

State v. Daniel Jones
ID No. 0203020328
November 25, 2002

ORDER

This 25th day of November, 2002, upon consideration of defendant Daniel Jones's motion to suppress, the evidence presented, and the record in this case, it appears that:

(1) Defendant, Daniel Jones, is charged with Trafficking in Cocaine, 16 *Del. C.* § 4753, Possession With Intent to Deliver a Narcotic Schedule II Controlled Substance, 16 *Del. C.* § 4751, Possession of a Controlled Substance Within 300 Feet of a Park, 16 *Del. C.* § 4768, and Possession of Drug Paraphernalia, 16 *Del. C.* § 4771. Jones has moved to suppress evidence seized from his person on March 21, 2002. For the reasons that follow, I find Defendant's motion to be without merit.

(2) On March 21, 2002, Dover Police Detectives Matthews and Boney applied for a search warrant for, among other individuals and property, the "person of . . . Daniel Jones, black male, DOB 04/06/81." The affidavit in support of the application for the search warrant here recited: that several controlled purchases of crack cocaine were made by a confidential informant on behalf of the Dover Police Department at the apartment that was subject to the warrant; that the confidential informant has provided information in the past that has led to the arrest and conviction of several persons in Kent County, Delaware; that the confidential informant told Dover Police that the resident of the apartment sells crack cocaine for her own profit as well as for others and allows others to sell crack cocaine at the apartment; that Daniel Jones frequents the apartment, conducting sales of crack cocaine at the apartment and leaving crack cocaine with the resident to sell for him; and that Daniel Jones has a criminal history of Criminal Impersonation, Possession

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of Cocaine, Resisting Arrest, Violation of Probation, Possession of Marijuana, Possession with Intent to Deliver Marijuana. The warrant was then issued by Justice of the Peace Harvey D. Leighty.

(3) The warrant was executed on March 21, 2002. At that time, the officers executing the search saw Jones standing nearby the apartment that was also a subject of the search warrant. Jones was then seized and searched a number of times before being taken inside of the searched apartment where he was strip searched. The strip search resulted in the discovery of approximately 6.5 grams of crack cocaine hidden in Jones's underwear.

(4) Also on March 21, 2002 and prior to the execution of the search warrant, Superior Court Commissioner Andrea Freud issued a capias for Daniel Jones for his failure to appear for a Drug Court proceeding. That capias was outstanding at the time Jones was searched.

(5) Jones argues the search warrant was invalid because the affidavit did not establish probable cause, that the arresting officers had no knowledge of the capias, and that the strip search incident to the arrest on the capias was unlawful.

(6) The issuing judge or magistrate will initially determine whether probable cause exists for a search warrant. Probable cause may be established by an informant's tip where the totality of circumstances would lead one to conclude that the information is reliable.¹ This determination "will be paid great deference

¹ *Illinois v. Gates*, 462 U.S. 213 (1983).

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by a reviewing court.”² The duty of this Court is simply to ensure that, under the totality of the circumstances, the magistrate had a substantial basis for concluding that probable cause existed.³

(7) The affidavit in support of a search warrant must set forth facts adequate to warrant a reasonable man in the belief that an offense has been committed and that seizable property would be found in a particular place or on a particular person.⁴ Only the probability, and not a prima facie showing, of criminal conduct is necessary to support a finding of probable cause.⁵

(8) In order to establish the reliability of an undisclosed informant it is necessary to look not at his record for aiding arrests or conviction but, rather, to consider whether his information has been verified in the past.⁶ Though the affiant did not specifically state that the informant’s tips had been verified, that inference is reasonable from the affidavit.⁷ “Common sense dictates that when an informant

² *State v. Santini*, 1993 WL 55341 (Del. Super. Ct.) *affirmed by Santini v. State*, 1995 WL 420802 (Del.); *Jensen v. State*, 482 A.2d 105, 111 (Del. 1984).

³ *Gardner v. State*, 567 A.2d 404 (Del. 1989); *Jones v. United States*, 362 U.S. 257, 271 (1960); *State v. Santini* at *3 (Del. Super. Ct.); *Illinois v. Gates*, 462 U.S. at *238 (1983).

⁴ *State v. Santini* at *4 (Del. Super. Ct.); *Jensen*, 482 A.2d at 110-11 (Del. 1984).

⁵ *State v. Walker*, 444 A.2d 277 (Del. Super. Ct. 1982) *citing Spinelli v. United States*, 393 U.S. 410, 419 (1969) and *Beck v. Ohio*, 379 U.S. 89, 96 (1964).

⁶ *State v. Walker*, 444 A.2d at *285 (Del. Super. Ct. 1982) *citing Sexton v. State*, 397 A.2d 540 (Del. 1979).

⁷ *Id.*

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has repeatedly given information leading to many arrests the magistrate could reasonably infer that the police would not time and time again accept such information unless the previously provided information had been verified.”⁸

(9) It is well established that an affiant’s knowledge of a suspect may be relied on by a magistrate as corroborative evidence in establishing the reliability of informant’s tips.⁹ The U.S. Supreme Court stated in the case of *Jones v. United States*:

The informant had previously given accurate information. His story was [also] corroborated by other sources of information. And petitioner was known by the police to be a user of narcotics. Corroboration through other sources of information reduced the chances of a reckless or prevaricating tale; that petitioner was a known user of narcotics made the charge against him much less subject to skepticism than would be such a charge against one without such a history.¹⁰

(10) Given the information provided by the confidential informant to the Dover Police, the informant’s prior dealings with the Dover Police, and Jones’s prior criminal history known to the Dover Police, I find that the informant’s reliability and the totality of the circumstances of the affidavit in support of the search warrant were sufficient to support the magistrate’s finding of probable cause

⁸ *Id.*

⁹ *State v. Walker*, 444 A.2d at *286 (Del. Super. Ct. 1982) citing *United States v. Harris*, 403 U.S. 573, 583 (1971) and *Jones v. United States*, 362 U.S. at *271 (1960).

¹⁰ *Id.*

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with regard to Jones.

(11) Because the search warrant for Jones was valid, it is unnecessary to decide the remaining issues Jones has raised.

NOW, THEREFORE, IT IS ORDERED that Defendant's Motion to Suppress is ***DENIED***.

/s/ Henry duPont Ridgely
President Judge

cmh

oc: Prothonotary

xc: Order distribution