

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

<b>COMMONWEALTH</b>	:	<b>No. CR-302-2024</b>
	:	
<b>vs.</b>	:	
	:	
<b>TIMOTHY EASTER</b>	:	
<b>Defendant</b>	:	

**OPINION AND ORDER**

This matter came before the court on June 14, 2024 for a hearing and argument on the Omnibus Pre-Trial Motion (OPTM) filed on behalf of Timothy Easter (Defendant).

By way of background, Defendant is charged with two counts of Possession With Intent to Deliver (PWID) a controlled substance (fentanyl), two counts of Person Not to Possess a Firearm, and one count of Endangering the Welfare of Children (EWOC). The charges arise out of another individual (Riley) delivering fentanyl on two occasions to a confidential informant (CI) but allegedly obtaining the fentanyl from the residence at 823 Second Street, Williamsport, Lycoming County, Pennsylvania. The police obtained a search warrant for the residence and discovered controlled substances (fentanyl and cocaine) and firearms (Glock pistols) in common areas of the residence in locations that were accessible to the four minor children who were present at the time of the search.

In his OPTM, Defendant requested the suppression of physical evidence contending that the first warrant to search the residence lacked probable cause and that the second warrant to retrieve the firearms was the fruit of the poisonous tree, because there was no substantial nexus between the individual who delivered the controlled substances and the residence at 823 Second Street. At the hearing, Defendant, through his attorney, also argued that the information in the warrant was stale because the date listed for one of the buys was

January 22, 2023, and that the warrant failed to state or establish the reliability of the CI. Defendant withdrew his request for a petition for a writ of habeas corpus because Defendant waived his preliminary hearing.<sup>1</sup>

The Commonwealth contended that Defendant waived any argument regarding the staleness of the information or the reliability of the CI by failing to specifically assert those grounds in his OPTM. The Commonwealth also argued that CI's statements regarding the delivery of fentanyl and the connection to 823 Second Street were corroborated by the observations of the detectives. Furthermore, the search warrant established a substantial nexus to the residence when it stated that Riley told the CI that he only possessed MDMA bombs and he had to get fentanyl from someone else and then he drove the CI to 823 Second Street, returned after a short time had passed, and then delivered fentanyl to the CI. Additionally, the CI was given \$100 to purchase the fentanyl. About \$20 was used to purchase gas for Riley to drive to 823 Second Street and \$40 was found on Riley after a traffic stop was conducted on his vehicle and he was arrested for the delivery of fentanyl. At the hearing, the Commonwealth presented copies of the search warrants as Exhibits #1 or A and #2 or B.<sup>2</sup>

## **DISCUSSION**

### 1. *Did the affidavit establish probable cause to search 823 Second Street?*

When a defendant files a motion to suppress evidence, the Commonwealth shall have the burden of proving to a preponderance of the evidence that the challenged evidence

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<sup>1</sup> When a defendant waives his preliminary hearing, he "thereafter is precluded from raising the sufficiency fo the Commonwealth's *prima facie* case unless the parties have agreed at the time of the waiver that the defendant later may challenge the sufficiency." Pa. R. Crim. P. 541(A)(1).

<sup>2</sup> At the hearing, it was stated that the Exhibits were #1 and #2, but the stickers on the Exhibits state "Exhibit A"

was not obtained in violation of the defendant's rights. Pa. R. Crim. P. 581 (H). A preponderance of the evidence standard is tantamount to a "more likely than not" burden of proof. *Commonwealth v. McJett*, 811 A.2d 104, 110 (Pa. Cmwlth. Ct. 2002).

Probable cause is a practical and fluid concept that turns on the assessment of probabilities in particular factual contexts, which cannot readily be reduced to a neat set of legal rules. *Commonwealth v. Rapak*, 138 A.3d 666, 671 (Pa. Super. 2016), quoting *Commonwealth v. Huntington*, 924 A.2d 1252, 1256 (Pa. Super. 2007). 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. Leed*, 646 Pa. 602, 186 A.3d 405, 413 (Pa. 2018). The issuing magistrate must apply the totality of the circumstances test which requires him or her to make a practical, common-sense decision whether, given all of the circumstances set forth in the affidavit, including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. *Commonwealth v. (Harve) Johnson*, 615 Pa. 354, 42 A.3d 1017, 1031 (2012); *see also Commonwealth v. Fletcher*, 307 A.3d 742 (Pa. Super. 2023)("probable cause is based on a probability, not a *prima facie* showing, of criminal activity and deference is to be accorded to a magistrate's finding of probable cause"); *Commonwealth v. Manuel*, 194 A.3d 1076, 1081 (Pa. Super. 2018)(probable cause does not demand the certainty we associate with formal trials; rather, it requires only that the totality of the circumstances demonstrate a fair probability that contraband or evidence of a crime will be found in a particular place). A reviewing court's

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and "Exhibit B."

duty is merely to ensure that the issuing authority had a substantial basis for concluding that probable cause existed. The reviewing court must accord deference to the issuing authority's probable cause determination, and must view the information offered to establish probable cause in a common-sense, non-technical manner. *Commonwealth v. (Lavelle) Johnson*, 240 A.3d 575, 584 (Pa. 2020).

