

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, )  
 )  
 v. ) ID No. 1709008735  
 ) In and for Kent County  
 JUAN VALENTIN, )  
 )  
 Defendant. )

**ORDER**

Submitted: May 24, 2018

Decided: May 29, 2018

***Upon Defendant's Motion to Suppress  
Granted in Part, Denied in Part***

On this the 29<sup>th</sup> day of May 2018, having considered Defendant Juan Valentin's (hereinafter "Mr. Valentin") motion to suppress and the State's response, it appears that:

Mr. Valentin challenges the validity of a search pursuant to warrant of 42 Mystic Lane, Grandview Meadows, Magnolia, Delaware (hereinafter the "Residence"), his silver Chevrolet Equinox (hereinafter the "Vehicle"), and his storage unit at Airbase Mini Storage (hereinafter the "Storage Unit"). Mr. Valentin alleges that the warrants issued for the searches were not supported by probable cause. The facts cited herein are as they appear to the Court following consideration of the parties' written submissions as well as arguments at the hearing on May 24, 2018.

At various dates throughout 2017, Delaware State Police were contacted by three separate confidential informants (hereinafter the “Confidential Informants”) who advised that a Hispanic male known as Juan “Nacho” Valentin was distributing cocaine and heroin from a single story home in Grandview Meadows. Subsequent investigation revealed that the Residence matched the description of the home by the Confidential Informants and that Mr. Valentin lived there. Delaware State Police also observed the Vehicle outside the house, and they discovered that Mr. Valentin was the registered owner. In July and August of 2017, Delaware State Police, assisted by the Confidential Informants, made several controlled purchases of cocaine and oxycodone from Mr. Valentin and others from the Residence. In one of these purchases, law enforcement observed an unknown male leave the Residence in a maroon Toyota Scion, sell cocaine to a Confidential Informant at a nearby Walgreens, and immediately return in the vehicle to the Residence.

Alleging the above to a magistrate, affiants from the Delaware State Police (hereinafter the “Affiants”) obtained a search warrant to search the Residence and any vehicles located outside the Residence (hereinafter the “First Warrant”). On September 13, 2017, Delaware State Police executed the warrant and discovered drug contraband and firearms inside the Residence and an additional firearm inside the Vehicle. During the search, a billing invoice for the Storage Unit was also discovered. Mr. Valentin was asked about the Storage Unit and made deceptive statements denying any knowledge of it. Ultimately, Mr. Valentin confirmed that the Storage Unit was his and that he had stored equipment there. The Affiants alleged this to a magistrate and obtained a second search warrant to search the Storage Unit

(hereinafter the “Second Warrant”). Upon execution of the Second Warrant, drug contraband was discovered in the Storage Unit.

When a motion to suppress challenges the validity of a search warrant, the defendant bears the burden of establishing that the challenged search or seizure was unlawful.<sup>1</sup> Search warrants may not be issued unless there is a showing of a factual basis for probable cause within the “four corners” of the affidavit submitted to the magistrate in the officer’s application for the search warrant.<sup>2</sup> The party with whom the burden rests must persuade the Court by a preponderance of the evidence.<sup>3</sup>

A magistrate's determination of probable cause “should be paid great deference by reviewing courts” and should not “take the form of a *de novo* review.”<sup>4</sup> For a warrant to evidence probable cause to search a particular place, “a nexus between the items to be sought and the place to be searched” must exist.<sup>5</sup>

As an initial matter, the Court finds that probable cause existed to search the Residence. While the motion to suppress requests the suppression of “all evidence in this matter,” Mr. Valentin’s counsel stated at oral argument that he is challenging the search of the Vehicle and the Storage Unit, not of the Residence.

The Court then turns to the question of whether probable cause existed to search the Vehicle. While the Vehicle was identified in the affidavit of probable cause attached to the First Warrant, it was not described as being associated with any

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<sup>1</sup> *State v. Sisson*, 883 A.2d 868, 875 (Del. Super. 2005), *aff'd*, 903 A.2d 288 (Del. 2006).

<sup>2</sup> Del. Const. art. I, § 6; *Pierson v. State*, 338 A.2d 571, 573 (Del. 1975).

<sup>3</sup> *State v. Lambert*, 2015 WL 3897810, at \*3 (Del. Super. June 22, 2015).

<sup>4</sup> *Illinois v. Gates*, 462 U.S. 213, 236 (1983).

<sup>5</sup> *Morgan v. State*, 962 A.2d 248, 253 (Del. 2008).

of the alleged criminal activity. The affidavit merely states that the Vehicle was parked near the Residence and registered to Mr. Valentin. While the First Warrant's affidavit also included an allegation that one of the controlled purchases was alleged to have been performed using a motor vehicle, it was the maroon Toyota Scion, not the Vehicle (a silver Chevrolet Equinox). More generally, the Affiants alleged that a drug trafficker will often store their drugs "at his or her residence . . . or [in] vehicles located on the property."

