

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CR-1070-2021**  
 v. :  
 :  
 **PURSELL S. HALL, JR.** : **OMNIBUS PRETRIAL**  
 **Defendant** : **MOTION**

**OPINION AND ORDER**

Pursell Hall (Defendant) was arrested by the Lycoming County Narcotics Enforcement Unit (NEU) on August 11, 2021. Defendant was arrested for one count of Possession of a firearm with an altered manufacturers number, a felony of the second degree.<sup>1</sup>The charges arise from the execution of a search warrant at the Defendant’s residence on 607 Walnut Street, Williamsport, Pennsylvania. Defendant filed this Omnibus Pretrial Motion on June 29, 2022. The Motion alleges the affidavit in support of the search warrant for the residence was factually insufficient to establish probable cause. A hearing on the Motion was set for September 27, 2022. At that time the Commonwealth presented copies of the search warrant as an exhibit, upon which both parties agreed to rely.

***Search Warrant***

The search warrant, entered as Commonwealth’s Exhibit #1, was obtained by detective Curt Loudenslager (Loudenslager) on August 11, 2022. It was as a result of an attempted controlled purchase of suspected heroin by an undercover detective from an individual named Derrick Everette.<sup>2</sup> Loudenslager wrote in his affidavit of probable cause to support the request for a search warrant in pertinent part:

I am respectfully requesting the search warrant for said location which constitute [sic] evidence in violation of the PA crimes code (THEFT). I a [sic] submit that

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<sup>1</sup> 18 Pa. C.S.A. Section 6110.2

<sup>2</sup> The spelling of Everett’s name was found 2 different ways in the affidavit, Everett or Everette.

there may be pre-recorded buy money from the 8/11/ 2021 controlled buy currently inside of 607 Walnut St. rear, Williamsport, PA 17701.

This drug investigation involves the THEFT of \$200 in pre-recorded US Currency that was used during a controlled buy operation on 8/11/2021. DERRICK EVERETT did arrange on this date to deliver HEROIN to DET. DENT in exchange for \$200 in US Currency. EVERETT meet [sic] with Det. Dent and Det. Loudenslager and collected \$200 and advised he would return soon, (with HEROIN) and placed a phone call requesting someone bring out "TWO". I understood this to mean two bundles of HEROIN, which would have a street value of \$200.

EVERETT exited the undercover vehicle on Grace St and walked north into the front doors of the SHAMROCK Bar on W 4th St. and very soon thereafter out the rear doors. EVERETTE was followed until the area of Memorial Avenue and Walnut Street were [sic] surveillance [sic] was lost for less than a minutes time. Surveillance [sic] continued to saturate the area and within two minutes of the last observation of EVERETTE he was observed exiting 607 Walnut St rear Williamsport. While surveillance [sic] units were following EVERETTE, Det. DENT attempted several times to call EVERETTE with all those phone calls going directly to voicemail. In my experience with controlled buys I understood this to mean that EVERETTE had no intention of returning to us and intended to steal our money. In addition inquiries were made at the SHAMROCK Bar about EVERETTE and it was relayed that he passed through the bar and did not exchange money with any of the employees.

EVERETTE was taken into custody after exiting 607 Walnut St. rear and transported to Williamsport Police Dept. EVERETTE while in custody destroyed his cell phone. EVERETTE was in possession of \$280 in US Currency none of which was our pre-recorded police currency used to purchase HEROIN from EVERETTE. EVERETTE was also in possession of a yellow container containing several grams of a substance that field tested positive for METHAMPHETAMINE or MDMA.

PURSELL HALL and a female exited 607 Walnut St rear, and entered a white vehicle and drove from the area. The couple was followed and stopped by police. Neither [sic] occupant of the vehicle was in possession of the pre-recorded US currency. Consent to search the vehicle was given and the buy money was not recovered. HALL did acknowledge that EVERETTE was in his residence asked to see his nephew who is not home and then fetched a bottle of water from the refrigerator before leaving

I request a search warrant for 607 Walnut St. rear Williamsport for the pre-recorded US Currency provided to EVERETTE during today's controlled buy August 11, 2021.

