NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA Appellant v. TYRONN WATSON Appellee	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1899 EDA 2013

Appeal from the Order June 5, 2013
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0001671-2010;
CP-51-CR-0012761-2010

BEFORE: GANTMAN, P.J., JENKINS, J., and FITZGERALD, J.*

MEMORANDUM BY GANTMAN, P.J.: **FILED JULY 24, 2014**

Appellant, the Commonwealth of Pennsylvania, appeals from the order entered in the Philadelphia County Court of Common Pleas, granting the suppression motion of Appellee, Tyronn Watson. We reverse and remand for further proceedings.

The suppression court set forth the relevant facts of this appeal as follows:

> Parole Agent Chante Crews…testified that on June 1, 2009, she met with Alexander Rivera…at the parole headquarters on 1318 West Clearfield Street in…Philadelphia. Though the office closed at 5:00 p.m., Rivera did not arrive until 5:15 p.m. Rivera was habitually late. Agent Crews informed Rivera that she was tired of him coming late especially as he was not working and inquired whether he had any problems with police contact.

---

*Former Justice specially assigned to the Superior Court.

During the interview, Rivera would not make eye contact with Agent Crews and texted on his cell phone. The interview concluded around 5:35 p.m., lasting approximately twenty (20) minutes before Agent Crews requested that Rivera take a urine test; said test returned with a faint line, indicating that Rivera [might] have been using drugs. Agent Crews asked whether Rivera had been using drugs, and he denied that he had. She asked him whether he was around people who had been using drugs, and though he also denied this at first, when confronted with the faint line, he admitted he had been around such people. At that point, Agent Crews decided that she was going to detain Rivera. While performing a search of Rivera's person, Agent Crews found and recovered a set of car keys from his clothing, which Rivera should not have had as parolees must request permission to drive. Rivera admitted to having driven to the parole office.

While Agent Crews took Rivera to the holding cell, he was adamant that someone come to retrieve his car keys. Despite being assured someone would retrieve them, he continued to repeat that he needed someone to come and get the keys. Agent Crews felt this insistence unusual, so she went outside, pressed the alarm button, and a gold Nissan Sentra beeped.[6] Agent Crews and another parole agent[2] searched the car, with Crews searching the trunk. Upon opening the truck, she discovered an AK-47 with a drum magazine hidden beneath a hoodie. She also found a "noose like a ski mask" and a pair of gloves.

[6] Agent Crews also testified that the consent to search signed by parolees entitled her to search their property or "anything," and that parole agents could search parolees' cars without a warrant.

[7] Agent Fletcher, with no first name given on the record.

She immediately returned to her office and notified her supervisor[8] as to what she had found. After informing her supervisor, Agent Crews went to her desk and looked through Rivera's phone. She discovered several text messages, reading, respectively, "I'm going to get locked up," "Ream is going to have the keys at 13th and

Clearfield." A message had been sent to the phone reading, "What's wrong, dawg, I'm here." She also searched Rivera's wallet, discovering paperwork to order a bulletproof vest and an attachment for the gun. Agent Crews informed her supervisor that someone was coming to pick up the keys, and of her discoveries, and then called the police.

[8] Agent Crews did not name her supervisor but Agent Stevens mentioned calling Supervisory Agent Davis (no first name indicated on the record).

Agent Crews never saw [Appellee] at the parole office. She could not remember the make and model of the car that pulled into the handicapped spot outside of the parole office. She did recall that the windows were open, but could not see if the glove box was open or not. After police came to the parole office, she and her supervisor took Rivera to East Detectives. At that time they received a phone call from Agent Christopher Stevens, stating that agents were securing a vehicle in front of the parole office. On cross-examination, Agent Crews admitted that while giving a statement to Detective Paul Dixon, she stated that she took Rivera into custody because she did not like the way he was acting. The statement said nothing about drug tests, positive urinalysis, questions regarding drugs, or taking Rivera into custody on the suspicion of using drugs or being around people using drugs.

Agent Chris Stevens testified that he is a parole officer employed at 1318 West Clearfield Street. On June 1, 2009, Agent Crews asked him to go out to Rivera's car, where they conducted a search. At the time he left the office he did not recall any cars in the handicapped lane. He and Agent Crews had secured a weapon in Rivera's car and were waiting for police. At this time, [Appellee] arrived at the parole office and requested the keys to Rivera's vehicle, but Agent Stevens told him he could go inside the office and have a seat. Counsel later stipulated that at this time, the doors were locked so [Appellee] could be detained. At that time Stevens was aware Rivera had been taken into custody. Agent Stevens informed Agent Crews and Supervisor Davis that [Appellee] had arrived, then returned to Rivera's car to wait for the police.

