

The Recipe For a Hot And Fresh Pursuit Under §8953(a)(2) of the Municipal Police Jurisdiction Act: *Commonwealth v. Peters*

CRIMINAL LAW - §8953 MUNICIPAL POLICE JURISDICTION ACT (MPJA) – HOT AND FRESH PURSUIT EXCEPTION – The Pennsylvania Supreme Court held that a finding of a lawful extraterritorial arrest under the hot and fresh pursuit exception of the MPJA requires a search that is immediate, continuous and uninterrupted.

Commonwealth v. Peters, 965 A.2d 222 (2009).

I.	The <i>Peters</i> Decision.....	119
II.	The Precedential History Behind the <i>Peters</i> Decision.....	75
III.	An Analysis of the <i>Peters</i> Decision.....	81

I. THE *PETERS* DECISION

On the evening of October 3, 2008, Raymond Allan Peters (Peters) was arrested for driving under the influence (DUI), at his residence in Franklin, Pennsylvania.¹ The officer who arrested Peters was employed by Sugarcreek Borough, a neighboring jurisdiction.² The arresting officer arrived at Peters’ residence after he was dispatched in conjunction with the Franklin City Police to the location of a hit and run accident in Sugarcreek.³ Immediately thereafter, a joint investigation for the suspect and his vehicle commenced.⁴ Within minutes of the vehicle’s discovery approximately one-half miles from the accident site, Peters contacted the Franklin police and admitted to committing a hit and run in Sugarcreek.⁵ Both jurisdictions responded to Peters’ residence where he appeared to be intoxicated.⁶ Peters was subjected to a breathalyzer test which produced a .09 blood-alcohol-content.⁷ Consequently, he was arrested by the Sugarcreek officer; approximately sixty minutes after the hit and run occurred.⁸

Before the Court of Common Pleas of Venango County, Pennsylvania, Peters unsuccessfully sought to suppress evidence and contended that the Sugarcreek officer unlawfully arrested him in Franklin, beyond the boundaries of Sugarcreek’s jurisdiction.⁹ A jury

1. *Commonwealth v. Peters*, 965 A.2d 222, 224 (2009).
2. *Peters*, 965 A.2d 222 at 224.
3. *Id.* at 224. The accident occurred around 10:15 p.m. on Meadville Pike. *Id.* This road lies in both the Sugarcreek and City of Franklin jurisdictions; each jurisdiction polices their respective “side.” *Id.* at 224, 225. Damage to a “telephone pole, mailbox, and a street sign inter alia” resulted from the accident. *Id.* Inter alia means “among other things.” BLACK’S LAW DICTIONARY 1676 (8th ed. 2004).
4. *Peters*, 965 A.2d 222 at 224.
5. *Id.* at 224. Peters’ truck was discovered by the Franklin police within one-half miles of the hit and run location. *Id.* Upon its discovery, Franklin police contacted the Sugarcreek police. *Id.* The arresting officer responded to the truck’s location at approximately 10:45 p.m. or 11:00 p.m. *Id.*
6. *Id.* Franklin police relayed Peter’s address to Sugarcreek police. *Id.*
7. *Id.*
8. *Id.*
9. *Peters*, 965 A.2d 222 at 224. Peters sought to suppress all evidence acquired in connection with his arrest. *Commonwealth v. Peters*, 915 A.2d 1213 (Pa. Super. 2007).

subsequently convicted Peters of driving under the influence, unlawful tire equipment, and a speed violation.¹⁰

Peters then appealed the trial court's refusal to suppress the evidence of his arrest and contended that the unlawful arrest directly contravened §8953(a)(2) of the Municipal Police Jurisdiction Act (MPJA).¹¹ The Superior Court of Pennsylvania affirmed the trial court's ruling and determined that since the officer was engaged in a "hot and fresh pursuit," the MPJA permitted him to arrest Peters beyond the officer's jurisdiction.¹² Upon further appeal the Supreme Court of Pennsylvania was charged to determine whether the Sugarcreek officer's conduct contravened the "hot and fresh pursuit" exception of the MPJA.¹³

Six justices of the Supreme Court of Pennsylvania affirmed the lower court's ruling and another concurred.¹⁴ In his opinion, Chief Justice Castille adopted the definitions of "hot pursuit" and "fresh pursuit" crafted by the Superior Court.¹⁵ Furthermore, the majority held that Peters' arrest aptly fell within the MPJA's overall statutory objectives relating to the "hot and fresh pursuit" exception.¹⁶

