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the courtyard, they saw benches, a picnic table, a cement retaining wall,<sup>4</sup> bushes, a playground, and six individuals.<sup>5</sup>

The defendant, Kason Sumpter, and Altolane Jackson were seated at the picnic table near a corner formed by the cement walls of a planter. The defendant was seated with his back to the cement wall without bushes. See footnote 4 of this opinion. Brian Elmore first walked away from the officers, but turned back and sat at the picnic table.<sup>6</sup> To establish rapport with the individuals sitting at the table, the officers engaged them in conversation. As was their practice, the officers scanned the area for firearms and narcotics that the individuals may have tried to conceal.<sup>7</sup> As Cowf and Pugliese conversed with the individuals at the picnic table, Lipeika stepped onto the wall behind the defendant and immediately saw in plain view a gun lying in the corner by the bushes.

According to Lipeika, the gun looked like it had been placed there just before he discovered it because the gun was resting on top of leaves, was not covered with

<sup>4</sup> Lipeika described a “cement retaining wall with bushes in, like, the retaining wall area.” Photographs of the courtyard were placed into evidence and published to the jury. The photographs depict a courtyard surrounded by large concrete planters. One of the planters consists of two arms of a right angle bounding two sides of the courtyard. A long bench is set next to one arm of the planter and a picnic table is situated close to the corner of the angle. A shrubbery hedge is planted in the arm of the planter behind the bench and one side of the picnic table.

<sup>5</sup> The individuals in the courtyard were the defendant, Kason Sumpter, Altolane Jackson, Brian Elmore, Jefferson Sumpter, and Janet Cruz. Lipeika’s subsequent investigation disclosed that none of the individuals was a resident of Washington Village.

<sup>6</sup> Jefferson Sumpter and Janet Cruz were “hanging over by the bench” in a different part of the courtyard. According to Lipeika, they appeared to be highly intoxicated and did not approach the picnic table.

<sup>7</sup> Lipeika testified on the basis of his training and experience that when armed subjects are approached by police, they “usually try to discard . . . or stash” a firearm so that it is not detected on their person. Depending on the circumstances, a subject usually places the gun close enough to access it.

NOTE: These pages (188 Conn. App. 537 and 538) are in replacement of the same numbered pages that appear in the Connecticut Law Journal of 19 March 2019.

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dirt or debris, except a twig, and appeared to be free of rust and dust. Jackson and Kason Sumpter were seated closest to the gun, two or three feet away from it. The defendant was seated four to five feet away from the gun. None of the officers who testified had seen the defendant touch the gun.

When Lipeika discovered the gun, he drew his weapon and ordered the six individuals in the courtyard to show their hands. Pugliese and Cowf detained the individuals and moved them away from the gun. Lipeika radioed for more officers and guarded the gun until the scene was secured. The additional officers photographed the scene and the gun. Then Lipeika put on a new pair of rubber gloves and seized the loaded gun in accordance with department procedures. He removed the ammunition from the gun, a revolver with a two inch barrel, and took the ammunition and the gun to the police station.

Days later, at Lipeika's request, the defendant, Kason Sumpter, Jackson, and Elmore went to the police station; each of them voluntarily provided a sample of his DNA. None of them claimed that the gun was his. The defendant also provided a written statement in which he stated that he "walked through Washington Village to Water Street, stopped to talk when officers came through and found a handgun in the bushes in the area [where] I was talking."

Jackson, too, provided a written statement and testified at trial that he was in the Washington Village courtyard when the defendant walked through and stopped to talk. He also stated that ten minutes later someone said "police," and everyone looked up. Jackson did not see the defendant with a gun, and he did not see the defendant walk toward the bushes where the gun was found. Jackson confirmed that the gun did not belong to him.