



## INTRODUCTION

On May 20, 2024, Defendant Gerald Crooks (“Mr. Crooks,”) was indicted by a grand jury for the following; Count I- Possession, Purchase Ownership, or Control of a Firearm by a Person Prohibited (Class C Felony), Count II- Purchase Ownership, or Control of a Firearm by a Person Prohibited (Class C Felony), Count III- Possession, Purchase, Ownership of Control of Ammunition by a Person Prohibited (Class D Felony), Count IV- Possession, Purchase, Ownership, of Control of Ammunition by a Person Prohibited (Class D Felony), Count V- Drug Possession (Felony), Count VI- Possession of a Firearm During the Commission of a Felony (Felony), Count VII- Possession of Firearm During the Commission of a Felony (Felony), Count VIII- Reckless Endangering Second Degree (A Misdemeanor), Count IX- Resisting Arrest (A Misdemeanor), Count X- Unreasonable Speed (A Violation), Count XII- Following a Motor Vehicle Too Closely ( A Violation). The charges arose from a traffic stop that occurred on June 15, 2024, and led to the search of Mr. Crooks’ residence and seizure of contraband evidence. Mr. Crooks moves to suppress all evidence seized as a result of an alleged unlawful search and seizure. Upon reading Mr. Crooks’ Motion and the State’s response, the Motion to Suppress is **DENIED**.

### **FINDING OF FACT**

On June 15, 2024, Mr. Crooks was actively on level three probation in Case No.: 1908018326. On June 15, 2024, on or about 9:30pm, Mr. Crooks was pulled over by a Wilmington Police Department (“WPD”) vehicle for excessive speeding. The lead officer requested assistance. SPO Scioli, SPO Phelps, and Sgt. Evans arrived at the scene of the traffic stop. Upon the probation officer’s arrival, Mr. Crooks accelerated his car to evade arrest.

Sgt. Evans, SPO Scioli and SPO Phelps immediately responded to Mr. Crooks’ probation address of 42 Paul Road and conducted surveillance of the residence. Additional law enforcement personnel arrived at a separate address.

While conducting surveillance of 42 Paul Road, law enforcement personnel observed Robin Barker, Mr. Crooks’ girlfriend, circle the block twice, exit her vehicle, and walk to the front of 42 Paul Road. Robin Barker escorted law enforcement personnel into the residence. Robin Barker proceeded to tell SPO officers that Mr. Crooks’ slept in three different bedrooms. However, some of the rooms noted by Robin Barker did not contain a bed or were already occupied by another relative.

At 10:00pm SPO Scioli called Operation Administrator Ford to conduct a case conference for an administrative search of the residence. The case conference lasted between thirty seconds to two minutes. Based on the articulable facts, Administrator Ford concluded that SPO officers had a reasonable suspicion that Mr. Crooks was in

violation of his probation, Operation Administrator Ford approved administrative search.

SPO Phelps and SPO Scioli completed an administrative search of the premise. During the administrative search, SPO Phelps and SPO Scioli searched the basement. While searching the basement they found a firearm located in a cooler. SPO Scioli radioed Sgt. Evans a code '11' to inform him of a firearm. Sgt. Evans, then, joined SPO Phelps and SPO Scioli in the basement and assisted the probation officers periodically throughout the search by opening a lock with a pen and lifting a couch.

The administrative search of the residence conducted by probation officers revealed a gray bookbag containing paperwork with Mr. Crooks' name on it, Mr. Crooks' United States passport, a tub of marijuana, a black cooler bag stamped "Famous Tavern" which had a padlock on the zipper and on top of the black cooler bag, a .357 Magnum handgun loaded with five live round of ammunition and inside the black cooler bag three additional bags of marijuana. Probation Officers also found an additional book bag with the words "cookies" on it that contained a second handgun; a 9mm semiautomatic loaded with six live rounds of ammunition and an additional large bag of marijuana. As a stipulation of Mr. Crooks' probation, he is prohibited from owning or possessing all deadly weapons.

Mr. Crooks' now moves to suppress all evidence obtained as a result of the administrative search of his residence.

## **PARTIES CONTENTIONS**

### *Mr. Crooks Contends:*

11 Del. C. 4321 administration warrants allow for searches of individuals and not searches of homes. Mr. Crooks further contends the warrantless administrative search of his residence by probation officers was not supported by reasonable suspicion. Lastly, Mr. Crooks contends the evidence must be suppressed because the probation officers did not follow Department of Corrections Procedures for the search of Mr. Crooks residence.

