

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-637-2023**  
 v. : **CP-41-CR-871-2023**  
 :  
 **GILBERT PALMER,** : **OMNIBUS PRETRIAL MOTION**  
 **Defendant** :

**OPINION AND ORDER**

Gilbert Palmer (Defendant) was first charged by the Lycoming County Narcotics Enforcement Unit (LCNEU) on April 14, 2023 at docket number 637-2023 with three counts of Delivery of a Controlled Substance, cocaine,<sup>1</sup> and three counts of Criminal Use of a Communication Facility<sup>2</sup> arising from three controlled purchases utilizing a confidential informant on March 9, 24 and April 13, 2023 in the Newberry section of the City of Williamsport. On April 14, 2023 the LCNEU served a search warrant on 2415 Lyla Lane, Williamsport and found a .40 Smith and Wesson pistol. Defendant is a person not to possess by virtue of a 2003 prior conviction for a Delivery of a Controlled Substance<sup>3</sup> and was charged with Persons Not to Possess<sup>4</sup> on May 31, 2023. Defendant filed this Omnibus Pretrial Motion on January 4, 2024. The motion alleges that both the Magisterial District Judges who issued the warrants in these cases did not have enough information to find that probable cause existed to issue the warrants. A hearing on the Motion was held on May 20, 2024.

***Background***

On April 13, 2023 LCNEU applied for a search warrant after the third drug transaction for the Defendant's residence at Lyla Lane, and the items to be searched were for crack

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<sup>1</sup> 35 P.S. §780-113(a)30.

<sup>2</sup> 18 Pa.C.S.A. §7512(a)

<sup>3</sup> 35 P.S. §780-113(a)30

<sup>4</sup> 18 Pa.C.S.A. §6105(a)2

cocaine, drug paraphernalia and generally items related to drug delivery. The applicable contents of the affidavit of probable cause for the search warrant entered in to evidence as Commonwealth's exhibit #1, were as follows:

On 3/9/2023 I met with CI #23-15 who advised that he/she could purchase crack cocaine from a B/M-30's, unknown name, who utilizes cell phone number 570-433-1323. The CI advised that he usually meets him/her at the back of the Kast Hotel on Arch St in the City of Williamsport to conduct the crack cocaine transactions. At my direction, the CI texted the B/M and determined that he would be around to make a crack cocaine purchase on this date. The B/M told the CI to call him/her when he/she arrives (at the Kast hotel). I equipped the CI with an electronic surveillance device, and provided him/her with \$100 of prerecorded money. Detective EDKIN and I then followed the CI to the rear of the Kast Hotel. The electronic surveillance device allowed me to view the inside of the CI's vehicle live. Nine minutes later, the CI received a telephone call from the listed number. I could hear a male voice ask him/her if anyone was sitting in a truck near him/her. The CI informed the male that the person in the truck was delivering beer. The male voice instructed the CI drive around the block, and that he was parked a block behind him/her. I then observed the CI travel north in the alley behind the Kast, at the same time, I observed a blue Jeep grand Cherokee travel east past the alley on Glynn St toward Arch St. When the CI observed the vehicle, he/she informed me it was the B/M drug dealer driving. Detective RACHEL followed the CI and the Jeep south on Arch St and west on Federal Ave. Det ANDERSON advised that the Jeep came from Cumming St from the west. Det Rachel provided PA Reg #LHS2328 for the Jeep. The registered owner is Aubraii DYMECK of 2415 Lyla Lane Williamsport. Det RACHEL and I observed the CI and the blue Jeep park on Federal Ave at Funston Ave. I watched as the B/M exited the Jeep and walked back to the passenger side of the CI's vehicle. I observed through the electronic surveillance device that the B/M handed the CI a plastic bag with crack cocaine in exchange for the prerecorded money. The B/M confirmed that the CI had given him \$100 and advised that he needed to give him/her two. The B/M then walked back to the Jeep and returned with a second plastic bag with crack cocaine. The B/M informed the CI that he "thought he had both of them in his hand." Following the transaction, the B/M departed in the blue Jeep, north on Funston Ave (surveillance was lost). I followed the CI to predetermined location. The B/M was identified as Gilbert PALMER through his PA Jnet photograph.