Approximately twenty (20) minutes after the time that he saw [Appellee] outside, Agent Stevens approached a car parked in the handicapped lane. The vehicle was not on and the keys were not in the ignition. He testified that he originally approached because the windows were rolled down and a cell phone was ringing "consistently" and audibly in the seat. Looking into the vehicle, Agent Stevens testified that he observed the glove compartment open and "drugs in the glove compartment," several small packets of what he presumed to be heroin or cocaine. He did not see marijuana or a pill bottle. There was a key in the glove compartment. Agent Stevens stated that at this point he called Agent Crews and Supervisor Davis, then the police, then returned to the car and secured it until police arrived. Rivera and [Appellee] were taken from the parole office in handcuffs, placed into a police cruiser, and transported to East Detectives. Agent Stevens did not take the cell phone into custody nor was he aware of any police officers taking the phone into custody.

On cross-examination, Agent Stevens stated that he did not recall speaking directly to police officers. However, the arrest report states that Agent Stevens called Arrest Officer Sanchez.

Detective Paul Dixon testified that on June 1, 2009, he arrived on the scene around 6:00 or 7:00 p.m. [Appellee] had already been taken into custody at 5:30 p.m. and transported to the 25th District Police Station. When Detective Dixon arrived, parole agents informed him that they detained a parolee who, during the interview, was texting another individual to come to that location. He observed a vehicle parked outside of the parole office, with open windows, and unlocked doors. He [obtained] a search warrant for the vehicle that was served at 2:50 p.m. on June 2, 2009.

Detective Dixon searched the vehicle and recovered from the glove box and trunk various items which were then submitted for chemical analysis. Along with heroin, marijuana, and cocaine base, he recovered a pill bottle with [Appellee's] name on it, a photographic ID, and a plastic cover with ID holder, and a plastic case. Most of

the narcotics were found in the glove box. The glove box was partially open, about two or three inches, and marijuana in a clear bag was visible. Some of the drugs were kept within a black case. Detective Dixon did not use a key to open the glove box and could not remember if he had ever possessed one. He did open the ashtray of the car himself, and the ashtray remained open in the photograph.

Counsel stipulated that a Philadelphia police chemist would testify that the items seized were 2.598 grams of heroin in black rubber bands, one (1) packet containing 16 milligrams of heroin, 18.7 grams of marijuana, and packets, vials, and Ziploc bags filled with off-white chunks of cocaine base with a total weight of 2.108 grams.

Detective Nicholas Via testified that on June 2, 2009, he was a Philadelphia Police Detective working an 8:00 a.m. to 4:00 p.m. shift in the Special Investigations Unit. When he arrived at the 25th District cell room around 10:45 a.m., [Appellee] was already in custody, with arrest reports indicating he had been arrested with Rivera at about 6:00 p.m. the previous night. Detective Via indicated to [Appellee] that he knew Rivera and [Appellee] had committed numerous robberies together. Similarly, Detective Via received information from Rivera that [Appellee] kept a sawed-off shotgun in his apartment on N. 2nd Street. On cross-examination, Detective Via stated that he received the general address from Rivera and the specific address from [Appellee], though the paperwork listed the specific address. Detective Via read [Appellee] the ***Miranda***[9] warnings. Upon questioning, [Appellee] admitted he owned a storage area on 3447 N. 2nd Street. Detective Via obtained a key from [Appellee] along with a signed consent to search.

[9] ***Miranda v. Arizona***, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

Special Agent Marshall Freer, employed by the Pennsylvania Attorney General and assigned to the gun violence task force with the Philadelphia District Attorney's Office, was Detective Via's partner on June 2, 2009. Detective Via and Agent Freer went together to 3447 N.