The First Warrant authorized the search of "[a]ny and all vehicles that are located on the property at the time the search warrant is executed." Such a general authorization to search is troubling, as it would encompass not only Mr. Valentin's vehicles, but those of any other neighbor or visitor whose vehicle happened to be parked near the premises. The United States Supreme Court's opinion in *Ybarra v. Illinois* indicated that a "person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person," and that principle forbids the search of vehicles whose only connection to the Residence is their proximity to it.<sup>6</sup>

The only additional facts alleged that might render the existence of evidence in the Vehicle more probable—that the Vehicle was registered to Mr. Valentin, that the Affiants suspected he was a drug dealer, and that the Affiants opined that drug dealers hide evidence in their vehicles—are insufficient to establish a nexus between the items to be seized and the Vehicle. The law requires a fact-based connection between the Vehicle and the evidence sought.<sup>7</sup> An officer's expert opinion that

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<sup>6</sup> 444 U.S. 85, 91 (1979).

<sup>7</sup> *State v. Cannon*, 2007 WL 1849022, at \*4 (Del. Super. June 27, 2007) (requiring a "fact-based connection between illegal activity" and the place to be searched).

contraband is likely to be found in a given location is, absent more, insufficient to provide a nexus.<sup>8</sup> The First Warrant affidavit lacks any factual allegation within its four corners that the Vehicle was ever used in any illegal activity. Officers never observed “illegal or suspicious activity” in which the Vehicle was involved and received no information that Mr. Valentin was using the vehicle “to deal drugs or to store drugs, drug paraphernalia, or any other evidence of drug transactions.”<sup>9</sup>

Even under this Court’s deferential review of the magistrate’s finding, the Court finds the allegations within the affidavit of probable cause insufficient to provide a nexus sufficient to justify the issuance of a warrant to search the vehicle. To permit a warrant to issue merely because the vehicle was registered in Mr. Valentin’s name and parked outside his Residence would sanction “virtually automatic” searches of the vehicles of any individual suspected of a drug crime.<sup>10</sup> In its decision in *Dorsey v. State*, the Delaware Supreme Court made clear that such authorizations were impermissible: “that someone is a suspect does not constitute probable cause to search that suspect’s home or automobiles.”<sup>11</sup> When law enforcement have probable cause to arrest a suspect for drug dealing, it may render the probability that contraband will be found amongst the suspect’s other possessions

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<sup>8</sup> *Id.* at \*6 (declining to hold “that probable cause to search a residence may be formed solely by statements of police expertise”) (citing *United States v. Schultz*, 14 F.3d 1093, 1097 (6th Cir. 1994) (“While an officer’s ‘training and experience’ may be considered in determining probable cause, it cannot substitute for the lack of evidentiary nexus.”)).

<sup>9</sup> *Cannon*, 2007 WL 1849022, at \*4–5 (suppressing evidence when such allegations were absent).

<sup>10</sup> *Ybarra*, 444 U.S. 85, 91 (1979).

<sup>11</sup> 761 A.2d 807, 813 (Del. 2000).

more likely but does not automatically confer probable cause to search the suspect's home and automobile.<sup>12</sup> The Court requires something more to sustain the magistrate's finding of probable cause.

However, the Court does find something more with regard to the Second Warrant. Law enforcement acquired additional information suggesting a reasonable probability that contraband would be found in the Storage Unit. After the discovery of drugs and weapons inside Mr. Valentin's home, when law enforcement asked him about whether or not he had a storage unit, Mr. Valentin denied that fact, and answered evasively as to what he was keeping in the Storage Unit.<sup>13</sup> This, when combined with officers' knowledge that Mr. Valentin did in fact have a storage unit, Mr. Valentin's later admission to that fact, and probable cause to believe that Mr. Valentin was involved in drug dealing, established that Mr. Valentin's attempts to conceal the existence of the Storage Unit from law enforcement provided a nexus to establish the reasonable probability that contraband would be discovered in the Storage Unit.

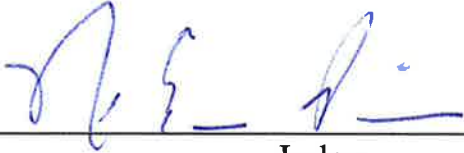
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<sup>12</sup> *Dorsey v. State*, 761 A.2d 807, 813 (Del. 2000) ("although probable cause to arrest does not automatically provide probable cause to search the defendant's home, the fact that probable cause to arrest has been established increases the probability that the defendant is storing evidence of that crime in the defendant's residence.") (citing *United States v. Jones*, 994 F.2d 1051, 1055 (3d Cir. 1993)).

<sup>13</sup> See *Baker v. State*, 531 A.2d 1235 (Table) 1987 WL 44959 at \*2 (Del. 1987) (holding that evasive behavior is a factor supporting probable cause); *Hovington v. State*, 616 A.2d 829, 833 (Del. 1992) (holding that a defendant's attempt to conceal an object was a relevant consideration in determining probable cause). See also *United States v. Stearn*, 597 F.3d 540, 559–60 (3d Cir. 2010) (finding nexus to search a defendant's home based in part on "a defendant's attempts to evade officers' questions about his address"); *United States v. Dessesaure*, 429 F.3d 359 (1st Cir. 2005) (finding a nexus to search a defendant's home when the defendant "tried to lead [the police] down a false trail," denying that he lived where he did, and also driving back to his home in such a way as "to throw off anyone following him").

**WHEREFORE**, for the foregoing reasons, Mr. Valentin's motion to suppress is **GRANTED** with regard to evidence obtained from the Vehicle and **DENIED** with regard to evidence obtained from the Residence and the Storage Unit.

**IT IS SO ORDERED.**

  
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Judge

NEP/dsc

oc: Prothonotary

cc: Sean A. Motoyoshi, Esquire  
Alexander W. Funk, Esquire