On 03/09/23 I met with CI #23-15 for the purpose of conducting a controlled crack cocaine purchase from Gilbert PALMER. At my direction, the CI texted PALMER and determined that he would be around to make a crack cocaine purchase on this date. The CI also called PALMER and arranged for \$100.00 crack cocaine purchase. I met with the CI and equipped him/her with an

electronic surveillance device. I also provided him/her with \$100.00 of prerecorded money. The CI then placed a recorded call to 570-433-1323. (At the same time, Det CASCHERA advised that PALMER exited 2415 Lyla Ln. and entered the blue Jeep.) A male voice answered the phone and the CI asked where he wanted to meet him/her to meet. The male voice advised the CI to call him when he/she gets there. The CI drove to the Harvest Moon on Arch St in Williamsport and place a recorded call to PALMER advising him that he/she was there. The male voice informed the CI to stay there, because he was "about to go to the Harvest Moon myself." He told the CI that he/she was going to have to go in the store. He instructed him/her not to just "sit there." He continued, "go in the store or something and I'll act like I just bumped into you." He advised that he would be there in 3 minutes. Det RACHEL advised that the blue Jeep departed Lyla Lane. Det LOUDENSLAGER surveilled the Jeep south (sic) Prospect St., east on Federal Ave, south on Poplar St and east on 3<sup>rd</sup> St to the Harvest Moon where PALMER delivered crack cocaine to the CI on camera. Following the transaction, PALMER was surveilled back to 2415 Lyla Lane, where Det CASCHERA observed him enter the residence.

On 04/13/23, I met with CI # 23-15 for the purpose of conducting a controlled cocaine purchase from Gilbert PALMER. At my direction, the CI texted PALMER and determined that he would be around make a crack cocaine purchase on this day. The CI also called PALMER and arranged for \$100.00 crack cocaine purchase. I met with the CI and equipped him/her with an electronic surveillance device. I also provided him/her with \$100.00 of prerecorded money. The CI placed a call to PALMER and advised that he/she was at the Harvest Moon on Arch St in the City of Williamsport. PALMER advised that he would be right there. A short time later, Det CASCHERA observed PALMER exit the front door of 2415 Lyla Lane and enter the blue Jeep Cherokee. PALMER was surveyed to a recycling area just north east of the Harvest Moon. PALMER called the CI and advised that he needed to take care of his recycling and would be right there. Minutes later, PALMER met with the CI in the area of Trenton Ave and Depot St in the City of Williamsport where he delivered crack cocaine in exchange for prerecorded money. Following the transaction, PALMER was surveilled back to 2415 Lyla Lane where Det CASCHERA observed him enter the front door.

Based on the above information, I have probable cause to believe that PALMER is utilizing 2415 Lyla Lane in the City of Williamsport, Lycoming County to store and distribute crack cocaine in the furtherance of his criminal enterprise. I therefore respectfully request the authority to search said residence and seize the items listed on the search warrant application.

On April 14, 2023 the search warrant was served on the Lyla Lane address. Havens discovered a firearm and requested an additional search warrant, which was offered by the

Commonwealth as exhibit #2. The affidavit of probable cause was essentially the same with these additional paragraphs.

On 04/14/23, I obtained/served a search warrant on 2415 Lyla Lane in Williamsport. Gilbert PALMER encountered inside a first floor northeast bedroom. PALMER was arrested and advised of his Miranda Rights. PALMER advised that he understood his rights. A search of the residence was conducted for crack cocaine and related paraphernalia. During the search, a brown in color S&W M&P pistol was found under the bed in the bedroom where PALMER was found. PALMER admitted that he purchased the firearm in Philadelphia, and that he was a person not to possess a firearm. A check of PALMER's criminal history shows that he was convicted of Sale, Manufacture, Delivery PWID a controlled substance in 2003.

