

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**ORONDE DANIELS,
Defendant**

:
:
:
:
:
:

**CR: 1672-2011
CRIMINAL DIVISION**

OPINION AND ORDER

The Defendant filed a Motion to Suppress Evidence on February 8, 2012. A hearing on the motion was held April 24, 2012.

Background

Oronde Daniels (Defendant) was convicted in the past for firearm and drug offenses, which resulted in him being placed onto parole with the Pennsylvania Board of Probation and Parole. State Parole Agent Tracy Gross (Gross), Defendant's parole agent, received a letter from an inmate in Lycoming County Prison named Bilal Sabur (Sabur). Sabur wrote that the Defendant had guns and drugs in his residence located at 814 Park Place. Sabur stated that it was a lower level apartment and that he had lived in the apartment from the summer to early fall of 2010. Gross was not initially familiar with Sabur.

On October 26, 2011, Gross went to the residence of the Defendant and requested to enter and look around, which Defendant allowed. Gross did not observe anything suspicious when he initially entered the residence. When Gross, however, entered the Defendant's bedroom he smelled the odor of raw marijuana. Gross then began to search the bedroom for marijuana. Gross picked up a pair of pants and found a gun located in one of the pockets. After finding the gun, Gross called police and Officers Ananea and Bell from the Williamsport Bureau of Police

arrived at the residence. On the same day, a search warrant was executed by the City police, which resulted in the discovery of another gun and marijuana at the residence. Defendant was charged with Persons Not to Possess, Possession with Intent to Deliver, Possession of a Controlled Substance, and Possession of Drug Paraphernalia.

Motion to Suppress

Defendant argues that Pennsylvania Board of Probation and Parole Agents did not have reasonable suspicion to search the Defendant's residence and therefore any evidence found at the residence should be suppressed. 61 P.S. § 331.27a permits State Parole agents to search property of State offenders "if there is reasonable suspicion to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision." See also Commonwealth v. Williams, 692 A.2d 1031, 1036 (Pa. 1997) (finding that a parolee who has signed a consent for warrantless search is still entitled to a reasonable search with the parole officer having reasonable suspicion that the parolee committed a parole violation). To determine reasonable suspicion the Court is to take into account numerous factors: (1) the observation of the agent; (2) information provided by others; (3) the activities of the offender; (4) information provided by the offender; (5) the experience of agents with the offender; (6) the experience of agents in similar circumstances; (7) the prior criminal and supervisory history of the offender; and (8) the need to verify compliance with the conditions of supervision. 61 P.S. § 331.27a.

The first factor to be considered are the observations made by the agent. Gross received a letter from the Lycoming County Prison stating that the Defendant had illegal drugs and guns at his residence. Gross determined that Sabur was familiar with the residence because he had lived there in the past with the Defendant. Additionally, before commencing a search, Gross was given permission to look around the residence where he smelled the odor of raw marijuana.

The second factor to be considered is the information provided to the Agent by others. Gross was provided information from an individual from the Lycoming County Prison. The letter was not anonymous and was signed by Sabur. Knowing the identity of an informant sufficiently heightens the reliability of the informant because they risk prosecution for giving false information to police. See Commonwealth v. Cruz, 21 A.3d 1247, 1251 (Pa. Super. 2011). Gross was also able to corroborate the information in the letter when he smelled the odor of marijuana at the residence.

The seventh factor is prior criminal and supervisory history of the offender. Defendant was convicted in the past of firearm and drug offenses, which placed him on parole. The Defendant's criminal history is described accurately by Sabur in his letter. Further, the eighth factor, the need to verify compliance, is satisfied because Gross went to Defendant's residence to determine if he was complying with the terms of his parole. Specifically, Gross was investigating the allegation that the Defendant had illegal guns and drugs at his residence, which would have been a clear violation of his parole.

Although evidence supporting all of the eight factors was not presented, the Court believes that there is sufficient evidence to find reasonable suspicion. It is not necessary for the parole officers to observe personally the Defendant engaging in illegal activity or suspicious conduct for reasonable suspicion to be created. Commonwealth v. Altadonna, 817 A.2d 1145, 1152 (Pa. Super. 2003). An officer may rely upon information from third parties to form reasonable suspicion. Commonwealth v. Wright, 672 A.2d 826, 830 (Pa. Super. 1996); see also Commonwealth v. Griffin, 954 A.2d 648 (Pa. Super. 2008) (finding that information from a confidential informant that is corroborated by observations leads to reasonable suspicion); Alabama v. White, 496 U.S. 325 (1990) (determining reasonable suspicion from information

from an anonymous caller that was corroborated); Commonwealth v. Moore, 805 A.2d 616 (Pa. Super. 2002) (ruling that information from a reliable confidential informant is enough for reasonable suspicion on its own). Based upon the evidence presented by the Commonwealth and discussed above, this Court finds that Parole Agent Gross had reasonable suspicion to search the residence of the Defendant.

ORDER

AND NOW, this ____ day of May, 2012, based upon the foregoing Opinion, the Court finds that the parole agent had reasonable suspicion to conduct a search of Defendant's residence. Therefore, the Defendant's Motion to Suppress is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA
Jeana Longo, Esq.
Eileen Dgien, Dep. CA
Gary Weber