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COMMONWEALTH OF PENNSYLVANIA VS.
KYLE ALEXANDER HOFFNAGLE

1. The issue before the Court is whether the search warrant to search Defendant's residence at 144 Sunrise Drive, Abbottstown, Adams County, Pennsylvania ... contained the requisite probable cause necessary to issue said search warrant.
2. Facts set forth in the affidavit of probable cause support the Magistrate's decision that probable cause existed for the issuance of the search warrant.
3. As stated in the affidavit, in November 2022, Det. Gilberto received a tip from a confidential source regarding drug dealing at the residence at 144 Sunrise Drive, including statements from a resident at 144 Sunrise Drive to the confidential source about selling drugs.
4. While conducting surveillance in February 2023, Det. Gilberto personally observed numerous vehicles arriving at 144 Sunrise Drive and the occupants walking inside and leaving the residence in just a few minutes on multiple occasions. Additionally, when conducting a trash pull at the residence at 144 Sunrise Drive on February 8, 2023, Det. Gilberto found multiple items of mail addressed to Skyler Goodrich at 144 Sunrise Drive, and in that same bag, several marijuana stems; following a field test the marijuana stems tested positive for the presence of marijuana.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CP-01-CR-839-2023, COMMONWEALTH
OF PENNSYLVANIA VS. KYLE ALEXANDER HOFFNAGLE

Robert A. Bain, Esquire, Attorney for the Commonwealth
Kyle A. Hoffnagle, *Pro Se* Defendant

Wagner, J., November 15, 2023

OPINION ON DEFENDANT'S
PRO SE MOTION TO SUPPRESS EVIDENCE

Presently before this Court is Defendant Kyle Alexander Hoffnagle's (hereinafter "Defendant") Pro Se Motion to Suppress

Evidence, filed September 15, 2023. A suppression hearing was held on November 6, 2023. The issue before the Court is whether the search warrant to search Defendant's residence at 144 Sunrise Drive, Abbottstown, Adams County, Pennsylvania (hereinafter "144 Sunrise Drive") contained the requisite probable cause necessary to issue said search warrant. For the reasons set forth herein, Defendant's Motion to Suppress Evidence is denied.

FINDINGS OF FACT

1. Detective Anthony Gilberto (from now on "Det. Gilberto") is employed by the Littlestown Borough Police Department and is also assigned to the Adams County Drug Task Force (ACDTF). Det. Gilberto has been employed by Littlestown Borough Police Department for over eleven years and the ACDTF for over seven years.
2. On March 24, 2023, Det. Gilberto provided an application for search warrant and affidavit of probable cause to the Magisterial District Judge to obtain "[a]ny and all controlled substances and all drug paraphernalia, as well as any documents showing residency, ownership or possession, monetary or currency utilized in connection with use or distribution of controlled substances, and any records or storage devices (including cell phones and the data within) used to store information related to sales or use of controlled substances at 144 Sunrise Drive.
3. Upon execution of the search warrant on March 25, 2023, Det. Gilberto found Defendant and his girlfriend, Skyler Goodrich, in the back bedroom of the residence at 144 Sunrise Drive.
 - a. Detectives located multiple items of marijuana paraphernalia and a small amount of suspected marijuana in several plastic containers in Defendant's bedroom at 144 Sunrise Drive.
 - b. On the same date, Detectives also located multiple items of marijuana paraphernalia in the residence.

- c. Detectives also found small amounts of marijuana in several plastic containers and a large amount of marijuana in a larger plastic container in the residence.
4. On May 8, 2023, Defendant was charged with possession of small amount of marijuana¹ and possession of drug paraphernalia² as ungraded misdemeanors.
5. Defendant filed a pro se Motion to Suppress Evidence on September 15, 2023.

CONCLUSIONS OF LAW

1. Det. Gilberto’s search warrant application and affidavit of probable cause was supported by probable cause.

LEGAL STANDARD

“[A]t a suppression hearing, the Commonwealth has the burden of ‘establish[ing] by a preponderance of the evidence that the evidence was properly obtained.’” **Commonwealth v. Galendez**, 27 A.3d 1042, 1046 (Pa. Super. 2011) (quoting **Commonwealth v. Culp**, 548 A.2d 578, 581 (Pa. Super. 1988)). Moreover, “it is the sole province of the suppression court to weigh the credibility of the witnesses. Further, the suppression court judge is entitled to believe all, part or none of the evidence presented.” **Commonwealth v. Benton**, 655 A.2d 1030, 1032 (Pa. Super. 1995) (internal citations omitted).

Rule 203 of the Pennsylvania Rules of Criminal Procedure set forth “[n]o search warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority. . . .” **Pa.R.Crim. 203(B)**. In short, a search warrant may issue only upon a demonstration of probable cause by an affiant. See **Commonwealth v. Jacoby**, 170 A.3d 1065, 1081 (Pa. 2017). “Probable cause to issue a search warrant has been defined as those facts reasonably necessary to show (1) that the items sought are connected with criminal activity, and (2) that the items will be found

¹ 35 P.S. § 780-113(a)(31)(i).