> 2nd Street to search Unit 30; Detective Via had a key to that location. Inside, the detectives found a one-room apartment, containing a bed, a dresser, a few chairs, and a small desk with a television. Recovered from the apartment were one (1) plastic baggie containing approximately eight (8) grams of alleged cocaine and four (4) clear baggies containing approximately seventy-nine (79) grams alleged marijuana. Also recovered from that location was a replica 8 mm Kimer semi-automatic pistol and a 12 gauge shotgun with a sawed-off barrel and the serial number obliterated. The shotgun was loaded, and ten (10) rounds were recovered. Also recovered were two (2) .45 caliber semi-automatic magazines loaded with thirteen (13) live rounds.
>
> Detectives also recovered a clear plastic baggie with an apple stamp containing empty plastic packets, clear yellow or green, a Ziploc baggie containing clear vials and tops, an amber pill bottle with a pharmacy stamp bearing [Appellee's] name containing a clear plastic baggie of cocaine, and a Pelouze digital scale. On a separate property receipt were placed the following: an HP laptop computer, a School District of Philadelphia academic record for [Appellee], a diploma from Delaware County Community College in the name of [Appellee], and a bronze key to Apartment 30, 3447 N. 2nd Street.
>
> Special Agent Freer had no contact with [Appellee].
>
> Counsel stipulated that 6.849 grams of cocaine base were recovered from the apartment along with 22.3 grams of marijuana. The shotgun was found to be operable.

(Suppression Court Opinion, filed October 30, 2013, at 2-7) (internal citations to the record omitted).

The Commonwealth charged Appellee with multiple offenses related to possession of drugs and firearms. Prior to trial, Appellee filed motions to suppress all evidence obtained as a result of his allegedly illegal arrest. The court conducted suppression hearings on May 31, 2013 and June 5, 2013.

Immediately following the second hearing, the court granted Appellee's motion and suppressed all evidence recovered from the vehicle and apartment. The court found the parole agents subjected Appellee to an illegal custodial detention when they kept him inside the locked parole office. The court determined the initial detention was unlawful, because the agents had no probable cause to believe Appellee had committed a crime. Thus, the court concluded, "As [Appellee] was detained illegally, all evidence obtained after his detention, including the search of the car as well as the consent to search [Appellee's] home, was thus fruit of the poisonous tree and should be suppressed." (***Id.*** at 12).

The Commonwealth timely filed a notice of appeal on July 2, 2013.[1] That same day, the Commonwealth filed a concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(b).

The Commonwealth raises one issue for our review:

> DID THE [SUPPRESSION] COURT ERR BY SUPPRESSING CONTRABAND SEIZED FROM A CAR IN WHICH [APPELLEE] SHOWED NO REASONABLE EXPECTATION OF

---

[1] Pursuant to Pa.R.A.P. 311(d), the Commonwealth certified in good faith in its notice of appeal that the suppression order substantially handicapped or terminated the prosecution. Accordingly, this appeal is properly before us for review. ***See Commonwealth v. James***, ___ Pa. ___, 69 A.3d 180 (2013) (reiterating Commonwealth has absolute right of appeal from interlocutory suppression order, when Commonwealth certifies in good faith that suppression order has terminated or substantially handicapped prosecution); ***Commonwealth v. Cosnek***, 575 Pa. 411, 836 A.2d 871 (2003) (stating Rule 311(d) applies to pretrial ruling that results in suppression, preclusion or exclusion of Commonwealth's evidence).

> PRIVACY—AND FROM AN APARTMENT DURING A CONSENSUAL SEARCH—WHERE THE EVIDENCE WAS NOT TAINTED BY ANY UNLAWFUL CONDUCT?

(Commonwealth's Brief at 3).

When the Commonwealth appeals from a suppression order, the relevant scope and standard of review are:

> [We] consider only the evidence from the defendant's witnesses together with the evidence of the prosecution that, when read in the context of the entire record, remains uncontradicted. As long as there is some evidence to support them, we are bound by the suppression court's findings of fact. Most importantly, we are not at liberty to reject a finding of fact which is based on credibility.
>
> The suppression court's conclusions of law, however, are not binding on an appellate court, whose duty is to determine if the suppression court properly applied the law to the facts.

Commonwealth v. Goldsborough, 31 A.3d 299, 305 (Pa.Super. 2011), *appeal denied*, 616 Pa. 651, 49 A.3d 442 (2012) (internal citations and quotation marks omitted). The test for exclusion of evidence is not whether the evidence came to light as a result of unlawful police action ("but for"); rather, the test is whether, given the initial illegality, the evidence came about by exploitation of that primary illegality or by means sufficiently separate to purge the primary taint. ***Commonwealth v. Butler***, 729 A.2d 1134, 1138 (Pa.Super. 1999), *appeal denied*, 560 Pa. 668, 742 A.2d 167 (1999) (citing ***Wong Sun v. U.S.***, 371 U.S. 471, 487-88, 83 S.Ct. 407, 417, 9 L.Ed.2d 441, ___ (1963)). "The relevant inquiry in determining whether

the taint of an illegal arrest is purged by a subsequent legal arrest is whether the evidence obtained following the legal arrest was discovered through any exploitation of the initial illegal arrest." ***Butler, supra*** (quoting ***United States v. Edwards***, 103 F.3d 90, 95 (10th Cir. 1996)).

