

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CRIMINAL DIVISION
v.	:	CR-360-2024
	:	
ERIK OLSON,	:	Motion to Suppress
Defendant	:	

OPINION

This matter was before the Court on April 21, 2025, on the Defendant's Motion to Suppress filed on January 3, 2025 by and through his attorney, George Lepley Jr., Esquire. At the hearing on the Motion, Blake Marks, Esquire, appeared on behalf of the Defendant, and First Assistant District Attorney Martin Wade appeared on behalf of the Commonwealth.

In his Motion, Defendant requests the suppression of evidence obtained by law enforcement after a search of his property was conducted. More specifically, Defendant alleged that because the address law enforcement requested to search in the warrant was not the accurate address of Defendant it lacked probable cause. Additionally, since law enforcement hand-corrected the address on the warrant after the warrant was authorized by the Magisterial District Judge the warrant was invalid.

At the hearing on the Motion, the Commonwealth presented Captain Jonathan Wyant with the Pennsylvania Game Commission to provide testimony about the warrant and the search conducted. The Commonwealth submitted the application for the search warrant and the affidavit of probable cause as Commonwealth Exhibit 1, and without objection from the Defendant, the exhibit was admitted to the record. Additionally, the Commonwealth submitted the body camera footage from Captain Wyant on the day of the execution of the search warrant as Commonwealth Exhibit 2, and without objection from the Defendant the exhibit was admitted to the record.

Background

Defendant in this matter is charged with one count each of Corruption of Minors, Simple Assault, Resisting/Interfering with an Officer, Taking/Possessing Wildlife, Use of Bait, and two counts of Violation of Rules and Regulations of the Game Commission for incidents that occurred in or around November of 2023.

Evidence in this matter was obtained from the Defendant's property pursuant to a search warrant issued on December 4, 2024. Defendant alleges that some if not all of the charges in this matter are due to the evidence obtained in the execution of the search warrant in the early evening of December 4, 2024. Game Officer Jonathan Wyant authored the application for Search Warrant on the day of the search and the application was authorized by Magisterial District Judge Gardner at 2:30 p.m., approximately two hours before the search was conducted. The original, authorized document asserted that the address to be searched was "516 Kepner Hill Rd., Muncy, PA." However, Officer Wyant testified that after arriving on the property and executing the search, he noticed that the address in the warrant was a typographical error. Officer Wyant stated that Defendant's address is 517 Kepner Hill Rd., Muncy, PA. Accordingly, Officer Wyant corrected the typographical error by striking through the incorrect address number one time and writing in the correct numerical address while the items seized from the property were inventoried by other officers. Officer Wyant further testified that he is familiar with the location of the residence because one of his officers lives on an intersecting street to Defendant's residence. Additionally, Officer Wyant stated that "516 Kepner Hill Rd., Muncy, PA" does not exist.

At the hearing, Defendant argued that the officers executing the search observed the house numbers prior to entering the property, they did not properly explain the search warrant or provide the residents an opportunity to review the warrant prior to entering the

home, and the mistake was corrected after the fact without utilizing the proper avenues to make the correction, including referring back to the issuing authority. Additionally, the Defendant argued that the handgun seized from his vehicle was improper because the car was present within the curtilage. Also, the typographical error is more than harmless because it is a property with which the officers are intimately familiar, and testified to having passed by the property frequently. Thus, the Defendant was not extended the opportunity to turn the officers away for presenting a faulty warrant and because of that, the search warrant was improper for all items seized and should be suppressed.

The Commonwealth argued that the mistake was reasonable, and that the Defendant is not challenging the probable cause contained within the application for the warrant or the scope of the warrant. The Commonwealth rebutted Defendant's argument regarding the vehicle because the way in which the warrant is written conveys that the vehicle could have been searched anywhere. The Commonwealth further argued that if probable cause was lacking for any of the searched areas, then that portion of the warrant could be invalidated.¹ However, Defendant did not challenge the probable cause supporting the warrant for either the home or the vehicle. The Commonwealth also argued that the case law supports denying the suppression motion because there is a history of law enforcement executing mislabeled search warrants with incorrect addresses. Additionally, the officers in the Commonwealth's supporting case law² did not seek corrections by the court and the courts did not suppress the evidence because the technical mistakes were not intentional fabrications to violate constitutional guarantees.

