



proceeds to trial.

As support for his request, the defendant claims that he was subjected to a “pat-down frisk” without a warrant, probable cause or reasonable suspicion all of which, he contends, violated his Fourth Amendment Right to remain free from unreasonable governmental searches and seizures. The government disputes the defendant’s allegations and takes issue with his recitation of the historical facts which gave rise to his arrest. The government submits that the sequence of events occurred in the manner described below.

## II BACKGROUND FACTS

### **The Police Car Chase And Traffic Snarl**

On February 3, 1999, Philadelphia Police Officers Gerald Poole and Chris Sarver, while on patrol duty near the vicinity of 8<sup>th</sup> and Loudon Streets in Philadelphia, saw the defendant driving a 1988 Buick Regal car, bearing Pennsylvania license plate number ARK 2252. Defendant failed to yield at a stop sign at the intersections of 8<sup>th</sup> and Loudon Street, an event witnessed by Officers Poole and Sarver. Having witnessed a traffic violation, Officers Poole and Sarver activated their patrol car’s blinking lights for the purpose of signaling the defendant to stop his car. Instead of heeding the officers’ signal, the defendant accelerated the car’s speed and initiated a car chase.

The car chase continued through 3 or 4 additional street intersections; the defendant disregarded the traffic stop sign at each intersection – conduct which constituted additional violations of the Commonwealth of Pennsylvania’s traffic laws and regulations.<sup>1</sup> When the

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<sup>1</sup>. Contrary to defendant’s claim, in paragraph #2 of his motion that “[o]n February 3, 1999, at about 10:30 a.m., Philadelphia police officers stopped the automobile that Mr. Deloatch was driving after allegedly observing several motor vehicle code violations,” the government submits that the defendant was forced to stop his vehicle, as was the case with the police officers, because they encountered a traffic jam at Broad and Windrim Streets and were unable to move

defendant's car and the officers' patrol car reached the intersection of Broad Street and Windrim Avenue, they encountered a traffic jam. The traffic snarl provided the officers with an opportunity to get out of their car and approach the defendant's car before he could get out of his car.

**B. The Arrest and Search Incident To Arrest**

When the officers reached the defendant's car, they told him to "get out of the car." The defendant complied with the officer's request. A search incident to a lawful custodial arrest was undertaken by Officer Poole who, while searching the defendant, found a 9 millimeter semi-automatic pistol in the defendant's waist band. Officer Sarver issued several traffic citations to the defendant because he failed to stop at several stops sign beginning the point at which the chase started. Because the defendant possessed a firearm, the Bureau of Alcohol, Tobacco and Firearms investigated his conduct in the case at bar. The defendant was subsequently indicted and charged with being a felon in possession of a firearm in violation of Title 18, United States Code, Section 922(g)(1).

II **LEGAL STANDARDS WHICH GOVERNS DEFENDANT'S MOTION TO SUPPRESS**

**A. Police Officers Do Not Violate A Defendant's Fourth Amendment Right Against Unreasonable Searches And Seizures when The Officers See The Defendant Fail To Yield At A Stop Sign and Activate Their Siren And Lights In An Attempt To Stop The Defendant's Car**

An automobile stop is subject to the constitutional imperative that it not be "unreasonable" under the circumstances. Whren v. United States, 517 U.S. 806, 808 (1996) (as a general matter, the decision by a police officer to stop an automobile is reasonable where the police have probable cause

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forward.

to believe that a traffic violation has occurred) See also Delaware v. Prouse, 440 U.S. 648, 659 (1979).

In our case, Officer Poole's and Sarver's decision to stop the defendant car's was reasonable because they saw him failed to yield at not 1 – but 3 to 4 stops signs. His inability to continue “running stop signs,” and creating an unquantifiable danger to the public while attempting to elude the police, was belatedly halted as the result of a traffic jam. It was the totality of this conduct which provided the police with probable cause to arrest the defendant without a warrant.

**B**     **The Decision By Police Officers To Arrest The Driver Of A Car Who Has Disregarded 3 to 4 Traffic Signs Is Not An Unreasonable Seizure**

This is not a case where police officers issued a traffic citation to an individual and then undertook a search of his vehicle, as was the case in Knowles v. Iowa, 119 S. Ct. 484 (1998), which resulted in the officer's finding of marijuana and a “pot pipe.” The Knowles Court held that although Iowa law permitted the search of defendant's car, the search violated the Fourth Amendment because: (a) the threat to the officer's safety from issuing a traffic citation is a good deal less than in the case of a custodial arrest and (b) the need to discover and preserve evidence does not exist in a traffic stop because once the defendant had been stopped for speeding and issued a citation, all of the evidence necessary to prosecute him for that offense had been obtained.

In our case, Officer Poole and Sarver arrested the defendant after he committed several traffic offenses, failed to stop his car and initiated a car chase. The arrest was based on probable cause because the officers saw the defendant commit several traffic violations. Because of his conduct, the officers also thought, objectively so, that the defendant might be armed and dangerous. The officers further concluded, objectively so, that probable cause existed to arrest the defendant because

of his “blatant disregard” of not one, *but several* traffic stop signs which could have, but did fortunately did not, cause traffic fatalities at not one, but several intersections.

Once probable cause arose, the officers were legally permitted to arrest the defendant and perform a search incident to a lawful arrest. Accordingly, defendant’s claim that the officers’ finding of a firearm in his possession constituted a violation of his Fourth Amendment to remain free from unreasonable searches and seizures is meritless.

III. CONCLUSIONS

For the reasons stated herein, the government respectfully urge the Court to deny’s defendant Mereck’s Deloatch’s Motion To Suppress Physical Evidence.

Respectfully submitted,

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1999

CERTIFICATE OF SERVICE

I, Floyd J. Miller, one of the attorneys of record, hereby certify that a true and correct copy of the Government's Response To Defendant Mereck Deloatch's Motion To Suppress Physical Evidence was served upon counsel for the defendant, this \_\_\_\_ day of \_\_\_\_\_, 1999 by affixing sufficient postage and depositing the same in the United States Mail:

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