Specifically, the majority determined that a hot and fresh pursuit requires an "immediate, continuous, and uninterrupted"¹⁷ search for the suspect.¹⁸ In the instance case, upon their response to the accident site, both jurisdictions' police abruptly commenced an investigation and search of the suspect thereby satisfying the "search and immediate"¹⁹ elements.²⁰ Moreover, the Sugarcreek officer persistently searched for Peters for nearly sixty minutes without pause from

10. *Id.* In particular, Peters was convicted of 75 PA. CONST. STAT. ANN. §3731(a)(1) Driving Under the Influence of Alcohol or Controlled Substance, 75 PA. CONST. STAT. ANN. §4525(a) Tire Equipment and Traction Surfaces, and 75 PA. CONST. STAT. ANN. §3361 Driving Vehicle at a Safe Speed. *Id.*

11. *Id.* The relevant section of the Municipal Police Jurisdiction Act (MPJA), is available at 42 PA. CONST. STAT. ANN. §8953(a)(2). §8953(a) reads:

Any duly employed municipal police officer who is within this Commonwealth but beyond the territorial limits of his primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction

.....

(2) where the officer is in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

Id. at 223.

12. *Id.* at 224.

13. *Id.* Prior to the instant matter, the Supreme Court of Pennsylvania had not ruled on the hot and fresh pursuit exception included in the MPJA at 42 PA. CONST. STAT. ANN. §8953(a)(2). *Id.*

14. *Peters*, 965 A.2d 222 at 226. Chief Justice Castille and Justices Saylor, Baer, Todd, McCaffery, and Greenspan affirmed and adopted the Superior Court's determination. Justice Eakin concurred. *Id.* at 223.

15. *Id.* at 224. The MPJA does not define either a "hot pursuit" or "fresh pursuit." *Id.* In referring to *Commonwealth v. McPeak*, 708 A.2d 1263 (Pa. Super. 1998), the Superior Court determined that "'hot pursuit' requires some sort of chase, but does not require a 'fender-smashing Hollywood-style chase scene' nor 'police observation of the criminal activity.'" *Peters*, 915 A.2d at 1219 (citing *McPeak*, 708 A.2d at 1266). Moreover, investigating an actor due to a tip from an eyewitness regarding the actor's whereabouts may be considered a "chase." *Peters*, 965 A.2d at 224 (citing *Peters*, 915 A.2d at 1219). Furthermore, "'fresh pursuit' requires that it be immediate, continuous and uninterrupted." *Id.* (citing *Peters*, 915 A.2d at 1219).

16. *Peters*, 965 A.2d at 225.

17. *Id.* at 224 (citing *Peters*, 915 A.2d at 1219).

18. *Id.* at 225.

19. *Id.* (citing *Peters*, 915 A.2d at 1219).

20. *Id.*

the time the investigation commenced at the accident site through Peters' arrest.²¹ Thus, the officer's pursuit was "continuous" and "uninterrupted."²² Therefore, the majority determined that the officer's investigation constituted a hot and fresh pursuit as set forth in the MPJA.²³

In defending his position, Chief Justice Castille remarked that a strict construction of the MPJA would impair the integrity of the statute and its objectives.²⁴ In contemplation of numerous factors and the legislative intent of the MPJA, the Court deemed it to be of no consequence that the Sugarcreek officer left his jurisdiction to search for Peters, who the officer presumed to have committed only a summary traffic offense of which a suspect may only be cited, not arrested.²⁵ The Court was influenced by the fact that both jurisdictions collaborated and were in one another's presence throughout the entire investigation.²⁶ Accordingly, the majority concluded that the Sugarcreek officer's conduct did not aggravate the MPJA's objectives.²⁷

In his concurring opinion, Justice Eakin sided with the majority's conclusion that the arrest was lawful but opposed the Court's adoption of the Superior Court's "hot pursuit" and "fresh pursuit" characterizations.²⁸ Justice Eakin criticized defining "pursuit" as initiating a search as opposed to actually tracking down an alleged suspect who is within the officer's sight.²⁹ He disagreed that a "pursuit" in the instant matter could have been initiated after the police arrived at the accident site.³⁰ Further, Justice Eakin remarked that the Superior Court mischaracterized the police's conduct in that the Sugarcreek officer did not "chase" Peters to his residence but were led there in response to Peters' call in the midst of their "search" for him.³¹ He also questioned the determination that there was a continuous, uninterrupted pursuit.³² Justice Eakin reasoned that the on-site examination of the damages and witnesses would disrupt the "chase" which the Superior Court purported to be initiated at the time of the police's dispatch.³³ In conclusion, Justice Eakin did not find that the arrest resulted from a hot and fresh pursuit but was nonetheless lawful.³⁴

II. THE PRECEDENTIAL HISTORY BEHIND THE *PETERS* DECISION

21. *Peters*, 965 A.2d 222 at 225.