The court finds that the affidavit sets forth probable cause to believe that Riley was obtaining the fentanyl from 823 Second Street and that Defendant's arguments lack merit. Specifically, paragraphs 15, 16, and 17 of the affidavit of probable cause for the first search warrant state the following:

15) On 01/22/23 (sic) a CI arranged for a fentanyl purchase from Tyrone "Ronie Rone" RILEY via telephone number [xxx-xxx-8286] at my direction. The CI was strip-searched and no contraband was found. The CI was provided with \$ 100.00 of prerecorded money and equipped with an electronic surveillance device. The CI was then transported to the area of 6th St and High St in the City of Williamsport where he/she called RILEY. RILEY ultimately instructed the CI to walk west on High St. Minutes later, Tyrone RILEY arrived in the area of High St at Green St in a gold in color Cadillac SUV. The CI entered RILEY's SUV and they departed. NEU members followed RILEY and the CI ultimately to the 800 block of 2nd St. While traveling there, RILEY explained that he sells "E- bombs" (MDMA) and had to go to someone else for fentanyl. Upon arrival on the 800 block of 2nd Ave, RILEY took the prerecorded [funds] (provided to him by the CI once he/she got into the vehicle) and walked south east. Det CASCHERA observed RILEY go to the area of the front doors of 823 2nd St. Minutes later, Det. CASCHERA observed RILEY re-appear from the front of 823 2nd St and return to the vehicle with the CI. Once inside the vehicle, RILEY delivered an amount of suspected fentanyl to the CI. Following the transaction. the CI provided the suspected fentanyl to me and advised that RILEY came from 823 2nd ST when he returned to the vehicle with the fentanyl. The fentanyl field tested positive.

16) On 01/31/24 a CI arranged for a fentanyl purchase from Tyrone " Ronie Rone" RILEY via telephone number [XXX-XXX-8286] at my direction. The CI was strip-searched and no contraband was found. The CI was provided with \$ 100.00 of prerecorded money and equipped with an electronic surveillance device The CI called RILEY via the listed number

and was instructed to travel to Park Ave at Wildwood Blvd. Upon arrival at Wildwood Blvd, I observed RILEY arrive at his PA Jnet address of 647 Wildwood Blvd in a black in color GMC Envoy PA Reg#LJW1736. RILEY waived (sic) to the CI to wait for him. He then entered his residence briefly. A few minutes later, RILEY emerged from 647 Wildwood Blvd, entered the GMC Envoy and directed to CI to get in. I watched the CI enter the vehicle. RILEY and the CI then departed and were followed by NEU members to 6th St and High St, where RILEY purchased gas for the Envoy. The CI advised that he/she provided RILEY with the prerecorded money, and he used some of it for gas. It should be noted that RILEY only pumped gas for a few short minutes (maybe \$20 00 worth). RILEY and the CI then departed and were followed by NEU to the area of 800 2<sup>nd</sup> St in the City of Williamsport, Lycoming County. RILEY parked in the sale (sic) location as in the initial controlled buy. I watched as RILEY exited the vehicle and walked to 823 2<sup>nd</sup> St, east side, north door. Approximately one minute later, I observed RILEY emerge from the same area as the east side north facing door. It should be noted that NUE member/s were to the court of 823 2<sup>nd</sup> St and RILEY did not emerge at the rear of the residence. The only place for RILEY to go was in the east side north facing door. When RILEY exited the residence, he walked back to his vehicle and delivered an amount of fentanyl to the CI. RILEY then dropped the CI off at Park Ave and Hepburn St. The CI met with an NEU detective and relinquished a plastic bag with suspected fentanyl. The fentanyl field-tested positive. RILEY was then followed to High St, just east of Campbell ST, where a traffic stop was conducted and he was taken into custody. RILEY was searched incident to arrest and found to be in possess of \$40.00 of the prerecorded money, an amount of MDMA consistent with PWID and marijuana.

(17) Based on the above information, I have probable (sic) to believe that unknown individuals are storing and distributing fentanyl for 823 2<sup>nd</sup> St in the City of Williamsport, Lycoming County, and will be in possession of a portion of the prerecorded buy money. Therefore, I respectfully request the authority to search said residence and seize fentanyl and related contraband, proceeds from illegal drug activity and indicia of occupancy.

Paragraphs 1 through 14 set forth Detective Tyson Havens training and experience regarding drug traffickers. Detective Havens applied for the search warrant on January 31, 2024, and MDJ Christian Frey granted it on that date at 3:40 p.m.

The second search warrant was largely the same as the first, except that paragraph (17) was replaced with the following two paragraphs (both numbered 17):

On 01/31/2024, MDJ Frey issued a search warrant for 823 2<sup>nd</sup> St east side door in the City of Williamsport, Lycoming County. The warrant was served on the same date and Timothy EASTER was found inside in a second floor bedroom. Easter is a person not to possess firearms from a 2019 for sale manufacture of a controlled substance. EASTER was advised of his Miranda Rights and related that he understood them. EASTER then directed us to an amount of both fentanyl and cocaine in a first floor bathroom sink; cash (including prerecorded buy money) in the adjacent kitchen drawer; there was a black in color Glock pistol located in a drawer in the kitchen; and a second black in color Glock pistol located in an unlocked safe in the bedroom where EASTER was located. EASTER admitted that he touched the firearms and his DNA would be on them.

