

I. BACKGROUND¹

On or about January 28, 2012, at approximately 9:30 a.m., Philadelphia Police Officers Robert Filler ("Filler"), driver, and Oswaldo Toribio ("Toribio"), passenger, were in full uniform in a marked police vehicle traveling southbound on Mascher Street in Philadelphia, Pennsylvania, when they observed a tan GMC Yukon vehicle with Pennsylvania registration HPZ-5926 operating with extremely loud music.² Hr'g Tr. 5:24-8:21, 59:1-11. The officers followed the Yukon for approximately two to

¹ The facts are based on testimony before the Court during the January 28, 2013, evidentiary hearing. The officers' testimony is largely consistent, so the Court will only indicate where their testimony differs. The Court notes, however, that these discrepancies are minor and irrelevant to disposing of Defendant's motion. Similarly, the Court will address instances in which Defendant's testimony controverts that of the officers.

² Section 12-1126 of the Philadelphia Traffic Code prohibits sound reproduction devices in vehicles from being played such that they can be heard outside the vehicle at a distance of greater than 25 feet. Specifically, this section provides:

No person, while driving, parked or in control of any vehicle, shall operate a radio, tape player or any other type of sound reproduction device in any area within the City at a sound level which produces a sound audible at a distance of greater than twenty-five feet from the location of such radio, tape player or other sound reproduction device, unless such device is being used in connection with the holding of a public assembly for which a permit or license has been issued by the City.

Philadelphia Code and Charter, Traffic Code § 12-1126.

three blocks. Hr'g Tr. 29:18-30:16. As they drew closer—at a distance of approximately sixty feet—the music was loud enough to make the police vehicle's rearview mirror vibrate. Hr'g Tr. 8:18-21, 33:18-34:15, 59:14-18. The officers stopped the Yukon near 3000 N. Mascher Street, Philadelphia, using lights and sirens. Hr'g Tr. 8:22-9:5, 59:19-21. Prior to stopping Defendant, the officers did not know who he was, nor did they have a reason to suspect that he was armed. Hr'g Tr. 28:15-21, 82:10-12.

Filler testified, however, that as he approached the Yukon, he observed Defendant—the sole occupant—"turn and mak[e] movements towards the center console area" of the vehicle. Hr'g Tr. 9:7-12.³ Filler stated that Defendant had not retrieved paperwork from that location, and that the lid of the armrest

³ On cross-examination, defense counsel asked Filler whether Defendant's windows were up or down. Filler testified that, by the time he arrived at the door, Defendant's window was down. Hr'g Tr. 45:2-9.

Defense counsel also raised the issue of whether Defendant's conduct, instead of reaching for the compartment, could have been reaching for the radio knob, presumably to adjust the volume of the music. Hr'g Tr. 41:5-12, 49:4-12. In response, Filler testified that the music was lowered before he got to the vehicle. Hr'g Tr. 41:5-12, 49:4-12.

compartment in the center console was "popped open," resulting in a gap underneath. Hr'g Tr. 9:13-18.⁴

Toribio testified similarly, stating that he approached the Yukon from the passenger's side while Filler approached from the driver's side. Tr. 61:20-25. Toribio testified that, as he approached, he saw that "Defendant's right hand was towards the center console," but that Defendant had no paperwork in his hands. Hr'g Tr. 62:5-14. Toribio found this noteworthy, because if not for paperwork, Defendant might have been reaching for "a weapon or something else." Hr'g Tr. 62:15-19. Toribio also testified that the lid to the compartment was "popped open." Hr'g Tr. 62:20-24.

The officers both testified that, in their experience, they know a raised compartment lid to be an indication of hidden contraband, including firearms. Hr'g Tr. 9:21-10:9, 48:14-49:21, 63:3-11. Filler further testified that he was concerned for his and Toribio's safety, as he believed Defendant had just hidden a firearm. Hr'g Tr. 10:10-11:2. Consequently, Filler ordered Defendant out of the vehicle. Hr'g Tr. 9:18-19. Toribio frisked Defendant, escorted Defendant to the patrol vehicle, and placed him inside the rear back seat. Hr'g Tr. 12:5-9, 79:20-80:21.