On appeal, the Commonwealth asserts a parole agent saw drugs in a parked and open Chevrolet, owned by a woman named Belinda West, but driven to the parole office by Appellee. The Commonwealth contends the mere fact that Appellee drove the Chevrolet to the parole office to pick up Mr. Rivera's car keys does not establish Appellee's right to suppress the evidence recovered from the vehicle per a search warrant. The Commonwealth emphasizes Appellee is not the registered owner of the Chevrolet and failed to show he had permission from the registered owner to drive the vehicle. Thus, Appellee had no reasonable expectation of privacy in the Chevrolet. Moreover, Appellee was a legitimate cause for concern in that he was at the parole office to pick up Mr. Rivera's keys, including keys to another vehicle that contained an AK-47 and other items for use in robberies. Appellee was told he could wait in the lobby. Only one other person was present. Although the door to the lobby was locked after Appellee entered, there was no evidence that Appellee knew it was locked. In the event Appellee was actually detained at that point, the Commonwealth states the facts and circumstances of the case made the purported investigatory detention reasonable. The Commonwealth submits

it did not have to show Appellee knew what was in Mr. Rivera's vehicle, where the police had reason to investigate whether Appellee was Mr. Rivera's colleague in crime or just a chump Mr. Rivera tricked into assuming responsibility for his criminal effects. Either way, the police were not just going to hand over Mr. Rivera's keys without further investigation even if just to verify the legality of the gun. The Commonwealth asserts neither Appellee's arrival on the scene nor his putative detention in the parole office lobby is attributable to police malfeasance.

Regarding the evidence recovered from Appellee's apartment, the Commonwealth insists the discovery of drugs in the Chevrolet gave police probable cause to arrest Appellee. The Commonwealth further emphasizes that a police detective operating independently interviewed Mr. Rivera, who confessed that he and Appellee had committed numerous robberies and that Appellee kept a sawed-off shotgun at his apartment. The Commonwealth argues Mr. Rivera's statements were sufficiently independent of any taint arguably stemming from Appellee's arrest related to the drugs recovered from the Chevrolet. After receiving this new information from Mr. Rivera, the detective visited Appellee who was then being held at a different location. The detective administered ***Miranda*** warnings to Appellee and told him what Mr. Rivera had said. Upon learning about Mr. Rivera's disclosure, Appellee agreed to a search of an apartment unit, where he stored firearms and controlled substances, and executed a valid consent form permitting the

police to search his apartment. Police recovered a loaded sawed-off shotgun with an obliterated serial number, a semiautomatic pistol, eight grams of cocaine and related paraphernalia, seventy-nine grams of marijuana, and various items bearing Appellee's name. Based on the foregoing, the Commonwealth submits the narcotics evidence seized from the Chevrolet, pursuant to a valid search warrant, was admissible because Appellee failed to establish a reasonable expectation of privacy in the Chevrolet. Likewise, the narcotics and other evidence seized from Appellee's apartment, pursuant to a valid consent, was also admissible. The Commonwealth concludes the court should have denied Appellee's suppression motion. We agree.

"The concept of standing in a criminal search and seizure context empowers a defendant to assert a constitutional violation and thus seek to exclude or suppress the government's evidence pursuant to the exclusionary rules under the Fourth Amendment of the United States Constitution or Article 1, Section 8 of the Pennsylvania Constitution." ***Commonwealth v. Powell***, 994 A.2d 1096, 1103 (Pa.Super. 2010), *appeal denied*, 608 Pa. 665, 13 A.3d 477 (2010) (quoting ***Commonwealth v. Hawkins***, 553 Pa. 76, 80, 718 A.2d 265, 266 (1998)).

