



## **PURSUIT OF DEFENDANT, WHO RAN, HOLDING HIS WAISTBAND, WHEN POLICE TOLD HIM TO STOP, NOT JUSTIFIED, FIREARM AND DRUGS SHOULD HAVE BEEN SUPPRESSED.**

The Second Department, reversing Supreme Court, determined the police did not have a reasonable suspicion of criminal activity. Therefore the pursuit of the defendant was not justified and the firearm and drugs in his possession should have been suppressed. The police observed the car in which defendant was a passenger make a turn without signaling and roll through a stop sign. As the car was moving at one mile an hour, the defendant got out, holding his waistband. After an officer said “police, stop” defendant ran:

“In order to justify police pursuit, the officers must have reasonable suspicion that a crime has been, is being, or is about to be committed” ... . “Police pursuit of an individual significantly impede[s] the person’s freedom of movement and thus must be justified by reasonable suspicion that a crime has been, is being, or is about to be committed” ... . “A suspect’s [f]light alone . . . even [his or her flight] in conjunction with equivocal circumstances that might justify a police request for information, is insufficient to justify pursuit” ... . “However, flight, combined with other specific circumstances indicating that the suspect may be engaged in criminal activity, could provide the predicate necessary to justify pursuit” ... .

Here, the police officers’ observations that the defendant exited a slow moving vehicle and held his waistband did not constitute specific circumstances indicative of criminal activity so as to establish the reasonable suspicion that was necessary to lawfully pursue the defendant, even when coupled with the defendant’s flight from the police ... . The People failed to adduce testimony showing, for example, that the police officers observed the defendant in possession of what appeared to be a gun or that the defendant’s conduct in adjusting his waistband was indicative of gun possession ... . [People v Furr, 2017 NY Slip Op 03192, 2nd Dept 4-26-17](#)

CRIMINAL LAW (PURSUIT OF DEFENDANT, WHO RAN WHEN POLICE TOLD HIM TO STOP, NOT JUSTIFIED, FIREARM AND DRUGS SHOULD HAVE BEEN SUPPRESSED)/STREET STOPS (CRIMINAL LAW, PURSUIT OF DEFENDANT, WHO RAN WHEN POLICE TOLD HIM TO STOP, NOT JUSTIFIED, FIREARM AND DRUGS SHOULD HAVE BEEN SUPPRESSED)/SUPPRESS, MOTION TO (CRIMINAL LAW, PURSUIT OF DEFENDANT, WHO RAN WHEN POLICE TOLD HIM TO STOP, NOT JUSTIFIED, FIREARM AND DRUGS SHOULD HAVE BEEN SUPPRESSED)