

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CR-572-2023
	:
vs.	:
	: OMNIBUS PRETRIAL MOTION
ADA WELLS	:
Defendant	:

OPINION AND ORDER

This matter came before the Court on October 14, 2024 for a hearing and argument on an Omnibus Pre-Trial Motion filed on behalf of Ada Wells (Defendant).

By way of background, Defendant is charged with one count of Possession with Intent to Deliver (PWID) a controlled substance, methamphetamine.¹ The charges arise out of the discovery of methamphetamine at 836 High Street, Apt. #1 in the City of Williamsport after the execution of a search warrant which uses as the basis for the search alleged drug deliveries committed by a co-resident of 836 High Street, Apt.#1, Mark Robinson.² As the warrant was being executed, one of the other occupants threw out of a window a black purse, which contained 90 grams of methamphetamine, packing material and a digital scale. A juvenile in the residence admitted to throwing the purse out the window to protect Defendant. After being *Mirandized*,³ Defendant admitted that she knew that the methamphetamine was there and her cellular phone was used for the drug transactions.

In her motion, Defendant requests the suppression of physical evidence contending

¹ 35 Pa. C.S.A. §780-113(a)(30).

² Robinson is Wells' co-defendant at CR-197-2023 where he was charged with the results of the search warrant which also included finding the prerecorded buy money.

³ *Miranda v. Arizona*, 384 U.S. 436 (1966).

that the warrant obtained by the Lycoming County Narcotics Enforcement Unit (LCNEU) to search the High Street residence lacked probable cause because there was no substantial nexus between the High Street residence and Robinson's drug dealing activity.

At the hearing, the Commonwealth entered a copy of the search warrant as Commonwealth's Exhibit #1.

Was there sufficient information in the search warrant to justify a search of 836 High Street, Apartment 1

According to the Pennsylvania Rules of Criminal Procedure, 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).

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, 926 (Pa. 1985) (adopting *U.S. v. Gates*, 462 U.S. 213 (1983)). 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).

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 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).

Defendant asserts the search warrant does not contain enough information to demonstrate a fair probability that drugs would be found within the residence. The Commonwealth argues that the CI referenced in the affidavit provided reliable information to the LCNEU and that the judge who approved and sealed the warrant found it as well. The Court agrees.

The affidavit of probable cause for the warrant contains the following:

Controlled source (CS) #23–08 contacted me within the last week and advised that he/she wanted to work for the NEU⁴ as a source of information. The CS related that he/she has a drug addiction and wanted to quit, and in the process wanted to provide information on drug dealers. On 01/30/23, I met with CS #23–01⁵ who relinquished crystal methamphetamine, powder, cocaine, and crack cocaine to me. The CS advised that he/she wanted to rid his/her residence of the substances. He/she

⁴ NEU and LCNEU are the same agency.

⁵ There was no other reference to this CS number so the court believed that this was a typographical error. All other references were to CS #23-08.

then agreed to contact one of his/her methamphetamine dealers and arrange for an undercover officer to meet with him and make a methamphetamine purchase. An NEU undercover officer was able to meet this person and conduct a successful hand-to-hand methamphetamine purchase as a result of the CS is cooperation.

On 02/01/23, I met with a potential CI at attorney George Lepley's office on 3rd Street in the City of Williamsport. This potential CI was encouraged by CS #23-08 cooperate with NEU. During the initial interview of said potential CI, he/she advised that one of his/her methamphetamine suppliers was a B/M named "Mark" from Williamsport. The potential CI advised that he/she purchases upwards of 4 ounces of methamphetamine from "Mark" at a time. After the interview, the potential CI was unsure if he/she wanted to cooperate.

On 02/01/23, after meeting with the potential CI, I contacted CS #23-08 and asked if he/she knew the "Mark" that the potential CI spoke of. He/she advised that they knew him as "Mark ROBINSON" and that he was a B/M in his 40's who lives on the "top end" of 2nd Ave. and drove a brown car. The CS advised that he/she could contact Mark ROBINSON via Facebook messenger and arrange for a methamphetamine purchase to occur between an NEU undercover officer and Mark ROBINSON. I directed the CS to make the arrangements. Moments later, the CS advised that Mark ROBINSON was leaving his residence to deliver methamphetamine to an NEU undercover at 1547 Northway Rd. Apt.#8 in Loyalsock Township, Lycoming County (not Robinson's apt).

