

**IN THE SUPERIOR COURT OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 1205023478
	)	
ROLAND SAUNDERS,	)	
	)	
Defendant.	)	

Submitted: November 26, 2012  
Decided: December 28, 2012

**Defendant's Motion to Suppress – DENIED**

**ORDER**

Matthew B. Frawley, Esquire, 820 N. French Street, Wilmington, DE 19801.  
Attorney for State of Delaware.

John A. Barber, Esquire, 1232 N. King Street, Suite 300, Wilmington, DE  
19801. Attorney for Defendant Roland Saunders.

**CARPENTER, J.**

Before this Court is Defendant Roland Saunders' ("Saunders") Motion to Suppress all evidence gathered from his residence on May 28, 2012. Saunders argues that the search warrant was based upon information provided by a cooperating defendant, which was not corroborated by independent police work. Additionally, Saunders contends that the odor of marijuana emanating from his residence, which was detected by police officers and confirmed by a dog-sniff test, did not provide an independent basis to search his residence. The State argues that the information provided by both a cooperating defendant and a past, proven, and reliable confidential informant provided sufficient probable cause for the search warrant. Additionally, the State contends that the police officers' detection of the marijuana odor, which was confirmed by a drug canine, provided an independent basis of probable cause to search Saunders' residence. The Court finds that, under the circumstances of this case, Saunders' Motion to Suppress is hereby **DENIED**.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The facts of the case are relatively straightforward and undisputed. In early March 2012, a cooperating defendant provided Detective Ballard with information regarding an individual who was selling heroin from within a residence in the 800 block of Anchorage Street in Wilmington, Delaware.

Specifically, the cooperating defendant described the individual as a young, tall, black, male with the nickname of “RC.” Familiar with this nickname, Detective Ballard provided the cooperating defendant with a DELJIS photo of Roland Charles Saunders, a black male with a D.O.B. of 11/14/1992 and a listed address of 807 Anchorage Street, Wilmington, Delaware. Upon viewing the photo of Saunders, the cooperating defendant positively identified Saunders as the individual known as “RC” who was selling heroin from within a residence in the 800 block of Anchorage Street in Wilmington, Delaware. Subsequently, Detectives Ballard and Pfaff took the cooperating defendant to the 800 block of Anchorage Street, where the cooperating defendant physically identified 807 Anchorage Street as the residence from within which “RC” was selling heroin. Further, Detectives Ballard and Pfaff learned that, as recently as March 23, 2012, Saunders called the Wilmington Police Department regarding a domestic violence complaint and reported 807 Anchorage Street as his address.

In early May 2012, a past, proven, and reliable confidential information provided Detective Pfaff with information regarding an individual who was selling heroin in the Browntown area of Wilmington, Delaware. Specifically, the confidential informant described the individual as a thin, black male who was approximately nineteen (19) years old and

around 5'09" tall. Additionally, the confidential informant stated that the individual was known as "KB" and used the cellular telephone number of (856) 571-6056.

Between May 25, 2012 and May 28, 2012, Detective Pfaff placed approximately seven (7) recorded telephone calls to the cellular telephone number of (856) 571-6056 and spoke to an unidentified male and female regarding the purchase of three (3) bundles<sup>1</sup> of heroin. During these conversations the Detective was told that the heroin sold by these individuals would have the street trademark of "TERMINATOR." On May 28, 2012, Detective Pfaff called (856) 571-6056 and was instructed, by the female, to meet at the Cricket cellular telephone store, which was located in the 800 block of Maryland Avenue in Wilmington, Delaware. Upon arrival, Detective Pfaff again called the number and observed a black female standing in the 800 block of Maryland Avenue in Wilmington, Delaware immediately answer her cellular telephone, point towards the Cricket cellular phone store, and direct Detective Pfaff to park in front of the Cricket store. As Detective Pfaff was directing members of the Wilmington Police Drug Unit to approach the black female, a black male walking westbound on Lower Oak Street approached the black female; Detective Ballard

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<sup>1</sup> A bundle of heroin contains approximately thirteen (13) individual bags of heroin.

immediately identified this black male as Saunders. When officers exited their vehicles to approach the subject, Saunders fled in the direction of 807 Anchorage Street and discarded a bundle of heroin.

Both the black female and Saunders were taken into custody. The black female was found to be in possession of three (3) bundles of heroin, which was the amount Detective Pfaff requested during his telephone conversations. The black female was also found to be in possession of the cellular telephone with the telephone number of (856) 571-6056, which is the telephone number Detective Pfaff had called to purchase the bundles of heroin. Members of the Drug Unit recovered the bundle of heroin that Saunders discarded when he fled; the heroin bundle was stamped "TERMINATOR" and field tested positive. Additionally, Saunders was found to be in possession of approximately \$287.00 in U.S. dollars on his person.