### *The State Contends:*

The State contends administrative searches of a probationer's residence, and the vehicle are permissible under Delaware law. Based on the articulable facts at the time of the event, that include Mr. Crooks' traffic violation, failure to comply with officer orders, evading arrest, and violating the curfew provision of his level three probation, probation officers had reasonable suspicion to search Mr. Crooks residence.

## **STANDARD OF REVIEW**

In a suppression hearing, the Court sits as the finder of fact, assesses witness credibility, and weighs the evidence.<sup>1</sup> Since the motion challenges a warrantless search, the burden is on the State to establish probable cause to justify a warrantless search of a Mr. Crooks' residence.<sup>2</sup> "To justify a warrantless search and seizure, the State must establish by a preponderance of the evidence that the officer's actions complied 'with the requirements of the United States Constitution, the Delaware Constitution, and any applicable statutes.'"<sup>3</sup> Probationers and parolees have a diminished protection under the Fourth Amendment's reasonable search and seizures requirement and thus, a government agent is required to "substantial[ly] comp[ly] with the departmental regulations to demonstrate satisfactory evidence of reasonableness in Delaware."<sup>4</sup>

Under Delaware Law, a probation officer needs only "reasonable suspicion or reasonable grounds to justify an administrative search of a residence or car,"<sup>5</sup> and probation officers act "reasonably so long as they substantially comply with [DOC]

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<sup>1</sup> *State v. Dewitt*, 2017 WL 2209888, at \*1 (Del. Super. Ct.).

<sup>2</sup> *Hunter v. State*, 783 A.2d 558, 560 (Del. 2001) (emphasis omitted).

<sup>3</sup> *State v. Young*, 314 A.3d 688, 693 (Del. Super. Ct. 2024) (quoting *State v. Garnett*, 2021 WL 6109797, at \*3 (Del. Super. Ct)).

<sup>4</sup> *Pendleton v. State*, 990 A.2d 417, at \*420 (Del. 2010).

<sup>5</sup> *Murray v. State*, 45 A.3d 670, 678 (Del. 2012) (See also *Lloyd v. State*, 292 A.3d 100, at \*105 (Del. 2023) ("Administrative searches must be supported by reasonable suspicion to be in compliance with Procedure 7.19.")).

regulations.”<sup>6</sup> “DOC Procedure 7.19 was promulgated pursuant to statutory authority under Subsection 4321(d),<sup>7</sup> and thus, lack of substantial compliance with it is a statutory violation warranting exclusion of evidence.”<sup>8</sup> Under Delaware law, administrative searches of probationer homes require “only reasonable grounds, even if the probation officers do not satisfy each technical requirement of the search and seizure regulations of the Department of Corrections.”<sup>9</sup>

## DISCUSSION

“Delaware statutory law governs the exercise of the power of probation officers to search and arrest probationers without a warrant.”<sup>10</sup> Section 4321(d) of Title 11, affords Probation Officers the ability to “conduct searches of individuals under probation and parole supervision in accordance with [DOC] procedures while

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<sup>6</sup> *Murray*, 45 A.3d at \*678.

<sup>7</sup> *State v. Young*, 314 A.3d 688, 694 (Del. Super. Ct. 2024) *citing* *King v. State*, 984 A.2d 1205, at 1208 (Del. 2009); *see also* *Pendleton v. State*, 990 A.2d 417, at \*420 (Del. 2010) (“[Subs]ection 4321(d) of the Delaware Code invests authority in probation and parole officers to conduct warrantless searches[.]”).

<sup>8</sup> *Young*, 314 A.3d at 694 (*citing* *Culver v. State*, 956 A.2d 5 (Del. 2008) (“Because we find that probation officers violated their clear statutory mandate, we do not reach any constitutional questions.”)).

<sup>9</sup> *Donald v. State*, 903 A.2d 315, 319 (Del.2006) (“The special nature of probationary supervision justifies a departure from the usual warrant and probable cause requirements for searches, but a search of a probationer's home must be reasonable.”).

<sup>10</sup> *Lloyd v. State*, 292 A.3d 100, 105 (Del. 2023).

in the performance of the lawful duties of their employment.”<sup>11</sup> Within that statutory framework, DOC Procedure 7.19 provides guidelines for conducting administrative searches of probationers and their residences.<sup>12</sup> Procedure 7.19 outlines the procedures probation officers must abide by to make an arrest of a probationer and provides “[an] Arrest Search Checklist form is to be used for all arrests and searches in the community, unless exigent circumstances exist forcing the Officer into action.”<sup>13</sup> “Prior to conducting and administrative search, a probation officer should discuss the matter with their supervisor, unless exigent circumstances exist. During a case conference, the supervisor reviews the search decision factors listed on the search checklist.”<sup>14</sup>

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<sup>11</sup> 11 *Del. C.* § 4321(d).

