guilty of Count 4, driving on roadways laned for traffic due to the fact that there was no testimony that the Appellants crossing of the center line actually was unsafe or presented a danger to motorist or property.

² 75 Pa. C.S. § 3802(d)(2).

³ 75 Pa. C.S. § 3334(a).

⁴ The parties agreed to this sentence.

Adult Correctional Complex⁵ The Sentencing Court sentenced Appellant to pay fines on Counts 3 and 5.

In his Concise Statement, Appellant asserts that this Court erred in denying Appellant's motion to suppress "his admissions to a Gettysburg Borough police officer that he had used marijuana within the last twelve hours and "within the past four hours" when he was responding to questioning initiated by the police officer while the defendant was in custody and being administered field sobriety tests, without being Mirandized, in violation of his Fourth Amendment and Article 1, Section 8 guarantees. It appears Appellant misstated the issue in the Concise Statement, and also in the Omnibus Pretrial Motion. At issue is the admissibility of Appellant's admissions to police officers uttered without the benefit of Miranda Warnings. Both the motion and concise statement suggest the admission of the statements into evidence violated Appellant's Fourth Amendment rights. However, Miranda is a Fifth Amendment issue pertaining to the right to be free from self-incrimination, and does not implicate a person's Fourth Amendment right to be free of unreasonable searches or seizures. As the language of the motion clearly discusses "interrogation" and "custody" and "Miranda warnings" this Court will presume the issue is being presented as an alleged violation of Fifth Amendment rights.

There are two separate requirements, custody and interrogation, that have to be found in order for Miranda to apply. **Commonwealth v. Turner**, 772 A.2d 970 (Pa. Super. 2001).

"By custodial interrogation we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." *Miranda v. Arizona*, 384 U.S. at 444 (1966).

[T]his jurisdiction's test of 'custodial interrogation' examines more than actual deprivation of freedom. Pennsylvania's test for custodial interrogation is whether the suspect is physically deprived of his freedom in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by said interrogation...

⁵ Appellant was immediately eligible for work release provided the pre-commitment process had been completed as directed and prior to commitment.

Commonwealth v. Gonzalez, 546 A.2d 26, 29, (Pa.,1988)(numerous citations omitted).

“Once it is established that a defendant is in custody (or his freedom of movement is curtailed in any significant way), *Miranda* warnings are necessary as a condition precedent to the admission of the accused's inculpatory statements.” *Commonwealth v. Proctor*, 657 A.2d 8, 10, (Pa.Super. 1995)(citations omitted).

“The usual traffic stop constitutes an investigative rather than a custodial detention, unless, under the totality of the circumstances, the conditions and duration of the detention become the functional equivalent of arrest.” *Commonwealth v. Mannion*, 725 A.2d 196, 202 (Pa.Super.,1999)(citations omitted). “Since an ordinary traffic stop is typically brief in duration and occurs in public view, such a stop is not custodial for *Miranda* purposes.” *Id.*

“An ordinary traffic stop becomes “custodial” when the stop involves coercive conditions, including, but not limited to, the suspect being forced into a patrol car and transported from the scene or being physically restrained.” *Id.* Such coercive conditions constitute “restraints comparable to arrest” so as to transform the investigative nature of an ordinary traffic stop into custodial interrogation. *Id.*

Courts have held that usual traffic stops are more analogous to “Terry stops” than to a formal arrest. *Proctor*, 657 A.2d 8 at 11 (citations omitted). “[T]he stop and inquiry must be ‘reasonably related in scope to the justification for their initiation.’” *Id.* (citations omitted). This means that a few questions may be asked to attempt to obtain information that would confirm or dispel the officer’s suspicion. *Id.* The individual is free to refuse to answer the question. *Id.* If the individual answers the question, then the answer must rise to the level of probable cause in order for the officer to arrest him. If not, then the individual must be released. *Id.* “The comparatively non-threatening character of detentions of this sort explains the absence of any suggestion in our opinion that *Terry* stops are subject to the dictates of *Miranda*.” *Id.* “The similarly noncoercive aspect of ordinary traffic stops prompts us to hold that persons temporarily detained pursuant to such stops are not “in custody” for the purposes of *Miranda*.” *Proctor*, 657 A.2d 8 at 11 (citations omitted).

