

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHERYL COOPER,	§	
	§	No. 159, 2013
Defendant Below-	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	No. 1209008606
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: September 18, 2013

Decided: October 30, 2013

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

On this 30th day of October 2013, it appears to the Court that:

(1) Defendant-below/Appellant Cheryl Cooper appeals her convictions by the Superior Court of Maintaining a Drug Property, Possession of Drug Paraphernalia, and Possession of Marijuana. Cooper's single claim on appeal is that the trial court erred when it found that Cooper lacked standing to challenge the search of her residence at 2450 North Market Street, Wilmington, Delaware. Cooper provided sufficient evidence of her residency at 2450 North Market Street to show standing. She ultimately was convicted of Maintaining a Drug Property at

that very residence. Accordingly, we reverse and remand for further proceedings consistent with this Order.

(2) In September 2012, Probation and Parole received information from a confidential informant that probationer Kareem Bradley was in possession of a firearm. Bradley had recently changed his address to his father's 1607 North West Street address. During an administrative search at this address, Bradley's father showed the probation officers an empty bedroom, claiming it was Bradley's. Bradley's father told the officers that his son's belongings were still at Bradley's previous residence, located at 2450 North Market Street.

(3) The officers later executed an administrative search at 2450 North Market Street. They did not obtain a second warrant but proceeded using the warrant for 1607 North West Street and Bradley personally. Upon arriving at 2450 North Market Street, officers knocked on the door only to have it swing open. Inside, officers saw Bradley and noticed the smell of marijuana coming from the apartment. Bradley was detained and directed probation officers to his bedroom. Shortly thereafter, Cooper exited the bathroom. Officers detained her and patted her down. In the residence, the officers found marijuana, a marijuana grinder, a scale, and \$2300 in cash.

(4) A Grand Jury indicted Cooper on charges of Drug Dealing, Maintaining a Drug Property, Possession of Drug Paraphernalia, and Possession of Marijuana. Cooper moved to suppress the results of the search of 2450 North Market Street. During the Suppression Hearing, two witnesses testified that Cooper lived at 2450 North Market Street. Istavan Norwood, Bradley's father, testified that Bradley was living with Cooper at 2450 North Market Street. Antoinette Bradley, Bradley's mother, testified that Probation and Parole's search occurred at Cooper's house. The trial court denied the motion, finding that Cooper failed to establish that she had standing to challenge the search. After a bench trial, the trial court acquitted Cooper of Drug Dealing and convicted her on all other charges. Cooper was sentenced to 3 years and six months Level V incarceration which was suspended for probation. This appeal followed.

(5) Cooper contends that the trial court abused its discretion when it found that she did not have standing to challenge the search. She argues that the testimony of two witnesses sufficiently showed that she lived at the address. We review a trial court's grant or denial of a motion to suppress for abuse of

discretion.¹ “We examine the trial court’s legal conclusions *de novo* for errors in formulating or applying legal precepts.”²

(6) Only persons with standing may challenge the legality of a search or seizure.³ A “person must demonstrate ‘a legitimate expectation of privacy in the invaded place’” in order to challenge the validity of a search warrant.⁴ An expectation of privacy is legitimate if “it is one that society is prepared to recognize as reasonable.”⁵ “A reasonable expectation of privacy exists where one is in his own residence or in another’s residence as an overnight guest.”⁶

(7) The trial court erred in finding that Cooper did not have standing to challenge the search. Although Cooper did not introduce a lease or deed or other documentation, the evidence showed that Cooper had a possessory interest in the residence. Bradley’s father testified that Bradley was living with Cooper. And the testimony of Bradley’s mother twice referred to 2450 North Market as “Ms.

¹ *State v. Holden*, 60 A.3d 1110, 1113 (Del. 2013).

² *Jackson v. State*, 990 A.2d 1281, 1288 (Del. 2009) (citing *Lopez-Vazquez v. State*, 956 A.2d 1280, 1284–85 (Del. 2008)).

³ *Hanna v. State*, 591 A.2d 158, 162–63 (Del. 1991).

⁴ *Wilson v. State*, 812 A.2d 225, 2002 WL 31106354, at *1 (Del. Sept. 18, 2002) (quoting *Rakas v. Illinois*, 439 U.S. 128, 143 (1978)).

⁵ *Hanna*, 591 A.2d at 163 (quoting *Rakas*, 439 U.S. at 143 n.12) (internal quotation marks omitted).

⁶ *Washington v. State*, 653 A.2d 306, 1994 WL 716044, at *2 (Del. Dec. 20, 1994) (citing *Hanna*, 591 A.2d at 163–64).

Cooper's house."⁷ This witness testimony about Cooper's residency was unchallenged.

(8) Moreover, Cooper was convicted of Maintaining a Drug Property at 2450 North Market Street. In order to be guilty of that offense, the trial court was required to find beyond a reasonable doubt that Cooper was the "owner, landlord, or tenant" of 2450 North Market Street.⁸ Because Cooper had a legitimate expectation of privacy at her residence, she has standing to challenge the search. We do not address the merits of her motion to suppress. That is for the trial court to do in the first instance.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **REVERSED** and this matter is **REMANDED** for further proceedings consistent with this Order.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁷ Appellant's Opening Br. Appendix at A14.

⁸ 16 *Del. C.* § 4760.