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## JUDGE TOSSES OUT DRUG EVIDENCE IN ANONYMOUS-TIP CASE

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Just days after a related U.S. Supreme Court ruling, a Superior Court judge on Friday tossed out the evidence against two Pleasantville men arrested on drug charges after Pleasantville police were tipped off by an anonymous, concerned citizen.

It's the first of many suppression hearings defense attorneys hope to be successful on here after the U.S. Supreme Court on Tuesday sharply reduced police officers' rights to search someone after gaining information from an anonymous tipster.

Judge James Isman suppressed 13 grams of cocaine - just under a half-ounce - that Detective Rocky Melendez discovered after stopping driver Jeffrey Spence, 30, and Calise Robertson, 33, on Park Avenue around 12:21 a.m. on July 21.

"I find that Detective Melendez, through his own candor, has admitted to us ... that he had no probable cause to enter the trunk," Isman said. He noted that Melendez also admitted he didn't advise Spence he could refuse a search and that a refusal would require police to attempt to get a search warrant.

Isman made his ruling after hearing arguments by defense attorneys Michael Schreiber and George Morton, and Assistant Atlantic County Prosecutor Chet Wiech.

The defendants are to return to court April 24, when Isman said he intends to drop the charges unless Wiech files an appeal.

Both defendants were indicted on third-degree charges of drug possession, possession within 1,000 feet of a school, possession with intent to distribute and conspiracy. Spence also was charged with a fourth-degree pager possession charge. They faced a maximum five-year state prison term, but Calise was being prosecuted as a persistent offender and faced a doubled term. In a plea bargain, he was offered a seven-year term without parole for 2 3/4 years.

Both had criminal records and, according to testimony at a bail hearing, Spence confessed he and Robertson went to Philadelphia to buy drugs to sell in Pleasantville.

Court records give the following account:

Melendez stopped the men after Lt. Frank Balles alerted him that a concerned citizen had called to say Spence had left for Philadelphia and was returning to Pleasantville with cocaine he intended to sell in Pleasantville. The anonymous caller said Spence lived at Noah's Landing development and would be driving a "tan-like" Chevrolet Baretta.

Melendez drove to Noah's Landing, where he spotted a light-gold Baretta. He made eye contact with Spence, whom he knew was the son of a fellow officer, and Spence turned around and sped off onto Doughty Road. As Melendez followed, he checked the license and confirmed it was Spence before stopping the car.

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He asked them to get out of the car and inquired whether they were carrying anything illegal. Spence, who said they weren't, let him search inside the car. When asked where they were coming from, Spence said Camden, while Robertson said Philadelphia. Melendez then frisked them as a safety precaution.

He asked for permission to search the trunk, but never told Spence he had a right to refuse - which was at the crux of Isman's decision. Inside the trunk, he found a tan bag under a speaker box. Labeled Beverly Johnson hair weave, the package contained 12 knotted pieces of plastic bags with a white rocky substance - cocaine.

Schreiber noted the U.S. Supreme Court had just issued its ruling on searches based on anonymous tips. He and Morton argued that the "automobile exception" in *Carroll vs. United States* requires police to have probable cause to believe a vehicle contains evidence of criminal activity before they can conduct a search without a warrant. Noting police must know a tipster's reliability, they pointed out this call was anonymous.

All vehicle registration and license information was in order, the defense attorneys noted, and the men hadn't violated any traffic laws.

But Wiech maintained the "automobile exception" applied, so a full search, including the trunk, was allowed. He contended a search was allowed after police corroborated the tipster's information, and noted the right to privacy is reduced in a vehicle. The men's contradictory answers about where they'd been driving from, he said, also provided "ample" probable cause to search.

Afterward, Schreiber called the case a "no-brainer," but said defense attorneys will be researching what pending cases they have that fall under this week's Supreme Court ruling, which involved a weapons search and can be applied to drugs and other illegal contraband.

In that case, involving a Florida juvenile named J.L., an anonymous tipster described the teen's clothing and whereabouts and said he was carrying a concealed weapon. The nation's highest court upheld a Florida Supreme Court decision that tossed out the evidence because the tip was anonymous and nothing else was used to corroborate the "bare-bone" information.

Wiech declined comment, pending a final disposition of the charges.

New Jersey is one of the few states that requires police officers to alert people that they have a right to refuse a search and inform them that a refusal would require police to obtain a search warrant from a judge - a requirement under *State vs. Johnson*.

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