<sup>12</sup> *Lloyd v. State*, 292 A.3d 100, at \*105 (Del. 2023); See B4–5 (Procedure 7.19 at Part VII.A.6.a); B10–11 (Procedure 7.19 at Part VII.E). Part VII.6.a. provides:

6. SEARCH CHECKLIST

a. The Officer and Supervisor will hold a case conference using the Search Checklist as a guideline. During the case conference the Supervisor will review the “Yes” or “No” responses of the Officer to the following search decision factors:

- (1) Sufficient reason to believe the offender possesses contraband.
- (2) Sufficient reason to believe the offender is in violation of probation/parole.
- (3) Information from a reliable informant, indicating offender possesses contraband or is violating the law.
- (4) Information from the informant is corroborated.
- (5) Approval obtained from Supervisor, Manager, or Director.

B4–5 (Procedure 7.19 at Part VII.A.6.a)

<sup>13</sup> See B3 (Procedure 7.19 at Part VII.A.1.).

<sup>14</sup> *Lloyd v. State*, 292 A.3d 100, at\* 105 (Del. 2023) citing *See* B10–11 (Procedure 7.19 at Part VII.E); As with searches, “[a]bsent exigent circumstances, the decision to arrest an offender should only be made after discussing the matter with [the]

**I. 11 Del. C. § 4321(d) Permits Searches of Individuals, Vehicles, or Residences.**

Mr. Crooks asserts that § 4321(d) permits only the searches of individuals, not the searches of residences. § 4321(d) provides:

Probation and parole officers shall exercise the same powers as constables under the laws of this State and may conduct searches of individuals under probation and parole supervision in accordance with Department of Correction Procedures while in performance of the lawful duties of their employment and shall execute lawful orders, warrants and other process as directed to him by any Court, Judge or Board of Parole of this State.

Delaware law authorizes probation officers to conduct searches of vehicles and residences of the probationers they supervise.<sup>15</sup> In *McAllister v. State*, the Delaware Supreme Court decided the legality of a warrantless administrative search of a probationer’s residence. The Delaware Supreme Court states “the legislative authority permitting probation officers to effect the searches of the individuals they supervise is found in 11 Del. C. § 4321. The DOC has, pursuant to that authority, adopted regulations regarding warrantless searches of probation officers.”<sup>16</sup> Further, the Delaware Supreme Court, in *Jacklin v. State*, held DOC regulations promulgated

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Supervisor, or in their absence, another unit Supervisor or follow the chain of command.” B6 (Procedure 7.19 at Part VII.B).

<sup>15</sup> *State v. Stovall*, No. 2204002054-22, slip op. at 3 (Del. Super. Ct. May 23, 2023).

<sup>16</sup> *McAllister v. State*, 807 A.2d 1119 (Del. 2002); *See also Sierra vs. State*, 958 A.2d 825 (Del. 2018); *Pendleton vs. State*, 990 A.2d 417, 419 (Del. 2010); *Jacklin v. State* 16 A.3d 938 (Del. 2010).

under the authority granted by Section 4321 authorizes probation officers to effect searches of individuals that they supervise in accordance with DOC procedure 7.19.<sup>17</sup>

This Court in *State v. Stovall* held that a plain reading of § 4321(d), is clearly construed to subject individuals under probation and parole to searches, including searches of the probationer's residence, in compliance with DOC regulations.<sup>18</sup> In addition, Mr. Crooks signed a Conditions of Supervision Form that states "you are subject to arrest and to search of your living quarters, property, person, personal effects, or vehicle without a warrant at any time by a probation/parole officer." The terms of the Condition and Supervision form are applicable throughout the entirety of Mr. Crooks' probation. Accordingly, the Court finds that 11 Del. C. Section 4321(d) permits searches of probationers' residences in accordance with relevant DOC procedures, and Mr. Crooks' consented to an administrative search of his residence when he signed the terms of his Condition and Supervision form with the Department of Corrections.

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<sup>17</sup> *Jacklin v. State* 16 A.3d 938 (Del. 2010).

<sup>18</sup> *State v. Stovall*, No. 2204002054-22, slip op. at 3 (Del. Super. Ct. May 23, 2023).