Subsequently, Detectives Ballard and Pfaff responded to the front of the residence at 807 Anchorage Street in Wilmington, Delaware and smelled the odor of marijuana, which was being exhausted from an air conditioner on a first floor window. The smell of marijuana was verified when K9 Officer Christopher Vitale and his drug canine, Kai, responded to the scene.

Specifically, Kai positively indicated there was an odor of a controlled substance emanating from the residence at 807 Anchorage Street.

As a result, Detectives Ballard and Pfaff drafted a daytime search warrant for the residence at 807 Anchorage Street. To do so, the detectives noted that Saunders, who was nineteen (19) years old at the time of this arrest, had a felony Delivery of a Schedule I Narcotic adjudication as a juvenile and two separate adult felony drug arrests pending in the Superior Court of New Castle County. Based upon their training, experience, and participation in other drug investigations, detectives noted in the affidavit that “it is common for drug traffickers to secret contraband, proceeds of illegal drug sales and records of drug transactions in secure locations within their residence and/or business for their ready access and to conceal from law enforcement officers.” As further support, detectives also indicated that “drug traffickers only transports [sic] enough drugs that they will need for sale and they will maintain the other drugs at a secured location, including but not limited to their residence.”

## **DISCUSSION**

Under the Delaware Constitution, a search warrant may only be issued upon a showing of probable cause.<sup>2</sup> Specifically, the search warrant must be

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<sup>2</sup> Del. Const., art. 1, § 6.

supported by a sworn affidavit that establishes sufficient cause for the warrant's issuance.<sup>3</sup> To determine whether an application for a search warrant demonstrates probable cause, the Court employs a “four-corners” test.<sup>4</sup> Under this test, sufficient facts must appear on the face of the affidavit such that a reviewing court can verify the factual basis for a determination that probable cause exists.<sup>5</sup> To establish probable cause, the supporting affidavit must set forth sufficient facts on its face that would enable a neutral judicial officer to form a reasonable belief that an offense has been committed and that seizable property would be found in a particular place.<sup>6</sup> Additionally, an officer's training and experience may be taken into account when determining whether probable cause exists.<sup>7</sup> Further, a reviewing court must afford great deference to a judge’s determination that there was probable cause to issue a search warrant.<sup>8</sup>

Here, the Court’s analysis will focus on the sworn affidavit of probable cause executed by Detectives Ballard and Pfaff, which served as the basis for issuing the warrant to search Saunders’ residence at 807

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<sup>3</sup> See *State v. Walker*, 444 A.2d 277, 280 (Del. Super. 1982) (citing *Sexton v. State*, 397 A.2d 540, 545-46 (Del. 1979)).

<sup>4</sup> See *State v. Adams*, 13 A.3d 1162, 1172 (Del. Super. 2008); *State v. Sisson*, 883 A.2d 868, 876 (Del. Super. 2005); *State v. Church*, 2001 WL 31840887, at \*5 (Del. Super. Dec. 18, 2002).

<sup>5</sup> See *Sisson*, 883 A.2d at 876 (citing *Pierson v. State*, 338 A.2d 571, 573 (Del. 1975)).

<sup>6</sup> See *Dorsey v. State*, 761 A.2d 807, 811 (Del. 2000); see also *Adams*, 13 A.3d at 1173 (“An affidavit establishes probable cause to search only where it contains a nexus between the items sought and the place to be searched.”) (citing *Hooks v. State*, 416 A.2d 189, 203 (Del. 1980)).

<sup>7</sup> See *Church*, 2001 WL 31840887, at \*8 (citing *State v. Jones*, 2000 WL 33114361, at \*2 (Del. Super. Dec. 5, 2000)).

<sup>8</sup> See *Sisson*, 883 A.2d at 876.

Anchorage Street. The Court finds that the facts and statements contained within the “four corners” of the supporting affidavit established sufficient probable cause for issuance of a warrant to search Saunders’ residence.

