

Daniel Gwynn Blog Update  
Date: 10/21/13  
Subject: "Illegal Stop/Arrest"

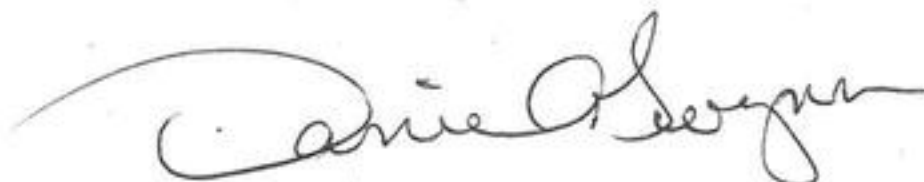
### Illegal Stop/Arrest

Late in the evening of November 30<sup>th</sup>, Gwynn was observed by a Officer Joseph Surina hanging around his area of patrol carrying a back pack with something brown sticking out of it. As Ofc. Surina drove by, Gwynn would make himself inaccessible by walking away as Ofc. Surina approached. Ofc. Surina admits that he did not see Gwynn commit any crime, yet he still chose to stop Gwynn when an opportunity presented itself. Ofc. Surina grabbed & locked Gwynn in the patrol car after asking his name & taking the back pack, which he then searched the back pack for identification. Upon attempting to exit the vehicle, Gwynn was handcuffed. Gwynn's name was run through the police computer on site, where it was discovered that Gwynn had bench warrants for his arrest.

A police officer may stop a person on the street and ask questions for investigation purposes, based upon a reasonable suspicion, but that person cannot be detained without probable cause. An arrest occurs when a police officer restricts an individual's freedom of movement (such as grabbing him or locking him in a police car). An arrest is not justified by what a subsequent search discloses.

Gwynn's trial court judge properly ruled that the stop was an arrest and improper, but erred in judgment that "the bench warrants purged the taint of the illegal arrest.

The discovery of the bench warrants was the product of the illegal arrest, which made them "the fruit of the poisonous tree." The Supreme Court of Pennsylvania has made precedent that "if information leading to the warrants was obtained during the unlawful arrest, it's considered the fruit of the poisonous tree, and that knowledge gained by the governments misconduct cannot be used at all." (like purging the taint of an illegal arrest).



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Illegal Stop/Arrest (cont.)

On Gwynn Direct Appeal, the Pa. Supreme ruled, erroneously "that there was no arrest, that the police encounter was a permissible stop to dispel the officer's suspicions that crime was afoot, and to preserve the status quo." This was in spite of the fact that Ofc. Surina testified that he "witnessed no crime, nor had he any suspicion of one committed by Gwynn, yet he still "grabbed, handcuffed & locked Gwynn in the police car." The Pa. Supreme Court's ruling here is a blatant unreasonable determination of the facts & a misapplication of the law; as each action by Ofc. Surina, according to their prior holdings, constituted an arrest.

A handwritten signature in black ink, appearing to read "Daniel Gwynn", with a large, sweeping flourish extending from the end of the name.