On 02/01/23 at 13:00 hrs. Det LOUDENSLAGER observed a B/M later identified as Mark ROBINSON arrive at 1547 Northway Rd. Apt.#8 in Loyalsock Township, Lycoming County and enter the residence. Robinson was driving a brown in color Pontiac Grand Am PA Reg#LNB4190. Shortly thereafter, an NEU undercover officer arrived at the residence equipped with an electronic surveillance device. The NEU undercover officer met with ROBINSON and purchased approximately 3.5 grams of methamphetamine from him with \$200 of pre-recorded money. I was able to view the transaction live and confirm Robinson's identity. The registered owner of the Pontiac was found to be Ada WELLS of 836 High St. Apt#1, Williamsport. It should be noted that 836 High St. is on the north side of High Street adjacent to 2nd Ave. Upon reviewing WELLS' Facebook.com profile, I observed a photograph of ROBINSON. ROBINSON left 1547 Northway Rd. Apt#8 approximately 10 minutes after the NEU undercover, and was constantly surveilled to 836 High St. Once there, Det. CASCHERA observed ROBINSON exit the vehicle and enter the first floor eastern side entrance. I then walked onto the front door of the residence and viewed the mailboxes. One of the three mailboxes was labeled "Apt #1- Wells, -Robinson" Following the surveillance, I called the CS and asked if he/she had ever been to ROBINSON'S residence. He/she advised that they had and related that it was a first floor apartment with the entrance on the east side of the structure. He/she advised that the door goes directly into the residence and not into a common area. The purchased methamphetamine field tested positive.

Following the methamphetamine purchase, I contacted the CS to inquire

about the layout of the residence. While speaking with him/her, they advised that within the last week, he/she had been inside ROBINSON'S residence to purchase methamphetamine. He/she advised that he/she met with ROBINSON inside and provided him with the money in the kitchen/living room area just inside the eastern entrance door, and that ROBINSON walked deeper into the residence to an unknown location to obtain them methamphetamine that he sold to the CS.

A check of PA Jnet DHS Recipient Address inquiry (welfare) revealed that the same Mark ROBINSON resides at 836 High St. Apt. #1 Williamsport, PA 17701.

Based upon the above information, I have probable cause to believe that ROBINSON resides at 836 High St. Apt.#1 City of Williamsport, Lycoming County, and that he would store his proceeds from his illegal methamphetamine operation inside said residence. I therefore respectfully request the authority to search said residence for proceeds from illegal methamphetamine transactions, to include \$200.00 of pre-recorded buy money. Furthermore, I respectfully request that this warrant be sealed for a period of 60 days due to the fact that the CS is actively involved in at least one other investigation. Disclosure of this affidavit of probable cause would compromise that investigation and could potentially put the CS and an NEU undercover officer in danger.

Commonwealth's Exhibit #1. Paragraphs 1 through 15 listed Havens' training and experience regarding drug traffickers. Havens applied for the search warrant on February 2, 2023, and this Court granted it on that date at 8:35 a.m.

When viewed in a common-sense, nontechnical manner through the eyes of a trained narcotics officer, the affidavit does set forth sufficient facts to establish a fair probability that the Robinson was using 836 High Street, Apt #1 as his residence and a place to store his controlled substances. The affidavit lists pertinent facts as follows. A CS brought to LCNEU controlled substances that s/he purchased from a drug dealer and provided the name and a successful purchase was made by an undercover thus establishing the CS's initial reliability. Two days later, Robinson's name was given to the CS and s/he indicated that they were familiar with him. The CS knew approximately where Robinson lived and the type of car he