Based upon the above information, I have probable cause to believe that PALMER is utilizing a firearm/s in furtherance of his crack cocaine distribution operation at 2415 Lyla Lane in the City of Williamsport, Lycoming County. I therefore respectfully request the authority to search said residence and seize the items listed on the search warrant application.

### ***Discussion***

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 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. 2002).

Both the Fourth Amendment of the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution protect citizens from unreasonable, searches and seizures. *Commonwealth v. Burgos*, 64 A.3d 641, 648 (Pa. Super. 2013). The Fourth Amendment has a strong preference for searches conducted pursuant to warrants. *Commonwealth v. Leed*, 186 A.3d 405, 413 (Pa. 2018). Search warrants may only issue upon probable cause and the issuing authority may not consider any evidence outside of the

affidavits. Pa. R. Crim. P. 203 (B). The affidavit of probable cause must provide the magistrate with a substantial basis for determining the existence of probable cause. *Leed*, supra (quoting *Illinois v. Gates*, 462 U.S. 213, 239 (1983)).

In order to consider the Defendant's claim that there was insufficient probable cause, the parties agree that the Court must restrict its analysis to the information contained in the affidavit of probable cause attached to the warrant, or its "four corners." 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).

"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*, 615 Pa. 354, 42 A.3d 1017, 1031 (2012) (internal quotation marks and citation omitted). The affidavit of probable cause "must provide the magistrate with a substantial basis for determining the existence of probable cause[.]" *Gates*, 462 U.S. at 239, 103 S.Ct. 2317. In a case where the information from a confidential informant (CI) is used as the basis of information to form the totality of circumstances "...the task of the issuing magistrate is simply to 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 persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. And the duty of a reviewing court is simply to ensure that the magistrate had a "substantial basis for ... conclud[ing] that probable cause existed." *Commonwealth v Gray*, 503 A.2d 921, 925 (quoting

*Gates, supra* at 238–39, 103 S.Ct. 2317) (emphasis added). 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, 418 (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).

Defendant asserts that the LCNEU did not have probable cause to search the Lyla Lane address since the drug transactions took place at other locations. The Commonwealth argues that the information available to the Commonwealth at the time reasonably lead to the conclusion that Defendant was storing his cocaine at 2415 Lyla Lane.

The facts the LCNEU had at the time they applied for the first search warrant was that a CI had told investigators that s/he could purchase controlled substance from Defendant. Before each of the three drug transactions, Defendant came from the Lyla Lane residence prior to meeting the CI. They also knew that the vehicle Defendant was operating had a registered address of 2415 Lyla Lane.

The Court finds that the affidavit sets forth probable cause to search for the prerecorded buy money, the associated drug paraphernalia, and the evidence of occupancy along with the firearm/s. Viewing the assertions in the affidavit of probable cause in a common-sense and nontechnical manner, it is reasonable to believe that the Defendant was using the residence as a base of operations for this cocaine dealing and therefore those items which are commonly associated with dealing would be present.

Once inside the residence LCNEU discovered the firearm. That find, along with the Defendants statements he is not permitted to possess, made searching for and seizing a firearm/s also reasonable.

***Conclusion***

In order for an affidavit of probable cause supporting a search warrant to be valid it must contain information to establish that there is a fair probability that contraband or evidence of a crime will be found in a particular place. A common sense reading of the affidavit of probable cause of the first search warrant establishes a fair probability that contraband or evidence of the crime alleged to have been committed would be contained within the residence. Once the firearm was found in areas lawfully searched by the police, sufficient evidence existed to request an additional warrant.

**ORDER**

**AND NOW**, this 19<sup>th</sup> day of November, 2024, for the reasons set forth in the foregoing Opinion, the Defendant's Motion to Suppress is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

cc: DA(MWel)  
Michael C. Morrone, Esq.  
Jerri Rook