



Roll Call Reporter

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LEGAL UPDATE FOR MARYLAND LAW ENFORCEMENT OFFICERS

Question: Does the use of handcuffs automatically transform a *Terry* stop into an arrest?

Answer: No. Handcuffs may be used during a *Terry* stop if the officer reasonably believes, based on articulable facts, that the suspect might be armed and dangerous, that the suspect poses a flight risk, and/or that the suspect presents some other imminent threat to the officer.

Case: *Ira Chase v. State of Maryland*
Court of Appeals of Maryland
Decided August 19, 2016

When this case was decided by the Court of Special Appeals of Maryland last fall, it was featured in the October 2015 Roll Call Reporter. Maryland's highest court, the Court of Appeals, agreed to review the case and issued its decision on August 19, 2016. Since the issues are so important, the Court of Appeals' decision will be discussed below.

The Detectives' Observations:

On September 10, 2013, Baltimore County Police Detective Andrew Melnyk and his partner, Detective Young, both assigned to the

Vice/Narcotics Section, were on patrol in the Security Boulevard section of the county, close to Interstates 70 and 695. This area was known to police for illicit narcotic activity. That evening, the detectives went to the Days Inn hotel. Detective Melnyk knew that the hotel was located in an area known for a high volume of drug trafficking. Numerous drug related search and seizure warrants had been executed at the hotel, and Detective Melnyk had participated in the execution of many of them. Drugs, currency, and weapons had been recovered on those prior occasions.

After the detectives pulled into the hotel parking lot, they noticed a white Jeep Cherokee backed into a parking spot. The Jeep's occupant, later identified as Ira Chase, was talking on his cell phone. About two minutes later, a Lexus backed in adjacent to the Jeep, taking up two designated parking spots, despite the fact that the remainder of the lot was virtually empty. The driver of the Lexus exited his vehicle and got into the passenger side of the Jeep.

Based on Detective Melnyk's experience and specialized training, he knew that persons often will use vehicles to conceal drug transactions from the view of law enforcement and will operate from a hotel to conceal the location of their homes. As a

result, he concluded that a drug transaction was taking place in the Jeep.

The Detention, the K-9 Scan, and the Arrests

The detectives approached the Jeep and detained the suspects. As they approached the Jeep, the detectives observed both the driver and passenger moving things around and, at one point, reaching under the seat. The passenger also quickly put his hands in his pockets. The occupants were ordered out of the Jeep and placed in handcuffs. The occupants were patted down but no weapons were found. Both suspects were read their *Miranda* rights. The driver of the Lexus, Michael DeLillo, III, said that he was at the hotel to meet someone known as "Phil" to watch an Orioles game. Chase said that he was going to meet his cousin at the Maryland Live Casino. Chase appeared angry and insisted he had done nothing wrong.

At this point, Detective Melnyk contacted police dispatch to request that a K-9 unit respond to the scene. The K-9 arrived within minutes, and at 7:00 p.m., eight minutes after the call had been made for the K-9, the K-9 alerted on the passenger side door of the Jeep. Chase was arrested and searched incident to arrest. No drugs were found. DeLillo was also arrested and searched. Police recovered fourteen grams of cocaine from his person. He later confessed to his role as the purchaser in the drug deal.

Both Chase's and DeLillo's cell phones were seized incident to arrest. DeLillo's phone contained text messages indicating that he was obtaining quantities of "girl." Detective Melnyk knew from his training and experience that "girl" referred to cocaine powder. Some of the text messages were with "Fat Boy," which police learned was Chase's nickname.

The Charges, Motion to Suppress, and Conviction

Chase was indicted and charged with possession of cocaine with intent to distribute and related offenses. He moved to suppress the evidence against him. His motion was denied and he was subsequently convicted and sentenced to a suspended period of incarceration and probation. Chase appealed.

The Decision by the Court of Special Appeals

On appeal, Chase argued that he was arrested *before* the K-9 alerted and, therefore, he was arrested without probable cause. The State argued that Chase's detention prior to his arrest was merely an "investigative detention," and that included his being handcuffed for officer safety.

The Court of Special Appeals agreed with the State. The Court ruled that placing the suspects in handcuffs had not changed their detention to an arrest. This is because the handcuffing was not done to arrest; rather it was justified by officer safety, based on the suspects' furtive movements in the car.

The Decision by the Court of Appeals

The Court of Appeals agreed with the Court of Special Appeals and confirmed Chase's conviction. The Court concluded that the detectives had observed behavior by Chase and his companion in the Jeep consistent with the hiding of illegal drugs, as well as "furtive" movements that suggested weapons could have been secreted in the vehicle. The Court emphasized once again that "concern for officer safety when weapons may be present may overcome concern about a limited *Terry* intrusion, such as asking Chase to get out of the Jeep." Thus, the detention and the use of handcuffs during it were justified.



NOTE: The use of handcuffs during a *Terry* stop is appropriate when it is reasonably necessary to protect officer safety during an investigative stop. Handcuffs *cannot* be used when there is no reasonable basis to justify the officer's concern. Every stop or detention carries with it some level of danger. Handcuffs, however, should be used only when there is a reasonable basis to do so (such as risk of flight and/or reasonable belief the suspect might be armed) and the officer's safety cannot be ensured in a less threatening manner. If, after a pat-down, the officer no longer believes a weapon is present, the officer should release the suspect from handcuffs.

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