drove. When asked to set up a purchase on that day, after the contact with Robinson, the CS indicated that Robinson was leaving 836 High St (his residence) and going to a location on Northway Road. Robinson was observed by LCNEU arriving at the Northway Road location in the vehicle described by the CS to sell a quantity of methamphetamine to the undercover LCNEU detective for \$200.00. The registered owner of the vehicle used by Robinson was Defendant. Robinson went directly back to the High Street address after the Northway Road sale. This transaction provided additional support to the credibility of the CS. Finally, the CS confirmed to the LCNEU that when s/he purchased methamphetamine at 836 High Street, Apt #1, Robinson would meet him/her in the entry way but go deeper into the apartment to obtain the drugs establishing the drugs were stored at the High Street address. Clearly, from the CS's verified information LCNEU established the reliability of the CS with the natural conclusion that there was a fair probability that drugs and the buy money would be found in the High Street residence.

Defense counsel argues that this case is more similar to the case of *Commonwealth v. Way*. In *Way*, the informant arranged a drug transaction by phone which occurred in a blue van along a country road. After the alleged transaction, police followed the blue van to a driveway of a property at the intersection of Douglas Dr. and Glendale Rd., Berks County. The informant identified appellant as the driver of the blue van. A police source told the affiant that appellant lived at the intersection of Douglas Dr. and Glendale Rd.'s. The police then found Way's address and applied for a search warrant. The affidavit to search the Defendant's house for drugs did not contain sufficient facts to believe that they would be found on the premises to be searched. "Probable cause to believe that a man has committed a

crime on the street does not necessarily give rise to probable cause to search his home.” *Commonwealth v. Way*, 342 Pa. Super. 341, 347, 492 A.2d 1151, 1154 (1985), quoting *Commonwealth v. Kline*, 355 A.2d 361, 364 (Pa. Super. 1975). When a conclusion is used to form the basis of probable cause, an affidavit must set forth how information leading to such a conclusion was obtained. *Id.*; see also *Commonwealth v. Ambers*, 225 Pa. Super. 381, 310 A.2d 347 (1973); *Commonwealth v. Soychak*, 221 Pa. Super. 458, 289 A.2d 119 (1972).

The Court disagrees with Defendant’s assertion that this case is more similar to *Way*. Here, the LCNEU established a direct connection to the High Street residence both before and after a controlled purchase. The CS provided reliable information to the LCNEU, which it corroborated. The CS told the LCNEU that s/he knew “Mark” as Mark Robinson. The CS stated that s/he purchased methamphetamine from Robinson at 836 High Street Apt. #1 and that Robinson retrieved the controlled substances from a location inside of the apartment. The CS also told the LCNEU that Robinson drove a brown vehicle. The CS set up a transaction for an undercover member of the LCNEU to purchase methamphetamine from Robinson at an apartment on Northway Road. Robinson drove a brown car to Northway Road and delivered drugs to the undercover officer. The drugs field-tested positive for methamphetamine.

Robinson was surveilled back to 836 High Street, Apt. #1. The LCNEU corroborated that Robinson lived there. The LCNEU also determined that the brown vehicle was registered to Defendant at that address. The LCNEU observed Robinson enter the first-floor east side entrance. The CS indicated that s/he had been to Robinson’s apartment to purchase

methamphetamine and related that it was a first-floor apartment with the entrance on the east side of the structure. He/she advised that the door goes directly into the residence and not into a common area. Since the conclusion was supported by the facts in the affidavit that the 836 High Street Apt #1 location was directly used in the operation of Robinson's drug dealing, *Way* does not apply.

Conclusion

A verifiable allegation of the presence of drugs based on reliable information is sufficient to establish an inference of criminal activity to justify a search of the Defendant's residence, when it is clear the Defendant's roommate is engaging in criminal activity out of that residence.

ORDER

AND NOW, this 14th day of July, 2025, the Court DENIES the Motion to Suppress contained in Defendant's Omnibus Pre-Trial Motion.

By the Court,

Nancy L. Butts, President Judge

cc: Martin Wade, Esquire (ADA)
Matthew Diemer, Esquire
Jerri Rook
Gary Weber, Esquire