> A defendant moving to suppress evidence has the preliminary burden of establishing standing and a legitimate expectation of privacy. Standing requires a defendant to demonstrate one of the following: (1) his presence on the premises at the time of the search and seizure; (2) a possessory interest in the evidence improperly seized; (3) that the offense charged includes as an essential element the element of possession; or (4) a

> proprietary or possessory interest in the searched premises. A defendant must separately establish a legitimate expectation of privacy in the area searched or thing seized. Whether [a] defendant has a legitimate expectation of privacy is a component of the merits analysis of the suppression motion. The determination whether [a] defendant has met this burden is made upon evaluation of the evidence presented by the Commonwealth and the defendant.

Powell, supra at 1103-04 (quoting ***Commonwealth v. Burton***, 973 A.2d 428, 435 (Pa.Super. 2009) (*en banc*)) (internal citations omitted).

> [G]enerally under Pennsylvania law, a defendant charged with a possessory offense has automatic standing to challenge a search. However, in order to prevail, the defendant, as a preliminary matter, must show that he had a privacy interest in the area searched.
>
> An expectation of privacy is present when the individual, by his conduct, exhibits an actual (subjective) expectation of privacy and that the subjective expectation is one that society is prepared to recognize as reasonable. The constitutional legitimacy of an expectation of privacy is not dependent on the subjective intent of the individual asserting the right but on whether the expectation is reasonable in light of all the surrounding circumstances.

Id. at 435 (internal quotation marks omitted).

Further, contacts between the police and citizenry fall within three general classifications:

> The first [level of interaction] is a "mere encounter" (or request for information) which need not be supported by any level of suspicion, but carries no official compulsion to stop or to respond. The second, an "investigative detention" must be supported by a reasonable suspicion; it subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. Finally an arrest or

> "custodial detention" must be supported by probable cause.

Goldsborough, supra at 305 (quoting ***Commonwealth v. Bryant***, 866 A.2d 1143, 1146 (Pa.Super. 2005), *appeal denied*, 583 Pa. 668, 876 A.2d 392 (2005)). "The key difference between an investigative and a custodial detention is that the latter 'involves such coercive conditions as to constitute the functional equivalent of an arrest.'" ***Commonwealth v. Gonzalez***, 979 A.2d 879, 887 (Pa.Super. 2009) (quoting ***Commonwealth v. Pakacki***, 587 Pa. 511, 519, 901 A.2d 983, 987 (2006)).

> The court considers the totality of the circumstances to determine if an encounter is investigatory or custodial, but the following factors are specifically considered: the basis for the detention; the duration; the location; whether the suspect was transported against his will, how far, and why; whether restraints were used; the show, threat or use of force; and the methods of investigation used to confirm or dispel suspicions.

Commonwealth v. Teeter, 961 A.2d 890, 899 (Pa.Super. 2008).

Probable cause to support a custodial detention is made out when "the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonably trustworthy information, are sufficient to warrant a [person] of reasonable caution in the belief that the suspect has committed or is committing a crime." ***Commonwealth v. Thompson***, 604 Pa. 198, 203, 985 A.2d 928, 931 (2009) (quoting ***Commonwealth v. Rodriguez***, 526 Pa. 268, 273, 585 A.2d 988, 990 (1991)).

> The question we ask is not whether the officer's belief was correct or more likely true than false. Rather, we require **only a probability**, and not a *prima facie* showing, of criminal activity. In determining whether probable cause exists, we apply a totality of the circumstances test.

Thompson, supra (emphasis in original) (internal citations and quotation marks omitted).

Additionally, "A search conducted without a warrant is deemed to be unreasonable and therefore constitutionally impermissible, unless an established exception applies. One such exception is consent, voluntarily given." ***Commonwealth v. Kemp***, 961 A.2d 1247, 1260 (Pa.Super. 2008) (*en banc*) (internal citations omitted).

> In connection with the inquiry into the voluntariness of a consent given pursuant to a lawful encounter, the Commonwealth bears the burden of establishing that a consent is the product of an essentially free and unconstrained choice—not the result of duress or coercion, express or implied, or a will overborne—under the totality of the circumstances. While knowledge of the right to refuse to consent to the search is a factor to be taken into account, the Commonwealth is not required to demonstrate such knowledge as a prerequisite to establishing a voluntary consent. Additionally, although the inquiry is an objective one, the maturity, sophistication and mental or emotional state of the defendant (including age, intelligence and capacity to exercise free will), are to be taken into account.

Powell, supra at 1101-02 (quoting ***Kemp, supra*** at 1261).