First, the Court finds that the information Detectives Ballard and Pfaff received from the cooperating defendant—that “RC” was selling heroin from within the 800 block of Anchorage Street—provided a sufficient basis of probable cause to search Saunders’ residence. Delaware courts have held that “hearsay information is an acceptable basis for probable cause provided that the tip is shown to be reliable and trustworthy through corroboration by other facts within the officer's knowledge.”<sup>9</sup> Further, Delaware courts have held that simply because an informant is not past, proven, and reliable does not automatically render him unbelievable.<sup>10</sup> Instead, Delaware courts have held that “if an informant is anonymous or the informant’s reliability is unknown, probable cause requirements are met if there is sufficient independent police corroboration.”<sup>11</sup>

Here, Detective Ballard recognized the nickname “RC” as belonging to Saunders, and the cooperating defendant confirmed that “RC” was a pseudonym for Saunders when he positively identified Saunders from his DELJIS photo. Additionally, the detectives were able to corroborate the

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<sup>9</sup> *Schramm v. State*, 366 A.2d 1185, 1189 (Del. 1976) (citations omitted).

<sup>10</sup> *See id.* at 1190.

<sup>11</sup> *State v. Ranken*, 25 A.3d 845, 863 (Del Super. 2010), *aff’d*, 21 A.3d 597 (Del. 2011) (citations omitted).



Anchorage Street address as belonging to Saunders from two separate sources: 1) the cooperating defendant physically identified 807 Anchorage Street as the house from within which “RC” was selling heroin; and 2) Saunders reported his address as 807 Anchorage Street when he filed a domestic violence complaint with the Wilmington Police Department on or around March 23, 2012.

Second, the Court finds that the information Detectives Ballard and Pfaff received from the past, proven, and reliable informant—that “KB” was selling heroin in the Browntown area and using the cellular telephone number of (856) 571-6056—provided additional probable cause to search Saunders’ residence.

Here, the detectives were able to corroborate the past, proven, and reliable confidential informant’s information by arranging a controlled purchase of heroin. In executing the arranged purchase, the detectives were able to confirm Saunders’ involvement with the black female in selling heroin near the Browntown area; specifically, the detectives recognized Saunders approaching the black female with whom Detective Pfaff had spoken regarding the purchase of three (3) bundles of heroin. Further, the detectives confirmed that the bundle of heroin Saunders discarded when he

was fleeing was stamped with the word “TERMINATOR,” which was the particular heroin Detective Ballard had arranged to purchase.

Third, the Court finds that the detectives’ detection of the smell of marijuana, which was confirmed by a drug canine, provided an additional basis of probable cause to search Saunders’ residence at 807 Anchorage Street. Delaware courts have held that an officer’s detection of the smell of marijuana emanating from a vehicle provides sufficient probable cause to search the vehicle.<sup>12</sup> Further, Delaware courts have held that a drug canine “sniff test”, which positively detects the presence of drugs, provides a sufficient basis of probable cause for officers to search the identified source of the odor.<sup>13</sup>

Here, Detectives Ballard and Pfaff smelled the odor of marijuana emanating from Saunders’ residence at 807 Anchorage Street. Based upon the detectives’ training, experience, and participation in other drug investigations, this provided sufficient probable cause to secure a search warrant for Saunders’ residence. Further, the drug canine gave a positive indication that a controlled substance was being exhausted from Saunders’ residence, which also provided a sufficient basis of probable cause to search

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<sup>12</sup> See *Jenkins v. State*, 970 A.2d 154, 157 (Del. 2009).

<sup>13</sup> See e.g., *Nelson v. State*, 708 A.2d 631, at \*4 (Del. Mar. 30, 1998); *State v. Saunders*, 2000 WL 703021, at \*3 (Del. Super. Mar. 27, 2000).

Saunders' residence.<sup>14</sup> Moreover, the totality of the circumstances indicate that: 1) Saunders had reported 807 Anchorage Street as his residence when he previously filed a domestic violence complaint; 2) Saunders fled in the direction of his residence when he became aware that the arranged heroin purchase was a set-up; 3) Saunders discarded a bundle of heroin when he fled from the Browntown area; and 4) both the detectives and a drug canine detected the odor of marijuana emanating from Saunders' residence.

As a result, the Court concludes that the face of the affidavit contained sufficient facts to support a finding of probable cause. Specifically, the Court finds that the issuing judicial officer possessed sufficient grounds to reasonably believe that the items listed in the search warrant would be found at 807 Anchorage Street. Therefore, Saunders' Motion to Suppress is hereby **DENIED.**

**IT IS SO ORDERED.**

/s/ William C. Carpenter, Jr.  
Judge William C. Carpenter, Jr.

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<sup>14</sup> Even though the affidavit does not provide evidence that the drug canine, Kai, was a properly trained, reliable, drug detection dog, the Court can infer that Kai was trained to detect narcotics because Kai was Officer Vitale's police dog and Officer Vitale was a narcotics officer. *See Arcuri v. State*, 49 A.3d 1177, 1179-80 (Del. 2012).