

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
 :
 vs. : NO. 455-06
 :
 JASON T. CORTRIGHT, : CRIMINAL ACTION - LAW
 :
 Defendant :
 : MOTION TO SUPPRESS EVIDENCE

DATE: July 5, 2006

MEMORANDUM OPINION and ORDER

Before the court for determination is the Motion to Suppress Evidence of Defendant Jason T. Cortright filed May 30, 2006. The Motion to Suppress Evidence was part of an Omnibus Pre-trial Motion filed May 30, 2006. On June 28, 2006, a hearing on the Omnibus Pre-trial Motion was held before this court. The court deferred a decision on the Motion to Suppress Evidence, but by separate orders disposed of the other matters raised in the Omnibus Pre-trial Motion.

The court will deny Cortright's Motion to Suppress Evidence. Cortright argues that the search warrant used to obtain his medical records from the Geisinger Medical Center was invalid because the affidavit of probable cause in support of the search warrant failed to set forth sufficient facts as to why evidence in the way of blood test results would be found in his medical records located at the Geisinger Medical Center. Upon review of *Commonwealth v. Ruey*, 892 A.2d 802 (Pa. 2006), the court finds that argument to be without merit.

At issue in *Ruey*, *inter alia*, was the validity of a search warrant that failed to set forth facts in the affidavit of probable cause establishing the Pennsylvania State Trooper's belief that the medical records of the defendant would be located at the particular hospital and that those

records would contain a blood alcohol content result. 892 A.2d at 810. The Supreme Court held that this defect was not fatal and that the search warrant was supported by sufficient probable cause to permit the seizure of the defendant's medical records. *Id.* at 811. Viewing the totality of the search warrant application, not just the affidavit of probable cause, the Supreme Court determined that there was sufficient factual averments to support the conclusion that the defendant was driving under the influence of alcohol when he caused the accident. The cover sheet of the search warrant application specifically identified the items to be seized as the medical records related to the treatment of the defendant on or after a certain date, and the search warrant application cover sheet specifically identified the hospital where the records were located. *Id.* at 810, 811. Thus, the Supreme Court concluded that the search warrant application contained sufficient information for a magisterial district judge to determine that there was probable cause to believe that the defendant had been driving under the influence of alcohol when he caused the accident and evidence related to his driving under the influence of alcohol would be found at the particular hospital. *Id.* at 815. Notably, there was no information in the warrant, as discussed by the Supreme Court, as to why the medical records would contain blood test results.

Similarly, the affidavit of probable cause here sets forth sufficient factual averments to support the conclusion that Cortright was driving under the influence of alcohol when he crashed his motor vehicle into the tree along Northway Road. The cover sheet of the search warrant application specifically identifies the items to be seized as Cortright's medical records containing blood test results that were performed as part of the medical treatment he received for the injuries he suffered as a result of a traffic accident. The cover sheet also specifically identifies the

Geisinger Medical Center in Danville, Pennsylvania as the location of those medical records. As in *Ruey*, the search warrant application provided a magisterial district judge with sufficient information to determine that there was probable cause to believe that Cortright was driving under the influence of alcohol when he crashed his motor vehicle into a tree along Northway Road, that he was injured in the accident, and that he was treated at the Geisinger Medical Center. These statements are sufficient probable cause to allow the magisterial district judge to conclude that blood test evidence related to Cortright's driving under the influence of alcohol would be found at the Geisinger Medical Center and issue the warrant.

Accordingly, Cortright's Motion to Suppress Evidence will be denied.

ORDER

The Motion to Suppress Evidence of Defendant Jason T. Cortright filed May 30, 2006 is
DENIED.

BY THE COURT,

William S. Kieser, Judge

cc: Peter T. Campana, Esquire
District Attorney(RG)
Judges
Gary L. Weber, Esquire (Lycoming Reporter)
Christian J. Kalas, Esquire