

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
TELEPHONE (302) 856-5264

December 3, 2013

Adam Gelof, Esq.
Department of Justice
114 East Market Street
Georgetown, DE 19947

Dean Johnson, Esq.
Office of the Public Defender
14 The Circle, 2nd Floor
Georgetown, DE 19947

RE: *State of Delaware v. Janqwon Wright*,
Case No.: 1306004386

Dear Counsel:

Before the Court is Defendant Janqwon Wright's ("Wright's") Motion to Suppress. Wright's Motion is **DENIED**.

Facts

The Sussex County Grand Jury indicted Wright with Possession of a Deadly Weapon (firearm) by a Person Prohibited and Possession of a Deadly Weapon (ammunition) by a Person Prohibited. These charges stem from a search warrant issued by the U.S. District Court for the District of Delaware on June 4, 2013. The affiant, a federal agent with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), sought the warrant to obtain evidence of specified federal crimes

at Wright's residence in Bridgeville, Delaware. Upon executing the warrant, a firearm and ammunition were discovered. Wright states that upon discovering that he was a person prohibited under Delaware law, the seized items were give to the Delaware State Police ("DSP"), who arrested him on the present charges.

Discussion

Wright moves to suppress the seized items because 11 *Del. C.* § 2304 authorizes a warrant to be issued only by an authorized *state* official. He claims that a search warrant authorized by a *federal* official cannot be valid under § 2304. Wright acknowledges that Federal Rule of Criminal Procedure 41 ("Rule 41") authorizes a state judge to issue a warrant to be used in a federal prosecution, but argues that no converse rule exists authorizing a federal judge to issue a warrant to a state officer to be used in a state prosecution.

It is permissible for a state judge to issue a warrant requested by state officers for violation of state law, and for property seized under that warrant to be offered in a federal prosecution.¹ This Court sees no reason why, as a matter of Delaware law, the opposite cannot be true (*i.e.* that property can be introduced in a Delaware prosecution stemming from a warrant issued by a federal judge at the request of

¹ See *United States v. Burke*, 517 F.2d 377, 382 (2d Cir., 1975) (stating that in such a case, the warrant need only comply with the Fourth Amendment to the United States Constitution, and not Rule 41).

federal officers for violation of a federal law). A warrant’s classification as “federal” depends on the circumstances of the case;² and the parties in the present Motion assumedly do not contest that the warrant permitting the search of Wright’s residence was a “federal warrant.” Although the Court cannot find a Delaware statute or case explicitly affirming that a “federal warrant” can be used as the basis for Delaware prosecution, the Delaware Supreme Court has in the past implicitly sanctioned such use.³

Wright’s Motion is therefore **DENIED**.

IT IS SO ORDERED.

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

² *See id.* at 382–83 (explaining that if the efforts of federal and state officers are “mingled” in the request for a warrant, and in particular a warrant for a federal crime, the fact that a state judge issued the warrant does not negate the warrant’s classification as “federal”).

³ *See Carter v. State of Delaware*, 418 A.2d 989 (Del. 1980). This Court does not find *Carter* to be factually distinguishable from this case because in *Carter*, like in this case, a federal warrant was issued for violations of federal laws. *See id.* at 992. The federal warrant was used, however, as the basis for a Delaware prosecution. *Id.*