22. *Id.* (citing *Peters*, 915 A.2d at 1219).

23. *Id.*

24. *Id.* The Court indicated that "the MPJA is to be construed liberally to give effect to its purposes." *Id.* (citing *Commonwealth v. Lehman*, 582 Pa. 200, 870 A.2d 818 (2005)). Specifically, one of the MPJA's objectives "is to promote public safety while maintaining police accountability to local authority; it is not intended to erect 'impenetrable jurisdictional walls benefit[ing] only criminals hidden in their shadows.'" *Id.* (citing *Commonwealth v. Merchant*, 521 Pa. 161, 585 A.2d 1135 (1991)).

25. *Peters*, 965 A.2d 222 at 225. The chief factors considered included the hit and run's location on Meadville Pike, which is within both police departments' jurisdictions, and how both departments collaborated to search for the suspect and his vehicle throughout the entire duration of the initial investigation through the resulting arrest. *Id.*

26. *Id.*

27. *Id.*

28. *Id.* at 226 (Eakin, J., concurring) (citing *Peters*, 915 A.2d at 1219).

29. *Id.* (citing *Peters*, 915 A.2d at 1219-20).

30. *Peters*, 965 A.2d 222 at 226. (citing *Peters*, 915 A.2d at 1219-20)

31. *Id.* at 226 (Eakin, J., concurring) (citing *Peters*, 915 A.2d at 1219).

32. *Id.* (citing *Peters*, 915 A.2d at 1219).

33. *Id.* (citing *Peters*, 915 A.2d at 1219).

34. *Id.*

As the legislature has altered its statutes prescribing the circumstances when an extraterritorial arrest is permissible, the court's interpretation of these statutes and determination of what constitutes a "pursuit" has also evolved.³⁵ In 1974, the United States District Court for the Eastern District of Pennsylvania in *United States v. Getz*³⁶ determined that the challenged phrase "'continues in pursuit'" of the then controlling extraterritorial arrest statute, 19 P.S. §11, did not demand a dramatic collision as depicted in the movies or a "'hot pursuit.'"³⁷ Rather, the challenged phrased simply entailed an uninterrupted, persistent search by the officers or "fresh pursuit."³⁸ In *Getz*, two bank robbery defendants were arrested by officers outside of their jurisdiction approximately forty-five minutes after the robbery occurred. The defendants challenged that the arresting officers were not in "hot pursuit" at the time of the arrest in contravention of 19 P.S. §11.³⁹ Upon notice of the robbery, while the officers did not actually report to the bank, they immediately commenced a search for the suspects' escape vehicle.⁴⁰ These officers continued searching until they obtained a tip, which led them to the suspects' location, outside of their primary jurisdiction, and the subsequent extraterritorial arrest.⁴¹ The court held that the statute did not demand a "hot pursuit," but rather that the officers' thorough and persistent search without pause satisfied the statutes' condition that the officer(s) "'continues in pursuit' after the commission of the offense" or engage in "fresh pursuit."⁴²

Thereafter, the Superior Court of Pennsylvania incorporated the distinction between "hot pursuit" and "fresh pursuit" rendered in *Getz* in analyzing cases challenging the Intrastate Hot Pursuit Act (IHPA).⁴³ The IHPA was the successor of 19 P.S. §11 and the Municipal Police Jurisdiction Act's (MPJA) predecessor.⁴⁴ Prior to its repeal in 1982, the IHPA provided that an officer was permitted to execute an extraterritorial arrest for a crime, including a summary offense, with the equivalent authority as he would have in his own jurisdiction, irrespective of whether a warrant is issued, so long as the officer persistently pursued the suspect once the unlawful act occurred.⁴⁵ The IHPA, like 19 P.S. §11, specified that the officer must "continue in pursuit."⁴⁶

35. Commonwealth v. McPeak, 708 A.2d 1263, 1265-6 (1998).

36. United States v. Getz, 381 F. Supp. 43 (E.D. Pa. 1974).

37. *Id.* at 46. The relevant section of 19 P.S. §11 (current version at 42 Pa.C.S.A. § 8953(1989)).

reads:

Any police officer in the employ of a county, city borough, town or township may arrest, with or without a warrant, any felon . . . beyond the territorial limits of the political subdivision employing such officer for such offense committed by the offender within the political subdivision employing the police officer if such officer continues in pursuit of the offender after the commission of the offense

Id. at 45 (citing 19 P.S. §11 (current version at 42 Pa.C.S.A. § 8953(1989))).

