

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
(302) 856-5257

September 28, 2012

Alexander W. Funk, Esquire
Curley, Rodriguez & Benton, LLC
250 Beiser Boulevard, Suite 202
Dover, DE 19904

Christopher M. Hutchison, Esquire
Department of Justice
114 E. Market Street
Georgetown, DE 19947

RE: State v. Dennis Beckett
Case No. 1205000024

Dear Counsel:

On September 17, 2012, the defense filed a Motion to Suppress as to any evidence obtained pursuant to the search warrant of a location purporting to be the defendant's place of business.

Since this is an attack on a search warrant affidavit for lacking probable cause, this Court is limited to a "four corners"¹ review of the affidavit to determine if probable cause to search the target property was contained within the four corners of the affidavit.

The Court requested the warrant affidavit from defense counsel as it was not provided in the motion. Having considered the warrant, this is the Court's decision.

On April 30, 2012, an officer of the Milford Police Department obtained a search warrant from a Justice of the Peace containing the following basic information in the affidavit:

1. In January an individual ("cooperating source") was arrested on a traffic stop and marijuana and drug paraphernalia were found in his/her possession. He/she told the police the drug was purchased from Dennis Beckett. Also, it was reported that he/she had seen Beckett with over ten pounds of marijuana in his possession. Beckett operates a business called "Fat Boys."
2. On January 30, 2012, the police arrested Andrea Waters, who had in his possession marijuana, a digital scale, over \$4,000.00 cash and a cell phone. Through the cell phone text messages it was determined that people were contacting Waters to buy drugs. In Waters'

¹*Sisson v. State*, 902 A.2d 288 (Del. 2006).

phone log was a phone number matching the phone number for Dennis Beckett (302-786-2119).

3. In February 2012 the cooperating source advised police of Beckett's residence in Milford. The police checked the DMV registration of a white Ford truck they observed at the residence and it was registered to Beckett. Further investigation revealed electric service in Beckett's name for the residence and phone service in Beckett's name (302-786-2119).

4. A cooperating source advised the police that Beckett sold marijuana in the last week of January 2012. The source reported Beckett travels to New Castle to meet his supplier named "Shy Money." They meet at a Wawa store on Route 13 in or near New Castle, Delaware. The source reports that he/she has been present during several of these purchases. Each time a "brick" of marijuana weighing approximately 10 pounds was purchased by Beckett. Each time Beckett was in a white Ford truck. At his place of business, "Fat Boys", Beckett breaks down the brick into smaller amounts for sale. This source also reported seeing large amounts of currency at "Fat Boys", as well as marijuana and large amounts of currency at Beckett's residence.

5. In 2002 Beckett was found in possession of marijuana, cash, and materials relating to his business at "Fat Boys."

6. In the last two weeks of January 2012 a cooperating source informed the police that Becket is a supplier of marijuana for Keith Eley. From previous investigations and convictions, Eley is known to be involved in the sale of illegal drugs.

7. In February 2012 a cooperating source introduced an undercover officer to Eley, who purchased marijuana from Eley. During this meeting, Eley reported to the cooperating source that Beckett was his supplier and would be taking a trip up north because of demand for the "stuff."

8. During March and April 2012 the cooperating source or confidential informant ("CI") reported that Beckett had to change his residence in Milford. Resources established that Beckett was the name on the electric account for an apartment at 13B Southeast Second Street in Milford. Police investigators confirmed this. In the last two weeks of March the CI advised he/she observed Beckett take approximately one pound of marijuana from a vehicle at "Fat Boys." The CI also reported that Beckett was going to replenish his supply of marijuana.

9. The affidavit contains information about the CI being able to get drugs from an individual who was "working at the business with Beckett." There is no need to go into the details of this information as it does not move the ball as far as probable cause concerning Beckett.

10. The business license for "Fat Boys" is in Beckett's name.

11. In the last two weeks of March the police met with a past-proven cooperating individual. A controlled buy was arranged with the police watching. Beckett was observed going to his apartment at 13B Southeast Second Street and then going to the location of the buy. This controlled buy was conducted according to standard operating procedure. During the controlled buy Beckett sold marijuana to the past-proven cooperating individual.

12. In the first two weeks of April 2012 another controlled buy took place using the past-proven cooperating individual. This sale occurred in the parking lot of Beckett's apartment at 13B Southeast Second Street. Again, the past-proven cooperating individual purchased marijuana from Beckett.

APPLICABLE LAW

A summary of the applicable law may be found in *LeGrande v. State*, 947 A.2d 1103, 1107-08 (Del. 2008) (internal citations omitted).

In determining whether probable cause exists to obtain a search warrant, our courts apply a "totality of the circumstances" test. We have explained that this test requires the court to examine factors such as the reliability of the informant, the details contained in the informant's tip and the degree to which the tip is corroborated by independent police surveillance and information. If an informant's tip is sufficiently corroborated by independent police work, the tip may form the basis for probable cause even though nothing is known about the informant's credibility.

Our duty as a reviewing court "is simply to ensure that the magistrate had a substantial basis for concluding that probable cause existed. As explained by the United States Supreme Court, this "after-the-fact scrutiny by courts of the sufficiency of an affidavit should not take the form of *de novo* review." Thus, we pay "great deference" to the factual inferences drawn by an issuing magistrate in his probable cause determination. Notwithstanding this deference, our "substantial basis" review requires us to determine whether "the warrant was invalid because the magistrate's probable-cause determination reflected an improper analysis of the totality of the circumstances

DISCUSSION

The Court is satisfied that the contents of the affidavit clearly establishes probable cause.

Up until the controlled buys there was much investigation and suspicion that bordered on probable cause, but the two controlled buys establish probable cause that Beckett was in the business of selling marijuana.

These controlled buys also constitute additional investigation by the police, which corroborates the information received from other sources that Beckett was in the marijuana business and that the use of the "Fat Boys" business location was a part of Beckett's drug operation.

The information gathered from January 2012 through the first two months of April 2012 was not stale as to a warrant application on April 30, 2012.

In conclusion, the affidavit supports the decision of the Justice of the Peace magistrate to issue the search warrant. Probable cause existed to believe the illegal drugs would be found at "Fat Boys."

CONCLUSION

The suppression motion is denied .

IT IS SO ORDERED.

Very truly yours,

/s/ T. Henley Graves

cc: Prothonotary