**II. Probation Officers Had a Reasonable Suspicion That Criminality Was Afoot and, Thus, Could Lawfully Search Mr. Crooks' Residence.**

11 Del. C. § 4334(b) provides probation officers the ability to arrest probationers without a warrant for a violation of any condition of probation.<sup>19</sup> Further, 11 Del. C. § 4321(d) authorizes probation and parole officers to effect searches of the individuals they supervise in accordance with DOC procedures.<sup>20</sup> Under Delaware law administrative searches of probationers homes require “only reasonable grounds, even if the probation officers do not satisfy each technical requirement of the search and seizure regulations of the Department of Corrections.”<sup>21</sup> “The special nature of probationary supervision justifies a departure from the usual warrant and probable cause requirements for searches, but the search of the probationer’s home must be reasonable.”<sup>22</sup> The Court will find a law enforcement officer compliant with Procedure 7.19 when conducting an administrative search if the government agent has a reasonable suspicion of suspects criminal activity.<sup>23</sup> “When a regulatory scheme requires reasonable grounds for a

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<sup>19</sup> 11 Del. C. § 4334(b).

<sup>20</sup> 11 Del. C. § 4321(d).

<sup>21</sup> *King v. State*, 984 A.2d 1205, at \* 1209 (Del. 2009); *Donald v. State*, 903 A.2d 315, at \* 319 (Del.2006).

<sup>22</sup> *King v. State*, 984 A.2d 1205, at \* 1209 (Del. 2009).

<sup>23</sup> *Murry v. State*, 2010 WL 62606, at \*2 (Del. 2010).

search, compliance with those regulations is sufficient to render the search reasonable under the Fourth Amendment.”<sup>24</sup>

SPO Scioli had a reasonable suspicion that Mr. Crooks was engaged in criminal activity before the warrantless search began. At the time of the event SPO Scioli was employed by Delaware Department of Corrections, Adult probation & Parole unit for over fifteen years. SPO Scioli knew that Mr. Crooks was arrested for drug and firearm related crimes in the past and was currently on level three probation. On June 15, 2024, of foremost importance to this inquiry, SPO Scioli observed Mr. Crooks flee from the traffic stop. In addition, he violated his curfew, driving at a high rate of speed, and following SPO Scioli’s conversation with Robin Barker, it was unclear where Mr. Crooks resided. Upon these facts, after conferring and receiving permission from Operations Administrator Ford, SPO Scioli and SPO Phelps conducted an administrative search of Mr. Crooks’ residence. Based on the totality of the circumstances, the Court finds the probation officers had requisite reasonable suspicion to search Mr. Crooks residence.

**III. The Administrative Search of Mr. Crooks’ Residence was lawful because Probation Officers Substantially Complied with Procedure 7.19.**

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<sup>24</sup> *Lloyd v. State*, 292 A.3d 100 (Del. 2023).

SPO Scioli substantially complied with DOC Procedure 7.19 for the search of Mr. Crooks' residence. Mr. Crooks contends SPO officers failed to substantially comply with DOC procedure 7.19 when conducting the search of Mr. Crooks' residence. Probation officers are required to substantially comply with DOC guidelines when conducting an administrative search.<sup>25</sup> Substantial compliance with departmental guidelines, not absolute compliance, is sufficient to withstand the review of an administrative search.<sup>26</sup> Here, SPO Scioli substantially complied with DOC procedure 7.19. Prior to conducting the administrative search SPO Scioli called Operations Administrator Ford to walk through the checklist. Following the completion of the checklist, SPO Scioli and SPO Phelps conducted an administrative search of Mr. Crooks' residence. While searching the basement of the residence a firearm was located in a cooler. SPO Scioli and SPO Phelps communicated with Sgt. Evans that Mr. Crooks' residence contained firearms. Sgt. Evans, than, accompanied both SPO officers in the basement. While in the basement, Sgt. Evans did periodically assist with the search by opening a lock and lifting a couch, however, the Court finds his participation in the search immaterial since all evidence obtained would have been subject to the inevitable discovery exception. Following the search and seizure of the items obtained from Mr. Crooks' residence, the Arrest and

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<sup>25</sup> *State v. Irwin*, 252 A.3d 471 (Del. Super. Ct. 2021).

<sup>26</sup> *Id.*

Search Checklist was completed the following Tuesday and was approved by a supervisor. The Court, therefore, finds the probation officers conduct substantially complied with DOC procedure 7.19.

### **CONCLUSION**

The Court finds, the probation officer's search of Mr. Crooks' residence was lawful under 11 Del. C. § 4321 and DOC procedure 7.19 and was conducted on the basis of reasonable suspicion and were performed in substantial compliance with DOC procedures, including Procedure 7.19. Accordingly, Mr. Crooks' Motion to Suppress is **DENIED**.

**IT IS SO ORDERED.**

*/s/ Calvin L. Scott*  
**Judge Calvin L. Scott, Jr.**