

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

JAMES T. VAUGHN, JR.
PRESIDENT JUDGE

**KENT COUNTY COURT HOUSE
38 THE GREEN
DOVER, DELAWARE 19901**

June 29, 2011

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***Re: State v. Sean Lindsey
ID. No. 1008010180***

Dear Counsel:

The defendant, Sean Lindsey, has filed a motion to suppress evidence regarding searches of a 1997 Cadillac Deville automobile and a residence located at 60 Stoney Drive, Dover, Delaware. Both searches were conducted pursuant to a search warrant. The Court has now reviewed the case law provided by counsel at the hearing and finds that the motion should be *denied*.

A search warrant must establish both: (1) probable cause that a crime was committed; and (2) a logical nexus between the contraband sought and the place to be searched.¹ It is well-settled Delaware law that the court should consider the “four corners” of the affidavit when determining probable cause.² The court must determine whether the warrant application presented the Magistrate with a substantial basis to conclude that probable cause existed.³ Probable cause for a search warrant

¹ *State v. Cannon*, 2007 WL 1849022 (Del. Super. June 27, 2007); *see State v. Ada*, 2001 WL 660227, at *3 (Del. Super. 2001).

² *Henry v. State*, 373 A.2d 575 (Del. 1977).

³ *Cannon*, 2007 WL at *4.

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may be established by setting forth facts “sufficient to warrant a reasonable man in the belief that seizable property would be found in a particular place....”⁴

Here, a confidential informant, who on prior occasions provided accurate and reliable information, told officers that the defendant was selling marijuana. The confidential informant told police that the defendant would deliver marijuana within the City of Dover area, and that he drove a black 1997 Cadillac Deville with Delaware registration 502761. The officers then had the confidential informant conduct two controlled purchases of marijuana.

For the first purchase, the confidential informant and the defendant, Sean Lindsey, agreed to meet at a predetermined location within the City of Dover to purchase marijuana. After the informant arrived at the predetermined location, he called an observing police officer and advised him that the defendant had called him and told him to go over to his vehicle across the parking lot and get the marijuana out of the center console.⁵ The vehicle referred to was a black Cadillac Deville. After the confidential informant retrieved marijuana from the console of the vehicle, the officers saw a man matching the defendant’s description re-enter the car and drive away. They followed the black Cadillac Deville and confirmed that it was registered to the defendant. The car was driven to 60 Stoney Drive and the same man seen entering the vehicle after the transaction exited the vehicle and walked into the home. The confidential informant confirmed that the person who re-entered the Cadillac and drove from the predetermined location was Sean Lindsey, and reported that he had purchased marijuana from him.

For the second purchase, the confidential informant again contacted the defendant and set up a predetermined location to do a controlled purchase. At the appointed time, a police officer observed a black male matching the description of Sean Linsey exit from the residence at 60 Stoney Drive, Dover, enter the same

⁴ *Ada*, 2001 WL at *4 (citing *Carroll v. United States*, 267 U.S. 132 (1925)).

⁵ Whether the informant is male or female is not disclosed in the affidavit.

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Cadillac and drive to the predetermined location. The officer observed the man exit the Cadillac and contact the informant. The man then returned to the Cadillac and drove away. The confidential informant reported that the man was Sean Lindsey and that he had purchased marijuana from him.

When the officers wrote the affidavit they did not just report each incriminating fact, but also included statements pertaining to their expertise in drug investigations. These statements reported on how drug traffickers utilize their cars and residences to conceal drugs, proceeds from drug sales, ledgers, records, weapons, as well as other forms of contraband. These statements, on their own, are not enough to establish probable cause, however, they can help explain why the defendant's behaviors spawned suspicion that the residence and vehicle may possess contraband.

The defendant cites both *State v. Ada*⁶ and *State v. Cannon*⁷ in support of his motion to suppress. In *Ada*, the court held that the police lacked probable cause to search a defendant's home. The police had surveilled an apartment allegedly used by the defendant to sell drugs, and submitted a search warrant for both the apartment and the defendant's home.⁸ The affidavit in that case established that: (1) the defendant was seen coming and going from the home; (2) on one occasion the defendant left his home with a gym bag and went to the area of the apartment; (3) the police received information from a concerned citizen that there was possibly a person selling marijuana in the vicinity of the apartment; and (4) the affidavit was in large part based on statements of police expertise.⁹ The court held that there was not a sufficient nexus for the search of the home because the police observed no illegal or suspicious activity occurring at the home.

⁶ 2001 WL 660227 (Del. Super. 2001).

⁷ 2007 WL 1849022 (Del. Super. June 27, 2007).

⁸ *Ada*, 2001 WL at *1-2.

⁹ *Id.* at *4.

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In *State v. Cannon* the court suppressed evidence found as a result of the execution of a search warrant, because there was no nexus between the items sought and the residence.¹⁰ Tips in that case also came from a concerned citizen, and there was no evidence that the defendant was using his home to deal drugs.¹¹ The affidavit only identified specific street locations as sites for drug transactions. The defendant never made or received phone calls immediately prior to or following drug transactions, there was no unusual traffic around the home, and the defendant was not seen leaving the house with a bag that could transport drugs.¹² The court suppressed the evidence because the affidavit failed to show that there was a probability that evidence would be found in his home. However, it stated that “probable cause to search a residence may be formed solely by statements of police expertise combined with the mere presence of a defendant’s car at both a drug transaction and his confirmed residence.”¹³

Based upon the above facts, I am satisfied that probable cause existed for the search warrant, and that there was a sufficient nexus to both the residence and the vehicle. On the first occasion the defendant was seen returning to the residence after delivering marijuana to the informant from the Cadillac. On the second occasion the defendant was seen driving from the residence directly to the predetermined location in the same Cadillac. On both occasions the person driving the defendant’s vehicle was a person who the police observed to match the description of Sean Lindsey, whose identify was also confirmed by the confidential informant.

This information, together with the information gathered by the police from their experience in conducting drug investigations, education, and training, is sufficient to warrant a reasonable person in the belief that the defendant’s home and

¹⁰ *Cannon*, 2007 WL at *6.

¹¹ *Id.*

¹² *Id.* at *5.

¹³ *Id.*

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car would contain seizable evidence. I am satisfied that there was a sufficient nexus between the contraband sought and the defendant's residence and vehicle. Therefore, the motion to suppress is *denied*.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.

President Judge

oc: Prothonotary

cc: Counsel

File