² 3 P.S. § 780-113(a)(32).

in a place to be searched.” **Commonwealth v. Council**, 421 A.2d 623 (Pa. 1980). “The existence of probable cause is measured by examining the totality of the circumstances.” **Jacoby**, 170 A.3d at 1081 (citing **Illinois v. Gates**, 462 U.S. 213, 238 (1983)). The relevant test when analyzing whether probable cause existed for the issuance of a search warrant was supported by probable cause is as follows:

The task of the issuing magistrate is simply to make a practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him, including the ‘veracity’ and ‘basis of the knowledge’ of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. And the duty of a reviewing court is simply to ensure that the magistrate had a ‘substantial basis for . . . concluding that probable cause existed.’

Commonwealth v. Karns, 566 A.2d 615 (Pa. Super. 1989) (citations omitted). Accordingly, a magistrate’s probable cause determination should receive deference from the reviewing courts.” **Commonwealth v. Leed**, 186 A.3d 405, 413 (Pa. 2018)

In reviewing the validity of a search warrant there is no requirement that the facts set forth in the affidavit of probable cause rise to the level of a *prima facie* showing of criminal activity. See **Gates**, 462 U.S. at 238. On the contrary, “probable cause does not require certainty, but rather exists when criminality is one reasonable inference, *not necessarily even the most likely inference.*” **Commonwealth v. Lindblom**, 854 A.2d 604, 607 (Pa. Super. 2004) (citing **Commonwealth v. Stroud**, 699 A.2d 1305, 1308 (Pa. Super. 1997)) (emphasis added). Rule 203 also dictates that “[a]t any hearing on a motion for . . . suppression of evidence. . . obtained pursuant to a search warrant, no evidence shall be admissible to establish probable cause other than the affidavits provided for in paragraph (B). **Pa.R.Crim. 203(D)**.”

DISCUSSION

Defendant alleges that there was insufficient probable cause to support the issuance of a search warrant. Upon review of the search warrant and affidavit of probable cause, it is clear there was sufficient probable cause for the issuance of the search warrant for the residence at 144 Sunrise Drive.

Facts set forth in the affidavit of probable cause support the Magistrate's decision that probable cause existed for the issuance of the search warrant. As stated in the affidavit, in November 2022, Det. Gilberto received a tip from a confidential source regarding drug dealing at the residence at 144 Sunrise Drive, including statements from a resident at 144 Sunrise Drive to the confidential source about selling drugs. While conducting surveillance in February 2023, Det. Gilberto personally observed numerous vehicles arriving at 144 Sunrise Drive and the occupants walking inside and leaving the residence in just a few minutes on multiple occasions. Additionally, when conducting a trash pull at the residence at 144 Sunrise Drive on February 8, 2023, Det. Gilberto found multiple items of mail addressed to Skyler Goodrich at 144 Sunrise Drive, and in that same bag, several marijuana stems; following a field test the marijuana stems tested positive for the presence of marijuana. On several other dates, Det. Gilberto observed a grey Hyundai sedan pull up to 144 Sunrise Drive where another resident would approach the male driver of the vehicle and reach inside the vehicle in what appeared to be a series of hand-to-hand drug transactions. Again, on March 22, 2023, Det. Gilberto conducted another trash pull at 144 Sunrise Drive when he found a small box addressed to another resident, Benjamin Wagaman, at 144 Sunrise Drive. In the same trash bag, the Detectives found more pieces of suspected marijuana stems.

Det. Gilberto noted in the affidavit of probable cause that, based on his training and professional experience, stems are typically not present in marijuana purchased for personal use alone, therefore the stems found in the trash at 144 Sunrise Drive on two separate occasions (and the lack of medical marijuana packaging to accompany those stems) indicated that someone in the house was

trimming marijuana for sale. These facts were presented to the Magistrate, under oath, as they were personally observed by the Detective who witnessed suspicious behavior on numerous occasions and conducted the trash pulls at the residence, substantiated by further investigation.

Based on the totality of the circumstances above, there was ample information for the Magistrate to find that there was sufficient probable cause for a search warrant for 144 Sunrise Drive in this case. On multiple occasions, Det. Gilberto observed the conduct of residents and those visiting the residence for only a few minutes. Det. Gilberto also found physical indicia of possible marijuana transactions out of the residence during trash pulls that connected those residents at 144 Sunrise Drive to the illegal activity. Although, as Defendant suggests, there could have been other uses for marijuana at 144 Sunrise Drive, the standard set forth in Pennsylvania only requires that criminal activity be one reasonable inference drawn from the facts and circumstances. **Lindblom**, 854 A.2d at 607. Indeed, it is the Magistrate's duty to make a commonsense determination based on the totality of the information presented and sworn to in the affidavit of probable cause in deciding whether there is sufficient probable cause to support a search warrant in any given case. **Karns**, 566 A.2d at 615. Based on Det. Gilberto's observations and the information offered under oath in the affidavit of probable cause, the Magistrate, based on the totality of the circumstances, reasonably determined that there was sufficient probable cause for the issue of a search warrant for 144 Sunrise Drive in this case.