38. *Id.* at 45.

39. *Id.* at 45.

40. *Id.* at 45.

41. *Getz*, 381 F.Supp. at 45.

42. *Id.* at 45.

43. *McPeak*, 708 A.2d 1263. See Commonwealth v. Stasiak, 451 A.2d 520 (1982); Commonwealth v. Brown, 444 A.2d 149 (1982).

44. *Id.* at 1266.

45. 42 Pa.C.S.A. §8901, the Intrastate Hot Pursuit statute, repealed in 1982, provided:

Any police officer of any political subdivision may arrest with or without warrant any person beyond the territorial limits of such political subdivision for a summary or other offense committed by such person within such political subdivision *if the officer continues in pursuit of such person after commission of the offense.* The police officer shall exercise under this section

In *Commonwealth v. Magwood*,⁴⁷ the Supreme Court of Pennsylvania formally adopted the *Getz* analysis.⁴⁸ Here, the facts were similar and the defense was the same as that raised in *Getz*.⁴⁹ In *Magwood*, a robbery occurred and an officer reported to the crime scene where he interviewed a witness.⁵⁰ Immediately upon receipt of the suspect's whereabouts learned from the witness, the officer commenced a thirty-five minute search without pause, which ultimately led to the suspect's extraterritorial arrest.⁵¹

The only distinction between the two cases, regarded as a mere technicality by the Court, was that the IHPA's pursuit standard was challenged as opposed to that of 19 P.S. §11.⁵² The court held that despite the fact that the phrase "Hot Pursuit" appears in the IHPA's title, its language "continues in pursuit" prescribes a pursuit that is "fresh."⁵³ Accordingly, because the officer (i) commenced his search without delay upon his interview of the witness and (ii) persistently and uninterruptedly searched for the suspect until the suspect's arrest, the Court concluded that the officer acted in "fresh pursuit."⁵⁴ Therefore, the officer executed a lawful extraterritorial arrest under the IHPA.⁵⁵

Since replacing the IHPA in 1982, the Municipal Police Jurisdiction Act (MPJA) has outlined six instances where an officer may execute an extraterritorial arrest with the equivalent authority as he would have in his own jurisdiction.⁵⁶ Each prong of the MPJA is independent of

only the power of arrest which he would have if he were acting within the territorial limits of his political subdivision.

42 Pa.C.S.A. §8901 (1976) (current version at 42 Pa.C.S.A. § 8953(1989)).

46. *McPeak*, 708 A.2d 1263 at 1265.

47. *Commonwealth v. Magwood*, 469 A.2d 115 (1983).

48. *Magwood*, 469 A.2d. at 118.

49. *Id.* at 118.

50. *Id.* at 173, 469 A.2d at 117.

51. *Id.*

52. *Id.* at 118.

53. *Magwood*, 469 A.2d at 119.

54. *Id.*

55. *Id.*

56. The Municipal Police Jurisdiction Act (MPJA), 42 Pa.C.S.A. § 8953(1989) provides that:
(a) General rule.--Any duly employed municipal police officer who is within this Commonwealth, but beyond the territorial limits of his primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction in the following cases:

(1) Where the officer is acting pursuant to an order issued by a court of record or an order issued by a district magistrate whose magisterial district is located within the judicial district wherein the officer's primary jurisdiction is situated, or where the officer is otherwise acting pursuant to the requirements of the Pennsylvania Rules of Criminal Procedure, except that the service of an arrest or search warrant shall require the consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which regularly provides primary police services in the municipality wherein the warrant is to be served.