⁴ Upon inquiry during cross-examination, the officers demonstrated just how far open the compartment lid actually was. Hr'g Tr. 42:2-22, 49:13-52:6.

Meanwhile, without a warrant and without Defendant's permission, Filler searched the compartment and found the firearm, at which point Defendant was cuffed and placed under arrest for carrying a concealed weapon without a permit, in violation of the Uniform Firearms Act. Hr'g Tr. 12:5-9.⁵ Officer Filler confirmed that the firearm, a Walther, Model P99 AQ, 9mm pistol, serial number FAH4928, was loaded with fifteen rounds of live ammunition, and that Defendant had no paperwork for the firearm. Hr'g Tr. 18:15-24, 24:25-26:3. The officers also testified that Defendant received a traffic citation for

⁵ Filler testified that, for safety reasons, after finding the firearm, he "signaled" to his partner to cuff Defendant. Hr'g Tr. 10:18-11:14. However, Toribio testified that Filler "told" him to handcuff Defendant. Hr'g Tr. 64:4-5, 81:1-2. Notwithstanding, both officers testified that it was at this point—after Filler found the gun—that Toribio cuffed Defendant and placed him under arrest. Hr'g Tr. 11:9-16, 63:21-64:5.

During the hearing, the Court asked Filler how he knew that Defendant had violated the Uniform Firearms Act upon finding the firearm but before having run Defendant's information to see if he had a firearm permit. Filler responded that the violation was carrying a concealed weapon. Hr'g Tr. 15:12-16:10. Upon further inquiry, Filler explained that Defendant was cuffed upon discovering the gun, for safety reasons, and that afterwards, Filler confirmed—by running Defendant's information—that Defendant did not have a permit for the gun, that the gun was "stolen," and thus possessed unlawfully. Hr'g Tr. 22:16-24:9.

excessive sound reproduction, in violation of the Philadelphia Traffic Code. Hr'g Tr. 18:25-20:24, 69:6-18.⁶

Pertinent to this motion, Defendant's testimony controverts the officer's account as follows. First, Defendant testified that the Yukon he was driving on the day in question did not have an "after-market" amplification device; instead, the vehicle retained the standard stock radio. Hr'g Tr. 86:8-21. Defendant further testified that, even with the music playing at maximum volume, the radio was not powerful enough to have shaken the police car's rear view mirror. Hr'g Tr. 87:5-18.⁷ Instead, Defendant testified that Filler told him he was being stopped for excessive tint.⁸ Defendant testified that he only learned of the excessive noise citation after his wife received the citation in the mail. Hr'g Tr. 91:8-17.

⁶ Filler testified that, if he had not discovered a firearm, after confirming that his license and vehicle registration paperwork were in order, Defendant would have simply been issued a traffic citation, and then would have "been free to leave." Hr'g Tr. 28:24-29:17.

⁷ Filler testified that he did not recall, nor did he investigate to discover whether Defendant's vehicle had an after-market amplification device, given that safety had become his primary concern. Hr'g Tr. 43:16-35:4.

⁸ Filler testified that he did not recall whether Defendant's vehicle had excessive tint, and denied that he told Defendant that was the reason for the traffic stop. Hr'g Tr. 32:1-9. Toribio testified that he recalled the tinting on the windows was "factory tint." Hr'g Tr. 77:22-78:1.

Second, Defendant testified that upon getting out of the vehicle, Filler took his license and registration paperwork.⁹ Hr'g Tr. 88:2-8. Defendant testified that it was at this point that Toribio handcuffed him, placed him in the back seat of the police car, and closed the door, returning a few minutes later and stating that Defendant was under arrest for possessing a firearm. Hr'g Tr. 88:9-12. He testified that Toribio never approached the passenger's side, and only became involved when he handcuffed Defendant. Hr'g Tr. 89:19-90:18.

And third, Defendant denies having ever reached towards the center console area, and to his knowledge, denies that the lid to the compartment was even ajar on the date in question. Hr'g Tr. 89:5-19. Defendant testified that he did not know of the stolen firearm until Filler found it in the compartment. Hr'g Tr. 93:1-94:9.