¹ See *Commonwealth v. Anderson*, 40 A.3d 1245, 1248 (Pa. Super. 2012).

² See *Commonwealth v. Kaplan*, 339 A.2d 86 (Pa. Super. 1975); *Commonwealth v. Fiorini*, 195 A.2d 119 (Pa. Super. 1963); and *Commonwealth v. Kiessling*, 552 A.2d 270 (Pa. Super. 1988).

Analysis

Under the Fourth Amendment, a warrant is reviewed by evaluating whether “the officers’ error in obtaining and executing the warrant was reasonable under the circumstances.” *Commonwealth v. Kiessling*, 552 A.2d 270, 271 (Pa. Super. 1988). Importantly, “the Warrant Clause protection of the Fourth Amendment is aimed at preventing general searches which be exploratory in nature. Traditional Fourth Amendment protections are not violated, however, where the error in the warrant is minimal and is based on information that the police after reasonable investigation reasonably believed to be accurate.” *Id* at 272. Article I, Section 8 of the Pennsylvania State Constitution “requires only that places and things be described...as nearly as may be...and that ‘[i]t is enough to describe a definite ascertainable place excluding all others.’” *Commonwealth v. Anderson*, 195 A.2d 119, 122 (Pa. Super. 1963). A sufficient description of the premises in the warrant enables police to search the intended area which states the name of the persons occupying the place to be searched. *Commonwealth v. Kiessling*, 552 A.2d 270, 273 (Pa. Super. 1988) citing *Commonwealth v. Kaplan*, 339 A.2d 86 (Pa. Super. 1975). The case law is indicative that some latitude for honest mistakes is permissible in warrant application.

In *Kiessling*, the application had the wrong floor of the apartment building, and the officers did not know the application included the incorrect floor until they entered the building. It was then that the officers executed the search on the first floor, which is where they intended to search in the writing of the application. Under the analysis set forth in *Maryland v. Garrison*, 480 U.S. 79, 107 S. Ct. 1013, 94 L.Ed. 72 (1987), the *Kiessling* Court determined, first, that nothing else in the warrant, notwithstanding the factual error on the face of the warrant, operated to invalidate an otherwise valid warrant. *Commonwealth v. Kiessling*, 552 A.2d 270, 273 (Pa. Super. 1988). The *Kiessling* Court then determined that the

officers acted reasonably in executing the warrant, the second part of the two-part analysis established in *Maryland v. Garrison, supra*.

In the instant matter, it is clear under the analysis that the officers intended to search Defendant's home and car. Additionally, due to their intimate familiarity with the location, the officers were predisposed to knowing which house and car belonged to the Defendant in executing the search warrant. The Court further finds that the mistaken address was not done to gain access to a property for which the officers did not possess sufficient probable cause to apply for a warrant and execute a search. In his testimony, Officer Wyant openly admitted that he made a mistake with the address and that the numerical address included in the application does not exist. Officer Wyant referenced the residence being on the "left" side of the road and odd number residences being on the left side of the road. Thus, the mistake may be attributable to the officer facing the opposite direction when he had viewed the home.

Conclusion

Accordingly, the Court concludes that, despite the factual error, nothing else in the warrant operated to invalidate the contents thereof or the requisite probable cause to search the identified property. Additionally, the officers acted reasonably in executing the warrant in accordance with the terms therein. The officers searched Defendant's vehicle and house for the firearm and items related to the underlying offenses.

Thus, the Court enters the following Order:

ORDER

AND NOW, this 14th day of **May, 2025**, based on the testimony, the arguments by Counsel, and for the foregoing reasons, the Defendant's Motion to Suppress is **DENIED**.

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA(MW); CA
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