### ***Whether the Search Warrant Established Probable Cause***

Defendant challenges the issuance of the search warrant of the residence claiming the results of search of the residence needs to be suppressed because the search warrant did not allege sufficient facts to establish probable cause. When evaluating the probable cause of a search warrant this Court's determination is whether there was "substantial evidence in the record supporting the decision to issue a warrant" by giving deference to the issuing magistrate's probable cause determination and "view[ing] the information offered to establish probable cause in a common-sense, non-technical manner." *Commonwealth v. Jones*, 988 A.2d 649, 655 (Pa. 2010). Probable cause is established by a "totality of the circumstances." *Commonwealth v. Gray*, 503 A.2d 921, 925 (Pa. 1985) (adopting *U.S. v. Gates*, 462 U.S. 213 (1983)). "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." *Commonwealth v. Thomas*, 448 Pa. 42, 292 A.2d 352, 357 (1972). The Court "must limit [its] inquiry to the information within the four corners of the affidavit submitted in support of probable cause when determining whether the warrant was issued upon probable cause." *Commonwealth v. Arthur*, 62 A.3d 424, 432 (Pa. Super. 2013). It is "not require[d] 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). A magistrate must simply

find that “there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Commonwealth v. Manuel*, 194 A.3d 1076, 1081 (Pa. Super. 2018).

[P]robable cause to believe that a man has committed a crime does not necessarily give rise to probable cause to search his home.... [A]n allegation based on an assumption or supposition not supported by the facts is insufficient to support (an inference of) criminal activity in the premises, in spite of the fact that there are plenty of allegations alleged to relate to criminal activity of the individual who is alleged to have lived in the premises. *Commonwealth v. Nicholson*, 262 A.3d 1276, 1280 (Pa. Super. 2021) (quoting *Commonwealth v. Kline*, 335 A.2d 361, 363 (Pa. Super. 1975)); see also *Commonwealth v. Way*, 492 A.3d 1151, 1154 (Pa. Super. 1985).

Defendant asserts the search warrant does not contain enough information to demonstrate a fair probability that the buy money would be found within the residence. Specifically, Defendant points out that the detectives lost surveillance on Everett so the money could have been tossed anywhere, and that this was just a pretense to gain entry into the house. In fact, Everett was found with \$280 in US Currency none of which was from the detectives and a quantity of controlled substance unrelated to the controlled buy. The Commonwealth asserts that the affidavit clearly explains why controlled substance would be found in the house; that by the process of elimination the money should be in Defendant’s house. Although Everett walked away from the undercover detectives while committing the crime of theft, there were several times where he was not directly observed by the detectives. It is just as likely that he discarded the money somewhere between the detectives and the Shamrock Bar as it is he gave it to someone at 607 Walnut St. Detectives had no information that Everett lived in or had any connections to 607 Walnut St., so they were searching the residence of someone who had no

involvement with Everett and his criminal behavior. Since there was no connection between Everett and 607 Walnut St other than it was one of a few places Everett travelled to before he was apprehended by the police, the Court finds the facts presented in the affidavit of the search warrant do not demonstrate sufficient evidence to establish probable cause to have searched 607 Walnut St. rear.

### **Conclusion**

The Commonwealth has failed to establish the affidavit of the search warrant of the residence provided sufficient evidence to established probable cause for officers to search.

### **ORDER**

**AND NOW**, this 12<sup>th</sup> day of January, 2023, based upon the foregoing Opinion, the Defendant's Motion to Suppress Evidence is hereby **GRANTED**. Any items seized as a result of the search of 607 Walnut St rear are hereby **SUPPRESSED**.

By the Court,

Nancy L. Butts, President Judge