In his motion to suppress the firearm, Defendant argues that the warrantless search of his vehicle was without exception and in violation of his Fourth Amendment rights, and so the firearm must be suppressed. Def.'s Mot. to Suppress 1. The issues before the Court are whether the officers:

(1) lawfully stopped Defendant; (2) lawfully removed Defendant

⁹ According to the officers, Filler ran Defendant's information based on his verbal statements, and never received actual vehicle paperwork. Hr'g Tr. 54:9-55:8, 75:15-23.

from his vehicle, once stopped; and (3) had reasonable suspicion to justify searching the compartment of Defendant's vehicle.

II. APPLICABLE LAW

As a general rule, the burden of proof is on the proponent who seeks to suppress evidence. See United States v. Acosta, 965 F.2d 1248, 1256 n.9 (3d Cir. 1992) (citations omitted). However, once the defendant has established a basis for his motion, that is, that the search or seizure was conducted without a warrant, the burden shifts to the government to show that the search or seizure was reasonable. United States v. Johnson, 63 F.3d 242, 245 (3d Cir. 1995).

The Fourth Amendment prohibits "unreasonable searches and seizures." U.S. Const. amend. IV. A warrantless search is presumptively unreasonable. Horton v. California, 496 U.S. 128, 133 (1990). However, in Terry v. Ohio,¹⁰ the Supreme Court held that "police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity 'may be afoot,' even if the officer lacks probable cause." United States v. Sokolow, 490 U.S. 1, 7 (1989) (quoting Terry, 392 U.S. at 30).

¹⁰ 392 U.S. 1 (1968).

In the vehicle context, as a matter of course a police officer may order the driver¹¹ and the passengers¹² out of a lawfully stopped car. “[A] traffic stop is lawful under the Fourth Amendment where a police officer observes a violation of state traffic regulations.” United States v. Moorefield, 111 F.3d 10, 12 (3d Cir. 1997) (citing Mimms, 434 U.S. at 109). The police may also conduct a Terry search for weapons by patting-down the driver and/or occupants of the stopped vehicle. Id. at 13-14 (citing Michigan v. Long, 463 U.S. 1032, 1050 (1983)).

Additionally, the police may search areas of a stopped vehicle where a weapon may be hidden. Long, 463 U.S. at 1050 (extending Terry's rationale to permit protective search of vehicle's passenger compartment during lawful investigatory stop of occupant). However, to conduct a Terry frisk of an individual or vehicle, a police officer must have reasonable suspicion to believe that a person in the vehicle is armed and dangerous. Id. at 1051-52; see also Arizona v. Johnson, 555 U.S. 323, 327 (2009). Notably, in justifying extending Terry to permit frisks of both individuals and automobiles in Michigan v.

¹¹ Pennsylvania v. Mimms, 434 U.S. 106 (1977).

¹² Maryland v. Wilson, 519 U.S. 408 (1997); see also Moorefield, 111 F.3d at 13-14 (holding that, under Maryland v. Wilson, police can conduct Terry frisk of passenger of a lawfully stopped car so long as Terry's constitutional requirements are met).

Long, the Supreme Court highlighted the unique safety concerns presented by a traffic stop situation in which the suspect is not placed under arrest:

[I]f the suspect is not placed under arrest, he will be permitted to reenter his automobile, and he will then have access to any weapons inside. . . . [W]e stress that a Terry investigation . . . involves a police investigation "at close range," when the officer remains particularly vulnerable in part because a full custodial arrest has not been effected, and the officer must make a "quick" decision as to how to protect himself and others from possible danger In such circumstances, we have not required that officers adopt alternate means to ensure their safety in order to avoid the intrusion involved in a Terry encounter.

Long, 465 U.S. at 1051-52.¹³

The Supreme Court has subsequently summarized traffic-stop search-and-seizure law as follows:

In Michigan v. Long, the principles of Terry were applied in the context of a roadside encounter: "[T]he search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on 'specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant' the officer in believing that the suspect is dangerous and the suspect may gain

¹³ See also the Long Court's discussion finding that the officers reasonably believed the suspect might be armed and dangerous. Long, 465 U.S. at 1050 (listing circumstances, including late hour, rural area, excessive speed with which suspect seen driving vehicle, that officers had to repeat questions, that suspect appeared "under the influence," and that neither suspect nor was vehicle frisked until officers had observed hunting knife in vehicle).

immediate control of weapons." The Long Court expressly rejected the contention that Terry restricted preventative searches to the person of the detained suspect. In a sense, Long authorized a "frisk" of an automobile for weapons.