Based on the above information, I have probable cause to believe that EASTER possessed the listed firearms illegally, and in furtherance of his fentanyl and cocaine operation. Therefore, I respectfully request the authority to search said residence and seize the two Glock pistols and any other firearms and firearm accessories.

The second search warrant was also applied for and obtained on January 31, 2024.

When viewed in a common-sense, nontechnical manner through the eyes of a trained narcotics officer, the affidavits clearly set forth probable cause to believe that a portion of the prerecorded buy money would be located at the residence accessed by the east side, north facing door of 823 2<sup>nd</sup> Street. There was also a fair probability that additional controlled substances would be found at that residence as, based on the totality of the circumstances, that residence was the place from which Riley was obtaining or retrieving the fentanyl that he provided to the CI.

The CI contacted Riley to purchase fentanyl. Riley only had MDMA bombs so he had to obtain fentanyl from someone else. Riley drove to 823 2<sup>nd</sup> Street, got out of his vehicle, went to the front door, returned to the vehicle a short time later and delivered fentanyl to the CI. In addition to the conversations between Riley and the CI which were contemporaneously recorded through an electronic recording device worn by the CI, Riley

actions were observed by NEU detectives. NEU detectives saw Riley at the front door of 823 2<sup>nd</sup> Street. Other detectives were positioned to the south/rear of the residence and Riley was not observed. The CI told the detectives that Riley obtained the fentanyl from 823 2<sup>nd</sup> Street and the CI's and/or Riley's statements were corroborated by the observations of the detectives.

The CI was strip-searched and provided with \$100 in prerecorded funds. The CI utilized a portion of the funds (approximately \$20) so Riley could put gas in his vehicle. Immediately after the January 31, 2024 controlled buy, detectives from the NEU conducted a traffic stop on Riley's vehicle. Riley was arrested and searched incident to arrest. Riley possessed \$40 of the prerecorded funds. Thus, there was approximately \$40 of prerecorded funds that were not accounted for. 823 2<sup>nd</sup> Street is the only place that Riley stopped between getting gas and the time of his arrest. Therefore, there is a fair probability that Riley used those funds to obtain the fentanyl from 823 2<sup>nd</sup> Street and that those unaccounted-for funds would be inside the residence.

When the totality of the circumstances and the reasonable inferences which can be drawn therefrom are viewed in a common-sense manner, it was reasonable to believe that Riley obtained the fentanyl from 823 2<sup>nd</sup> Street and that there was a fair probability that a portion of the prerecorded buy money and additional fentanyl would be located inside the residence at 823 2<sup>nd</sup> Street that could be accessed by the front, east side, north facing door.

Although Defendant did not assert the staleness of the information or the reliability of the CI in his motion, the court will address these issues in the interest of justice and judicial economy so that these issues will not need to be litigated in any potential future Post Conviction proceedings.

The court rejects Defendant's arguments that the information was too stale to justify the search. Although there was likely a typographical error in the year of the January 22 controlled buy, even accepting that the transaction occurred in 2023, the second transaction occurred on January 31, 2024, the same day that the warrant was sought and obtained. Therefore, the information related to that transaction was not stale. It was very recent, i.e., it was mere hours old. Since the warrant was issued at 3:40 p.m. (or 1540 hours) on January 31, 2024 and Riley delivered fentanyl to the CI on January 31, 2024 prior to the issuance of the warrant, the information contained in the warrant was less than 16 hours old.

The court also rejects Defendant's arguments that there was insufficient information regarding the credibility or reliability of the CI. The CI was wearing an electronic recording device throughout the transactions. Therefore, there is a recording of the conversations between the CI and Riley so that the detectives do not have to rely on the memory of either of these individuals to determine what was said. The CI's statements that Riley obtained the fentanyl from 823 2<sup>nd</sup> Street were also corroborated by the detectives' observations of Riley at the front door area at that address and their failure to observe him at the rear of the residence. In other words, Riley did not pass through the residence and go somewhere else to obtain the fentanyl. The reasonable inference from the totality of the circumstances is that Riley entered and exited the front door (east side, north facing door) of 823 2<sup>nd</sup> Street and obtained the fentanyl while he was inside.

**ORDER**

**AND NOW**, this 14<sup>th</sup> day of June 2024, the court DENIES the Motion to Suppress contained in Count I of Defendant's Omnibus Pre-Trial Motion. The petition for writ of



habeas corpus in Count II of the Defendant's Omnibus Pre-Trial Motion is withdrawn.

By The Court,

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Nancy L. Butts, President Judge

cc: Lindsay Sweeley, Esquire (ADA)  
Robert Hoffa, Esquire  
Jerri Rook