Instantly, Appellee offered nothing to establish his connection to the Chevrolet or to show that he occupied the Chevrolet with the authorization or permission of the registered owner. Instead, the Commonwealth

submitted the search warrant into evidence, which listed Belinda West as the registered owner. (***See*** Search Warrant, dated 6/2/09, at 1.) Absent more, Appellee had no demonstrable, reasonably cognizable expectation of privacy in a vehicle he did not own and for which he could show no authority to occupy or operate. ***See Powell, supra***. ***See also Burton, supra*** (holding defendant did not have reasonably cognizable expectation of privacy in vehicle he was operating; vehicle was not registered in defendant's name and defendant offered no evidence he had obtained registered owner's permission to use vehicle). Under these circumstances, the police did not violate Appellee's personal privacy rights. Likewise, Appellee's lack of reasonable expectation of privacy in the Chevrolet was independent of any purported detention of Appellee. Thus, the court should have denied Appellee's suppression motion concerning the contraband recovered from the Chevrolet. ***See id.***

Regarding the contraband found in Appellee's apartment, Detective Via testified that he worked the 8:00 a.m. to 4:00 p.m. shift on June 2, 2009, the day after police took Appellee and Mr. Rivera into custody. Upon arriving at the police station, Detective Via reviewed the overnight arrest reports for Appellee and Mr. Rivera. As a member of the special investigations unit, Detective Via was required to interview defendants charged with weapons offenses to determine whether they had obtained firearms though a straw purchase. Consequently, Detective Via questioned

Mr. Rivera about the circumstances of his offense.

Mr. Rivera confessed that he and Appellee had "committed numerous robberies together." (***See*** N.T. Suppression Hearing, 6/5/13, at 7.) Mr. Rivera also stated that Appellee kept a sawed-off shotgun in his apartment. After obtaining this information, Detective Via met with Appellee in his holding cell. Detective Via told Appellee about Mr. Rivera's statements, provided ***Miranda*** warnings[2] and asked Appellee for consent to search his

---

[2] Detective Via testified about the ***Miranda*** warnings as follows:

> [COMMONWEALTH]: When you say you read him his rights what exactly do you mean?
>
> [DETECTIVE]: His ***Miranda*** rights.
>
> [COMMONWEALTH]: Do you recall what ***Miranda*** warnings that you gave, if you remember?
>
> [DETECTIVE]: He didn't have to give it to me, his right to remain silent, the right to counsel, and…he said I understand.
>
> [COMMONWEALTH]: Did you read it from—
>
> [DETECTIVE]: No, just from memory.

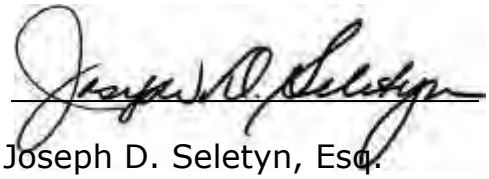
(***See*** N.T. Suppression Hearing, 6/5/13, at 8-9.) Citing this testimony, Appellee contends the ***Miranda*** warnings were inadequate. Appellee claims the detective failed to inform him that anything that he said could be used against him in a court of law, and that counsel would be appointed if he could not afford a lawyer. The suppression court, however, found as follows: "[Appellee] was read his ***Miranda*** warnings. [Appellee] had been arrested several times in the past. [Appellee] was very compliant with Detective Via on that day." (***Id.*** at 89.) On this record, we decline Appellee's invitation to infer that the ***Miranda*** warnings were deficient.

apartment. Appellee complied, voluntarily executed a consent form, and informed Detective Via where he could find a key for the apartment. The subsequent search yielded a sawed-off shotgun and narcotics.

The suppression court concluded this evidence was "fruit of the poisonous tree," because police recovered the contraband after what the court determined was an initially illegal custodial detention. The court's analysis is flawed, as it plainly applied a "but for" standard. ***See Butler, supra***. Here, however, the police did not obtain the contraband from Appellee's apartment through exploitation of an illegal arrest. Rather, Mr. Rivera's confession to police, implicating Appellee in numerous robberies, constituted a unique and independent source of information which purged any alleged taint. ***See id.*** Under these circumstances, the police performed a legal search of the apartment after obtaining Appellee's voluntary consent. ***See Kemp, supra***; ***Powell, supra***. Accordingly, we conclude the court erred in suppressing the evidence obtained from Appellee's apartment. Based upon the foregoing, we reverse the order suppressing the evidence obtained from the Chevrolet and Appellee's apartment and remand for further proceedings.

Order reversed; case remanded for further proceedings. Jurisdiction is relinquished.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/24/2014