Maryland v. Buie, 494 U.S. 325, 332 (1990) (citations and internal quotation marks omitted)).

The "reasonable suspicion" standard articulated in Terry and Long is less demanding than probable cause; the threshold showing required is also considerably less than that required under the preponderance of the evidence standard. United States v. Arvizu, 534 U.S. 266, 273-74 (2002) (quoting Sokolow, 490 U.S. at 7). Although requiring more than an "unparticularized suspicion or 'hunch,'" a police officer "need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in his belief that his safety or that of others was in danger." Terry, 392 U.S. at 27.

To determine whether reasonable suspicion exists, courts consider the "'totality of the circumstances—the whole picture.'" United States v. Robertson, 305 F.3d 164, 167 (3d Cir. 2002) (quoting Sokolow, 490 U.S. at 8). Such analysis includes the officer's "knowledge, experience, and common sense judgment about human behavior." Robertson, 305 F.3d at 167. "This . . . allows officers to draw on their own experience and

specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person.” Arvizu, 534 U.S. at 273 (citation and internal quotation marks omitted).

In interpreting Terry's reasonableness standard, the Third Circuit has likewise observed that the analysis is objective, yet takes into account the circumstances present in a given case; namely, “whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger.” United States v. Edwards, 53 F.3d 616, 618 (3d Cir. 1995) (citing Terry, 392 U.S. at 27) (affirming search and seizure of envelope finding officer had reason to believe weapon might be concealed within). “[I]n determining whether an officer acted reasonably under the circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or hunch, but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience.” Id. (internal quotation marks omitted) (citing Terry, 392 U.S. at 1).

The Third Circuit has also emphasized that the scope of a Terry search must be tailored by the degree of intrusion necessary and reasonably designed to preserve officer safety. Edwards, 53 F.3d at 618-19 (citing Terry, 392 U.S. at 29) (“The sole justification of the search in [a Terry stop] is the

protection of the police officer and others nearby, and it must therefore be confined to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer.”).

Defendant calls to the Court’s attention the Supreme Court case, Arizona v. Gant, 556 U.S. 332 (2009). In a landmark decision, the Gant Court held that the warrantless search of a defendant’s vehicle, after the defendant had been arrested and secured in the back of a police car, was unreasonable and thus violated the Fourth Amendment. Id. at 335. In deciding Gant, the Court adopted Justice Scalia’s concurrence in Thornton v. United States,¹⁴ and abrogated the expansive application of its earlier holdings in Chimel v. California¹⁵ and New York v. Belton.¹⁶

Previously, in Chimel v. California, the Court held that police may conduct a warrantless search, incident to arrest, of the space within an arrestee’s “immediate control,” meaning “the area from within which he might gain possession of a weapon or destructible evidence.” Gant, 556 U.S. at 335

¹⁴ 541 U.S. 615 (2004).

¹⁵ 395 U.S. 752 (1969) (recognizing a search-incident-to-arrest exception to Fourth Amendment’s warrant requirement).

¹⁶ 453 U.S. 454 (1981) (applying Chimel’s search-incident-to-arrest exception to vehicle searches, allowing search of passenger compartment and any containers therein).

(citing Chimel, 395 U.S. at 763). In New York v. Belton, the Court extended that search-incident-to-arrest exception to the vehicle context. Id. (citing Belton, 453 U.S. at 456).

In deciding Gant, the Court reasoned that the concerns regarding officer safety and the destruction of evidence, which justified the warrant exceptions announced in Chimel and Belton, were not present in Gant. Unlike in Belton, where four defendants were arrested but remained unsecured outside their stopped vehicle and only one officer was present, in Gant, at the time of the vehicle search the defendant had already been arrested and secured in the police car. Id. at 344. Thus, the Court reasoned that neither the officer safety nor destruction of evidence concern justified a warrantless search. The Gant Court held that police may conduct a warrantless vehicle search incident-to-arrest "only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest." Id. at 350.