In *Commonwealth v. Proctor*, the Court held that *Miranda* was not triggered. This is because during the investigation the defendant

was not informed that his detention would be anything more than temporary, there was only a single trooper questioning the defendant at the scene, the field sobriety test was conducted in plain view and therefore was not coercive to trigger *Miranda* to apply. *Proctor*, 657 A.2d at 183-185.

In *Gonzalez*, the appellant was obligated to stay at the scene of the accident, identify himself, and provide his operator's license and proof of insurance, pursuant to a duty under the Motor Vehicle Code. *Gonzalez*, 546 A.2d at 29–30, (Pa.,1988). The officers approached the appellant at the accident scene and asked him what happened. *Id.* At this point, the appellant was not in custody, not under arrest, and his only obligation to stay was pursuant to the statutory obligation pursuant to the Motor Vehicle Code. *Id.* The appellant was asked a minimal number of questions on a public street. *Id.* The court held that the appellant was not in custody at the time the minimal questions were asked and therefore *Miranda* was not invoked. *Id.*

In this case, the officer testified that he pulled Appellant over because he crossed into the oncoming lane of traffic at least three times, failed to use a turn signal when pulling out of a parking space onto a roadway, had dark tinted windows, and exhibited suspicious behavior when the vehicle turned off of Stratton Street onto Hazel Alley, which has no real attractions other than the SCAAP building, and then immediately pulled back onto Stratton Street. Officer Hilliard had probable cause to pull Appellant over, as the driver evidenced behavior that would violate the Motor Vehicle Code.⁶

As discussed supra, *Miranda* attaches once the individual is in custody and is being interrogated by the police. *Miranda*, 384 U.S. at 444. The facts are clear that the officer here asked appellant two questions: did you smoke marijuana within the past twelve hours, which was answered by Appellant in the affirmative. The officer then asked a follow up question of how recently. The officer did not read Appellant his *Miranda* rights before asking these two questions. These two questions being asked by the police officer of Appellant satisfies the second prong of the *Miranda* test, being interrogated by the police. The issue then turns on whether appellant was in custody at the time these questions were asked.

⁶ Appellant is not challenging the constitutionality of the stop.

In this case, the questions were asked by a single officer on a public road, in plain view of other drivers. The questions were simple and related to confirming or dispelling the officer's belief that Appellant had consumed marijuana. The stop lasted approximately six to eight minutes and the questions were limited to only two. Appellant was not handcuffed and was not otherwise restrained in any way. Appellant was not told that he was under arrest and he was not seated in the back of the police car. All of these facts are consistent with Proctor to indicate that Appellant was not in custody at the time these two questions were asked and therefore Appellant was not required to have been given his *Miranda* rights.

Therefore, for all of the reasons stated therein, it is respectfully requested that Appellant's convictions and this Court's March 23, 2018 Order be affirmed.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF GARY E. MILLER, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Dwain E. Altland, c/o Sharon E. Myers, Esq., CGA Law Firm, P.C., P.O. Box 606, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., CGA Law Firm, P.C., P.O. Box 606, East Berlin, PA 17316

ESTATE OF MADELINE C. ORNDORFF, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Bryan K. Orndorff, c/o Barbara Entwistle, Esq., Entwistle & Roberts, 37 West Middle Street, Gettysburg, PA 17325

Attorney: Barbara Entwistle, Esq., Entwistle & Roberts, 37 West Middle Street, Gettysburg, PA 17325

ESTATE OF RAYMOND M. PEREGOY, SR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Mrs. Ruth A. Reagan, 201 Lumber Street, Littlestown, PA 17340

Attorney: Arthur J. Becker, Jr., Esq., Becker Law Group, P.C., 529 Carlisle Street, Hanover, PA 17331

ESTATE OF VIRGINIA LEE PEREGOY, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: William Emory Peregoy, 316 South Columbus Avenue, Littlestown, PA 17340

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF HOLLY A. WEANER a/k/a HOLLY ANN WEANER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administratrix: Erin M. Brinser, c/o Gerald J. Brinser, Esq., P.O. Box 323, Palmyra, PA 17078

