

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA : No. CR-226-2021  
vs. :  
: :  
: :  
DERRICK DRAFT, :  
Defendant :  
: Motion to Suppress

**OPINION AND ORDER**

Defendant is charged by Information filed on March 4, 2021 with possession with intent to deliver and flight to avoid apprehension. The Commonwealth alleges that on January 21, 2021, a search warrant was executed at 936 Louisa Street. The search resulted in the alleged recovery of illegal contraband.

By a suppression motion filed on or about May 11, 2021, Defendant alleges that the affidavit of probable cause attached to the search warrant fails to establish probable cause for the search of the residence and that the items seized as a result of the search should be suppressed.

Argument in this matter was held on July 8, 2021. Both parties agreed that the disposition of the matter was dependent on whether the “four corners” of the affidavit established probable cause. Both parties also agreed that the Commonwealth bears the burden of establishing probable cause by a preponderance of the evidence.

Defendant argues that probable cause was not established to search the residence for a handful of reasons. Defendant argues that the probable cause affidavit does not show a connection between the referenced incidents and/or individuals and the address searched. Defendant argues that two of the individuals referenced requested to remain anonymous. Defendant argues that the affidavit lacked corroboration of a tip. Defendant argues that there were no observations of Defendant coming or going before or after the buy at or near the location.

Search warrants may only issue upon probable cause and the issuing authority may not consider any evidence outside the affidavits. Pa. R. Crim. P. 203(B). The affidavit of probable cause must provide the court with a substantial basis for determining the existence of probable cause. *Commonwealth v. Leed*, 186 A.3d 405, 413 (Pa. 2018) (quoting *Illinois v. Gates*, 462 U.S. 213, 239 (1983)).

As the parties agreed, the court must restrict its analysis to the four corners of the affidavit.

“Probable cause exists where the facts and circumstances within the affiant’s knowledge and of which he has reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that a search should be conducted.” *Leed, supra*. (quoting *Commonwealth v. Johnson*, 42 A.3d 1017, 1031 (Pa. 2012)). In other words, the “task of the issuing magistrate is to simply make a practical, common sense decision whether, given all the circumstances set forth in the affidavit before him, including the veracity and basis of knowledge of a person supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Commonwealth v. Clark*, 28 A.3d 1284, 1288 (Pa. 2011) (quoting *Commonwealth v. Gray*, 503 A.2d 921, 925 (Pa. 1985)).

“[T]he law does not require that the information in a warrant affidavit establish with absolute certainty that the object of the search will be found at the stated location, nor does it demand that the affidavit information preclude all possibility that the sought after article is not secreted in another location.” *Commonwealth v. Forster*, 385 A.2d 416, 437-38 (Pa. Super. 1978).

Defendant’s argument is unpersuasive. In essence, and contrary to established legal precedent, Defendant requests that the court review each allegation set forth in the affidavit separately and not consider all of the circumstances together. Furthermore, the defense ignores the

requirement that the court give deference to the issuing authority's probable cause determination and view the information to establish probable cause in a common sense, non-technical manner.

The totality of the facts alleged in the affidavit sufficiently establish probable cause to search the residence.

The affiant, Officer Clinton Gardner, was employed by the Williamsport Bureau of Police and assigned to the Lycoming County Narcotics Enforcement Unit. He had extensive training and experience in patrol, interdiction and narcotics.

On January 12, 2021, he was patrolling the area of High and Sixth Streets in Williamsport and observed suspicious activity in the area, which in his experience was consistent with a drug transaction. He approached and spoke with a few of the participants and concluded that one of them was attempting to purchase cocaine from the other participant, a known drug trafficker by the name of Lamar Strothers.

The participant was taken into custody, found to be in possession of suspected contraband and after being Mirandized, admitted to meeting with the other participant to purchase crack cocaine by going to his house at 936 Louisa Street to "complete the purchase." Obviously, this statement by the individual was against her penal interests and smacked of reliability.

The same day, Officer Gardner spoke with a neighbor who resided across the street from 936 Louisa Street. The neighbor confirmed that he knew Mr. Strothers and that Mr. Strothers lived at 936 Louisa Street. He described the residence as being very active with incoming and outgoing traffic which, in Officer Gardner's experience, was consistent with the residence being used to traffic narcotics.

On the same day, Officer Gardner observed a suspected hand-to-hand narcotics transaction in the area of the Shamrock Restaurant and Bar. A traffic stop was eventually

conducted on one of the participants. The participant was identified and admitted to purchasing crack cocaine from an individual known to him as “Q.” Subsequently, law enforcement agents found and identified “Q” as the defendant who resided at 936 Louisa Street.

Finally, on January 15, 2021, Lieutenant Steven Helm of the Williamsport Bureau of Police relayed information to the affiant that two unidentified females called him to claim that the defendant was selling crack out of 936 Louisa Street. They also claimed that the defendant posted on social media and then deleted a video of him cooking crack and that he bragged that if the police came to his residence, he would hide the drugs and avoid prosecution. These two unidentified females also indicated that the defendant dealt out of both the front door and side door of the residence, which information was corroborated by the affiant and other detectives.

Multiple independent sources indicated that Defendant and Strothers were dealing drugs from the residence at 936 Louisa Street. While the information provided by each source alone might not have been sufficient to establish probable cause, the information from each tended to corroborate the information provided by the others. *Commonwealth v. Wiedenmoyer*, 539 A.2d 1291, 1295 (Pa. 1988); *Commonwealth v. Singleton*, 603 A.2d 1072, 1074 (Pa. Super. 1992); *Commonwealth v. Karns*, 566 A.2d 615, 617 (Pa. Super. 1989). Based on the totality of the information provided by all of the sources, there was a fair probability that law enforcement officers would find controlled substances in the residence located at 936 Louisa Street.

The court recognizes that the Pennsylvania Superior Court recently issued a decision affirming suppression due to a lack of nexus between the residence and the drug dealing activities. *Commonwealth v. Nicholson*, 2021 PA Super 193, 2021 WL 4398316 (Pa. Super. 9/27/2021). The court finds this case distinguishable. In *Nicholson*, the base of the drug dealing operations was a vehicle, and the seller merely returned to his residence following the transactions.

Here, multiple sources informed law enforcement that drug transactions and activities were occurring at the residence.

Accordingly, Defendant's motion to suppress shall be denied.

**ORDER**

**AND NOW**, this \_\_\_ day of October 2021, following a hearing and argument, Defendant's Motion to Suppress is **DENIED**.

By The Court,

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Marc F. Lovecchio, Judge

cc: Joseph Ruby, Esquire (ADA)  
Matthew Welickovitch, Esquire (APD)  
Gary Weber, Esquire (Lycoming Reporter)  
Judge Marc F. Lovecchio