However, in Gant itself, the Court recognized Long's legitimate concern of preserving officers' safety. The Court noted:

Contrary to the State's suggestion, a broad reading of Belton is also unnecessary to protect law enforcement safety and evidentiary interests. . . . Other established exceptions to the warrant requirement

authorize a vehicle search under additional circumstances when safety or evidentiary concerns demand. For instance, Michigan v. Long permits an officer to search a vehicle's passenger compartment when he has reasonable suspicion that an individual, whether or not the arrestee, is "dangerous" and might access the vehicle to "gain immediate control of weapons."

Id. at 346-47 (citations omitted). Thus, it appears that the exception announced in Long remains good law.

Since Gant, the Third Circuit has not issued a precedential opinion regarding the continued applicability of Long.¹⁷ However, a recent non-precedential decision suggests that the Third Circuit would continue to recognize Long as good law, even after Gant. See United States v. Colen, 482 Fed. App'x 710 (3d Cir. May 18, 2012) (unpublished) (reviewing post-Gant Fourth Amendment jurisprudence as applied to protective sweep of defendant's vehicle during traffic stop, and affirming protective search of defendant's vehicle during traffic stop citing exception announced in Long).

In United States v. Colen, Chief Judge McKee, Judge Sloviter, and Justice (Ret.) O'Connor affirmed the trial court's

¹⁷ In a 2010 precedential opinion, the Third Circuit addressed a warrantless search incident to arrest outside the vehicle context. See United States v. Shakir, 616 F.3d 315 (3d Cir. 2010) (affirming warrantless search of defendant's gym bag for weapons incident to arrest where, although defendant was handcuffed he still could have accessed bag). However, this case is factually dissimilar and does not address the continued validity of and/or scope of Long.

denial of the defendant's motion to suppress a firearm, which police discovered during a warrantless search of the defendant's vehicle, stopped for a traffic violation. Colen, 482 Fed. App'x at 711. Relying on Michigan v. Long, the Colen Court held that the police officers acted reasonably and did not run afoul of the Fourth Amendment where: the vehicle was lawfully stopped; the officers exercised reasonable control over the defendant during that stop in ordering him out of the car; and the officers developed reasonable suspicion after seeing the defendant quickly shut the center console as they approached the vehicle, then retrieve his license and registration from his pocket—negating the possible explanation for his gestures towards the center console—then later gesture again towards the center console. Id. at 713.¹⁸ Accordingly, the Court will adhere to the legal standard set forth in Long, and apply that standard to the facts in this case.

III. DISCUSSION

As a preliminary matter, the Court will first address the legality of the initial stop and the officers' removal of

¹⁸ The Court noted that simply driving in a high-crime neighborhood and displaying nervousness, alone, would not have been enough; nor would merely reaching towards the center console, which could be consistent with retrieving a driver's license or registration. Colen, 482 Fed. App'x at 713.

Defendant from his vehicle, each of which can be resolved summarily.

First, the Court finds that the initial stop was lawful, because the officers had reason to believe Defendant violated § 12-1126 of the Philadelphia Traffic Code. See Moorefield, 111 F.3d at 12 (citing Mimms, 434 U.S. at 109).

Defendant contests that he was playing his music too loudly, specifically testifying that the vehicle he was driving did not have an after-market amplification device and so was not capable of producing sound that would violate the Philadelphia Traffic Code. Instead, Defendant testified that the officers told him he was being stopped for excessive tint. Apart from his testimony, however, Defendant offers little evidence to substantiate his claims.¹⁹

¹⁹ Defendant appears to argue that the officers' purpose in stopping Defendant was pretextual. Def.'s Mot. to Suppress 4 ("Arguably, Officer Filler's purpose in stopping the defendant may have been pretextual.") This argument is unavailing.