Attorney: Gerald J. Brinser, Esq., P.O. Box 323, Palmyra, PA 17078

SECOND PUBLICATION**ESTATE OF RICHARD E. ADAMS, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executor: Joseph E. Adams, 270 Lake Lane, New Oxford, PA 17350

Attorney: Robert E. Campbell, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JAMES EDWARD ARTER, JR., DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administratrix: Jessica Erin Arter, 535 Nawakwa Road, Biglerville, PA 17307

Attorney: Katrina M. Luedtke, Esq., Law Office of Katrina Luedtke, LLC, 43 West Middle Street, Gettysburg, PA 17325

ESTATE OF DORIS J. BIGHAM, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Richard A. Bigham, 366 Lumber Street, Littlestown, PA 17340

Attorney: Robert E. Campbell, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DREW WILLIAM BREAM, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

John W. Bream, III, 75 Bingaman Road, Orrtanna, PA 17353

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET A. BURLINGAME-CLARK, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Sharon Lee Clark, 8801 Cross Country Place, Gaithersburg, MD 20879

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GLORIA A. ELINE, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: Kimberly A. Burke, 3035 Oriole Drive, Sarasota, FL 34243

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 1732

ESTATE OF EUGENE A. GLADFELTER, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Administrators: Mrs. Joyce M. Gladfelter, 171 A Bair Road, Abbottstown, PA 17301; Mr. Brian Gladfelter, 5301 Swamp Road, Felton, PA 17322

Attorney: John J. Mooney, III, Esq., Mooney & Associates, 203 York Street, Hanover, PA 17331

ESTATE OF COREY JOSEPH HANSEN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Christina L. Hansen, c/o Sharon E. Myers, Esq., P.O. Box 606, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., P.O. Box 606, East Berlin, PA 17316

ESTATE OF JAMES L. KUHNES, DEC'D

Late of Germany Township, Adams County, Pennsylvania

James J. Eline, Sr., 9 Stedtle Avenue, Littlestown, PA 17340; David R. Kuhns, 1791 Fish and Game Road, Littlestown, PA 17340

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARDA K. MATTOX, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executor: Andrew Durkit, 488 Providence Drive, McSherrystown, PA 17344

Attorney: Robert E. Campbell, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DORIS F. TAWNEY, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Personal Representative: Bruce L. Spealman, 223 Montpelier Court, Westminster, MD 21157

Attorney: Dennis M. Twigg, Esq., Hoffman, Comfort, Offutt, Scott & Halstad, LLP, 24 North Court Street, Westminster, MD 21157

SECOND PUBLICATION CONTINUED

ESTATE OF JEANETTE MARIE TUFTS,
DEC'D

Late of Mt. Joy Township, Adams
County, Pennsylvania

Executor: Richard B. Tufts, 2480 Low
Dutch Road, Gettysburg, PA 17325

ESTATE OF HAZEL M. WALKER, DEC'D

Late of Mt. Joy Township, Adams
County, Pennsylvania

Co-Executors: Harold E. Walker, 3170
Taneytown Road, Gettysburg, PA
17325; Constance E. Woodruff,
2074 Taneytown Road, Gettysburg,
PA 17325

Attorney: Gary E. Hartman, Esq.,
Hartman & Yannetti, 126 Baltimore
Street, Gettysburg, PA 1732

ESTATE OF CHAD R. WILSON, DEC'D

Late of Conewago Township, Adams
County, Pennsylvania

Personal Representative: L. Marie
Wilson, 214 Clear Ridge Road,
Union Bridge, MD 21791

Attorney: Dennis M. Twigg, Esq.,
Hoffman, Comfort, Offutt, Scott &
Halstad, LLP, 24 North Court Street,
Westminster, MD 21157

THIRD PUBLICATION

ESTATE OF MARLIN G. WHERLEY,
DEC'D

Late of Cumberland Township, Adams
County, Pennsylvania

Executrix: Joan C. Wherley, 414 Ridge
Road, Gettysburg, PA 17325

Attorney: George W. Swartz, II, Esq.,
Mooney & Associates, 230 York
Street, Hanover, PA 17331