

SUPERIOR COURT
of the
State of Delaware

William L. Witham, Jr.
Resident Judge

Kent County Courthouse
38 The Green
Dover, Delaware 19901
Telephone (302) 739-5332

Heard: June 2, 2005
Decided: June 3, 2005

Ronald G. Poliquin, Esquire
Young Malmberg & Howard, P.A.
30 The Green
Dover, Delaware 19901

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Attorney's General Office
102 West Water Street
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Re: ***State v. Shaun S. Donald***
C.A. No. 0411003103

Dear Counsel:

This is the decision of the Court regarding Defendant's motion to suppress that was presented before this Court on June 2, 2005. For the reasons set forth below, this Court finds that the probationer officers conducted a valid administrative search of the residence¹; therefore, Defendant's motion to suppress will be *denied*.

Probation is a form of criminal sanction.² Thus, probationers do not enjoy the same liberty that every law abiding citizen possesses; instead, probationers have a conditional liberty that is subject to supervision and certain restrictions. Such restrictions are necessary to protect the community and to ensure that the

¹ Given this Court's decision concerning the propriety of the administrative search, it doesn't need to resolve whether the search is constitutional under other grounds.

² *State v. Harris*, 734 A.2d 629, 634 (Del. 1998).

probationer is continuing his rehabilitation during this period.³ Accordingly, searches that would otherwise be unconstitutional on a person or his residence may be constitutional when the search is being conducted pursuant to a valid regulation governing probationers.⁴

In the case *sub judice*, this Court believes that Probation Officer Ramsburg acted reasonably in his determination that Probationer Terrence Harrison (“Harrison”) resided at 4659 South Street in Magnolia, Delaware. Although various documents, including Harrison’s probation documents, list other addresses of Harrison’s residence, this Court finds that the probation officer acted reasonably and correctly in ascertaining Harrison’s current address. Harrison informed Mr. Ramsburg that his address was 4659 South Street when he was stopped that evening and confirmed his address by showing Mr. Ramsburg a pay stub that was dated only a few days earlier. The address was further confirmed by Defendant prior to the search who informed Mr. Ramsburg that Harrison had been residing with her since March of 2004. Accordingly, this Court finds that Probation Officer Ramsburg acted reasonably in concluding that 4659 South Street was the correct current address of Harrison.

The remaining issue is whether Probation Officer Ramsburg had reasonable suspicion to search Harrison’s residence.⁵ Mr. Ramsburg arrived at the scene of a traffic stop of a vehicle that was believed to be registered to the Defendant. Harrison, wanted for violation of probation, was the driver of the vehicle. A green leafy substance, believed to be and field tested positive for marijuana, was located on Harrison’s shirt. Harrison admitted to the officers that he was smoking marijuana. A bottle of gin and a bottle of brandy were also found in the vehicle. Harrison, who was under the age of 21, also admitted to drinking that evening.

³ *Id.*

⁴ *Id.*

⁵ *See State v. Bass*, 2003 Del. Super. LEXIS 180 at *23 (*citing United States v. Knights*, 534 U.S. 112 (2001) and holding that no more than reasonable suspicion is needed to search a probationer’s residence when such searches were authorized as a condition of his probation).

The most important discovery to this case, however, was found in the pocket of the driver's side door. Located there was a baggie that contained 9 loose rocks of crack cocaine and 1 piece of crack cocaine that was sealed in a little zip lock bag. The rocks were weighed and determined to be approximately 4 grams. Based on the quantity, packaging, and location of the cocaine in the vehicle, the Officers had reasonable suspicion to believe that Harrison was engaging in the distribution of crack cocaine.

Mr. Ramsburg contacted his supervisor and received permission to conduct an administrative search of Harrison's residence. The officers, after informing Defendant of Harrison's situation, were allowed into the residence by the Defendant.⁶ Upon entering the residence, the Officers observed in plain view a bong along with little baggies that are customarily used for the packaging and distribution of drugs.

Based upon the totality of the circumstances, this Court must conclude that the facts as they unfolded that evening unequivocally gave Probation Officer Ramsburg the requisite reasonable suspicion needed to conduct a valid administrative search. Accordingly, Defendant's motion to suppress is hereby *denied*.

IT IS SO ORDERED

/s/ William L. Witham, Jr.

Resident Judge

WLW/dmh

oc: Prothonotary

xc: Order Distribution

⁶ Although Defendant has a slightly different version of events, in light of the self-interest Defendant has in this motion and upon consideration of her prior conviction for perjury, this Court accepts the testimony of the Officers as more credible.