(2) Where the officer is in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

(3) Where the officer has been requested to aid or assist any local, State or Federal law enforcement officer or park police officer or otherwise has probable cause to believe that the other officer is in need of aid or assistance.

the others and should be interpreted narrowly.⁵⁷ Further, under the MPJA, the legislature abandoned the “continues in pursuit”⁵⁸ standard. Instead, it permits an officer to execute an extraterritorial arrest when he is in “hot pursuit” of a suspect, or possesses “probable cause” to believe the suspect violated the law, and maintains a “fresh pursuit” of the suspect after the unlawful act occurred.⁵⁹

The probable cause segment of the MPJA was challenged in *Commonwealth v. McCandless*.⁶⁰ In its 1994 opinion, the Pennsylvania Supreme Court determined that the MPJA did not permit an officer to pursue a suspect into a neighboring jurisdiction who he believed, based on his own surveillance and mere conjecture, violated the law to ultimately obtain evidence sufficient to find probable cause of the alleged violation.⁶¹ In that case, an officer on stationary patrol pursued a vehicle after it seemingly passed by the officer at a higher speed than other traffic.⁶² Once the officer reached the suspect to monitor the actor’s speed, he had traveled outside of his primary jurisdiction.⁶³ One mile later, the officer followed the vehicle back into his primary jurisdiction.⁶⁴ He subsequently pulled over the vehicle and arrested the driver after he determined that the driver was under the influence of alcohol or a controlled substance.⁶⁵

The crux of the matter questioned whether or not the officer had probable cause to believe that the vehicle was speeding at the time he commenced his pursuit into the neighboring jurisdiction.⁶⁶ The court determined that the officer only had “reasonable suspicion” of the violation, due to the fact that the officer did not have any instrument to approximate the suspect’s speed.⁶⁷ Furthermore, the officer failed to notice any reckless operation of the vehicle.⁶⁸ Hence, the officer only pursued the vehicle to ascertain whether it was speeding.⁶⁹ It was patent that the officer’s hunch constituted “reasonable suspicion,” rather than the MPJA’s requisite “probable

(4) Where the officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which provides primary police services to a political subdivision which is beyond that officer's primary jurisdiction to enter the other jurisdiction for the purpose of conducting official duties which arise from official matters within his primary jurisdiction.

(5) Where the officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify himself as a police officer and which offense is a felony, misdemeanor, breach of the peace or other act which presents an immediate clear and present danger to persons or property.

(6) Where the officer views an offense which is a felony, or has probable cause to believe that an offense which is a felony has been committed, and makes a reasonable effort to identify himself as a police officer.

Municipal Police Jurisdiction Act (MPJA), 42 Pa.C.S.A. § 8953(1989).

57. *Commonwealth v. Merchant*, 595 A.2d 1135 (1991) (citing *Commonwealth v. O’Shea*, 567 A.2d 1023, 1028 (1989)).

58. 42 Pa.C.S. §8901(repealed in 1982).

59. *Id.*

60. *Commonwealth v. McCandless*, 648 A.2d 309 (1994).

61. *Id.* at 311.

62. *Id.* at 310-11.

63. *Id.*

64. *Id.*

65. *McCandless*, 648 A.2d 309 at 310-11.

66. *Id.*

67. *Id.*

68. *Id.*

69. *McCandless*, 648 A.2d 309 at 310-11.

cause.”⁷⁰ Therefore, the extraterritorial arrest was unlawful since the MPJA prescribes that an officer must have “probable cause” at the inception of the pursuit.⁷¹

It was not until 1998, in *Commonwealth v. McPeak*,⁷² that the Superior Court outlined the “hot pursuit” and “fresh pursuit” requirements under the MPJA.⁷³ For a “hot and fresh pursuit” to occur, the court ruled that the pursuit must be commenced instantly upon notice of the crime, be ongoing, be without pause and involve a hunt.⁷⁴ The facts deviated slightly from those in *Peters*. In *McPeak*, an officer commenced his pursuit of a suspect who allegedly crashed into two vehicles and escaped the crash scene. Pursuit commenced after two eyewitnesses contacted the police to advise them of the crashes and the location of the suspect.⁷⁵ Thereafter, the officer abruptly traveled to the suspect’s location in a neighboring jurisdiction where he ultimately arrested the suspect.⁷⁶

In contemplation of the facts, the *McPeak* court concurred with the lower court’s examination of whether the officer engaged in both a “fresh pursuit” and a “hot pursuit.”⁷⁷ The extraterritorial arrest was ultimately deemed lawful because it transpired shortly after the officer commenced his search upon receiving the witnesses’ reports.⁷⁸ Further, the search continued uninterrupted until the officer located the suspect.⁷⁹ These facts established that the pursuit was “fresh.”⁸⁰ Additionally, the court commented that so long as the police engage in a hunt or search abruptly, a finding of “hot pursuit” is appropriate, irrespective of whether the police or a witness spots the crime in question.⁸¹ Furthermore, the hunt need not be newsworthy or identical to those depicted in movies; it just needs to occur at once.⁸² In so holding that the officer engaged in a fresh and hot pursuit, the court concluded that the extraterritorial arrest satisfied the MPJA and denied the appellant’s request for suppression of the evidence.⁸³