In this Circuit, courts evaluate the admissibility of evidence seized during an allegedly pretextual stop under the "authorization test," which allows for the admission of seized evidence so long as a reasonable officer could have made the stop; the question is whether the officer reasonably believed that the defendant committed the traffic offense and whether the law authorized a stop for such an offense. Johnson, 63 F.3d at 246-48 (adopting "authorization test"); see also United States v. George, 421 F. App'x 149, 152 (3d Cir. 2009) ("Thus, 'any technical violation of a traffic code legitimizes a stop, even if the stop is merely pretext for an investigation of some other crime.'" (citing United States v. Mosley, 454 F.3d 249, 252 (3d Cir.2006))). Moreover, the "reasonableness"—and thus the

After hearing evidence from both parties, the Court finds the officers' testimony credible. Specifically, the officers testified that they personally heard Defendant playing his music too loudly, and indeed the officers issued Defendant a citation for this very violation. Having reason to believe that Defendant had committed a traffic violation, the initial stop was lawful, and thus, did not violate Defendant's rights.

Second, the officers' removal of Defendant from the vehicle was also lawful, because as a matter of course, police officers may order a driver out of a lawfully-stopped vehicle. Mimms, 434 U.S. at 106. Thus, the officers' removal of Defendant from the vehicle was lawful.²⁰

The third phase—Officer Filler's search of Defendant's vehicle's compartment—merits further analysis. As noted above, the Court will assess this segment according to the exception

constitutionality—of an allegedly pretextual traffic stop does not depend on the actual motivations of individual officers. Whren v. United States, 517 U.S. 806, 813 (1996) (“[T]he constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause, not the Fourth Amendment. Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.”).

²⁰ Although stating that, upon being removed from his vehicle, Toribio placed Defendant “in custody,” Defendant does not appear to argue that this conduct constituted a de facto arrest. C.f. Edwards, 53 F.3d at 619-20 (rejecting defendant's argument that police conduct transformed Terry stop into de facto arrest, based on police boxing in suspects' vehicle and their overall display of force).

announced in Michigan v. Long. Thus, the question before the Court is whether, based on the totality of the circumstances, the officers had a reasonable suspicion that Defendant was armed and dangerous, thereby justifying the warrantless search of the compartment in Defendant's vehicle.²¹

Here, like in Colen, the officers both credibly testified that—although they could not see his hands—they witnessed Defendant reaching towards the center console area and that he did not retrieve paperwork from that location, which supports the officers' reasonable suspicion that he was armed.²²

The additional circumstances unique to the officers in this case—namely, that the officers also observed a raised lid, which, based on their experience, indicates hidden contraband—further support the reasonableness of the officers' suspicion. See Edwards, 53 F.3d at 618 (recognizing that officer is entitled to draw "specific reasonable inferences" in light of

²¹ The facts in this case do not constitute the clear facts presented in Long, where, among other circumstances, the police actually saw a hunting knife before frisking the defendant or vehicle. See supra p. 10 n.13 (discussing facts of Long). Nevertheless, the Third Circuit has not restricted a finding of reasonable suspicion justifying a vehicle frisk to the facts articulated in Long.

²² Notably, the officers testified that they ran Defendant's vehicle information based on his oral representations. Defendant, however, testified that the officers in fact took his license and registration paperwork, and never returned it. Here, too, Defendant offers only his testimony in support of this claim.

officer's experience). Moreover, Filler's search was confined to inspecting the compartment for weapons, and thus reasonably tailored by the degree of intrusion necessary and designed to preserve officer safety. See Edwards, 53 F.3d at 618-19.

Unlike in Colen, however, where the officer saw the defendant shut the center console as he approached, here the officers only saw Defendant gesture towards the center console, and only once. C.f. Colen, 482 Fed. App'x at 713 ("Their suspicion was aroused when they saw Colen quickly shut the center console as they first approached the car. They did not conduct a search at that point although they clearly could have under Mimms.").

Although less clear than in Colen or Long, based on the totality of the circumstances, the Court is persuaded that the officers reasonably believed Defendant might have been armed, and therefore Filler's search of the compartment did not violate Defendant's Fourth Amendment rights. Thus, the Court will deny Defendant's motion to suppress the firearm.

IV. CONCLUSION

For the reasons stated above, the Court will deny Defendant's motion. An appropriate order will follow.