III. AN ANALYSIS OF THE *PETERS* DECISION

The Pennsylvania Supreme Court’s analysis in *Peters* conforms to the same basic reasoning as that set forth by the *Getz* court in 1974. It is patent that under the MPJA, the legislature contemplated both hot and fresh pursuits. The legislature’s adoption of this language precludes any arguments as to legislative intent as previously raised in *Magwood*.⁸⁴

The Supreme Court’s interpretation of §8953(a)(2) of the MPJA rendered in *Peters*, while simplistic to comprehend, heightens the challenge faced by counsel in their defense of the

70. *Id.*

71. *Id.*

72. *Comm v. McPeak*, 798 A.2d 1263 (1998).

73. *Id.* at 1265-6.

74. *Id.* at 1266.

75. *Id.* at 1264.

76. *Id.*

77. *McPeak*, 798 A.2d 1263 at 1266.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.* (citing *Commonwealth v. Reddix*, 513 A.2d 1041 (Pa. Super. Ct. 1986))

82. *McPeak*, 798 A.2d 1263 at 1266.

83. *Id.*

84. *Magwood*, 469 A.2d 115, 119 (1983). The court held that despite the fact that the phrase “Hot Pursuit” appears in the IHPA’s title, its language “continues in pursuit” prescribed a pursuit that is “fresh.”

exception's application. The burden to prove an unlawful extraterritorial arrest in contravention of §8953(a)(2) is onerous. Due to its broad interpretation, it is difficult to overcome a finding of a hot and fresh pursuit unless there is evidence that the officer diverted from their initial search of the suspect or that the initial search was not commenced immediately.

In fact, a suspect whose extraterrestrial arrest stems from a separate or subsequent offense that was unbeknownst to the officer in its entirety when the officer originally commenced his immediate, continuous and uninterrupted search is inconsequential and therefore warranted under §8953(a)(2). In its self-professed liberal interpretation of §8953(a)(2), the *Peters* court was not convinced by defense counsel that to have a valid extraterritorial arrest the officer must first have the legal authority to arrest a suspect without a warrant for the offense that prompted his investigation and search.⁸⁵ The fact that the Sugar creek Borough officer commenced his search for a suspect of a summary offense, such offense that officers do not enforce through warrantless arrests, and later arrested the suspect beyond his jurisdiction for an offense separate and apart from the original summary offense, that was extraneous to the purpose of the officer's search, did not influence the *Peters* court.

Had the *Peters* court ruled otherwise it would have wholly disregarded the legislature's inclusion of the language "any offense" in §8953(a)(2). Further, it would completely emasculate §8953(a)(2) as the court would have essentially directed officers to turn a blind eye to any offense committed by the suspect they observed outside of their jurisdiction that was not related to the original offense which prompted their initial search for the suspect.⁸⁶ Instead, officers may investigate summary offenses, or any other offense, by searching for a suspect and execute warrantless extraterritorial arrests for offenses committed by the suspect irrespective of whether it pertains to the initial offense and subsequent search. This result iterated in *Peters* is consistent with *Commonwealth v. McPeak*.⁸⁷

In a small margin of cases, it appears the strongest argument for defense counsel is to question whether the officer merely possessed reasonable suspicion as opposed to the requisite probable cause as reflected in *McPeak*. Remembering, as in *McPeak*, that an officer's requisite probable cause may be founded on third-party eyewitness information, counsel may elect to attack the officer's reliance on the witness and the credibility of the information received by the officer. If counsel can establish that the officer merely possessed a reasonable suspicion, the search should have never commenced and all evidence obtained by the officer during his unlawful pursuit prior to the extraterritorial arrest is arguably worthy of suppression. Otherwise *Peters* holds that so long as a search commences and such search is immediate, continuous and uninterrupted, an extraterritorial arrest is permissible under §8953(a)(2) of the MPJA.

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85. *Peters*, 965 A.2d 222 at 225; Appellant's Brief 6-7.

86. Section (a)(2) of the Municipal Police Jurisdiction Act (MPJA) provides that:
(2) Where the officer is in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction and for which offense the officer continues in fresh pursuit of the person after the commission of the offense.

42 Pa.C.S.A. § 8953(a)(2) (1989).

87. *Comm v. McPeak*, 798 A.2d 1263 (1998).