For the reasons set forth herein, the attached order is entered.

ORDER OF COURT

AND NOW, this 15th day of November, 2023, for the reasons set forth in the attached Opinion, Defendant's Pro Se Motion to Suppress is hereby denied.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF GEORGE E. CAREY, DEC'D
Late of Arendtsville Borough, Adams County, Pennsylvania

Co-Executrices: Nancy I. Gilbert, 61 Jerry Court, Pawleys Island, SC 29585; Tara Sookhoo a/k/a Tara Roush, P.O. Box 476, Arendtsville, PA 17303
Attorney: Bernard A. Yannetti, Esq., Hartman & Yannetti, Inc., Law Office, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BETTY C. DERR, DEC'D
Late of Straban Township, Adams County, Pennsylvania

Executor: Matthew Brandon, 111 Leaning Pine Court, Lexington, SC 29072
Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF FRED C. HARBAUGH, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
Co-Executors: Kenneth B. Harbaugh and Kimberly S. Loughrey, c/o R. Thomas Murphy & Associates, P.C., 237 E. Queen Street, Chambersburg, PA 17201
Attorney: Jared S. Childers, Esq., R. Thomas Murphy & Associates, P.C., 237 E. Queen Street, Chambersburg, PA 17201

ESTATE OF KAY C. LOUGH, DEC'D
Late of Hamilton Township, Adams County, Pennsylvania

Executor: George S. Charney, c/o Gates & Gates, P.C., 250 York Street, Hanover, PA 17331
Attorney: Rachel L. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF DELORES E. SIPLING a/k/a DELORES ELIZABETH SIPLING, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
Executor: Bradley P. Sipling, 402 Water Works Road, New Oxford, PA 17350
Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF LORETTA A. WEAVER, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania
Co-Executors: Robert J. Weaver, Jr., 1 Sycamore Lane, Hanover, PA 17331; Benjamin F. Weaver, 410 Millar Road, Gettysburg, PA 17325
Attorney: Thomas E. Miller, Esq., Law Office of Thomas E. Miller, Esquire, LLC, 249 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF RICHARD NEIL HAMILTON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executrix: Sandra Lynn Hamilton, 6529 Macbeth Way, Eldersburg, MD 21784
Attorney: Clayton A. Lingg, Esq., Mooney Law, 230 York Street, Hanover, PA 17331

ESTATE OF JAMES ALLEN HOLLER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
Executor: James A. Holler, 420 Crum Road, Fairfield, PA 17320
Attorney: Bernard A. Yannetti, Esq., Hartman & Yannetti, Inc., Law Office, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SCOTT ALLEN HUBBARD, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Administratrix: Sharon K. Hubbard, c/o Bradley L. Griffie, Esq., Griffie & Associates, P.C., 396 Alexander Spring Road, Suite 1, Carlisle, PA 17015
Attorney: Bradley L. Griffie, Esq., Griffie & Associates, P.C., 396 Alexander Spring Road, Suite 1, Carlisle, PA 17015

ESTATE OF VIVIAN JARBOE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Administrator: Patricia A. Fenby, c/o Clifton R. Guise, Esq., Halbruner, Hatch & Guise, LLP, 3435 Market Street, Camp Hill, PA 17011
Attorney: Clifton R. Guise, Esq., Halbruner, Hatch & Guise, LLP, 3435 Market Street, Camp Hill, PA 17011

ESTATE OF DENSEY C. KELL, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Tammy Sue Bevenour and Brian Steven Kell, c/o Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, PA 17331
Attorney: Scott J. Strausbaugh, Esq., Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, PA 17331

ESTATE OF RALPH L. SAMPLES, SR., DEC'D

Late of Franklin Township, Gettysburg, Adams County, Pennsylvania
Executor: Ralph L. Samples, Jr., 256 South Market Street, Apartment 201, Elizabethtown, PA 17022
Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

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THIRD PUBLICATION**ESTATE OF EMILY HALE CROUCH,
DEC'D**

Late of Straban Township, Adams
County, Pennsylvania

Executor: Ann C. Resh Mummert, 11811
Linbar Drive, Hagerstown, MD 21742
Attorney: Ann Marie Rotz, Rotz Law
Offices, LLC, P.O. Box 4628,
Hagerstown, MD 21742

ESTATE OF DOROTHY MAE**EISENHART, DEC'D**

Late of Oxford Township, Adams County,
Pennsylvania

Executor: Jeffrey L. Eisenhart, c/o CGA
Law Firm, PC, P.O. Box 606, East
Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., c/o
CGA Law Firm, PC, P.O. Box 606,
East Berlin, PA 17316

ESTATE OF CHARLOTTE L. FLOOK,**DEC'D**

Late of Butler Township, Adams County,
Pennsylvania

Co-Executors: George Roosevelt Flook,
Jr., 409 E. Baltimore St., Taneytown,
MD 21787; Kenneth E. Flook, 949
Goldenville Rd., Gettysburg, PA 17325

Attorney: Teeter Law Office, 108 West
Middle Street, Gettysburg, PA 17325

ESTATE OF KEVIN WARD HEEBNER,**DEC'D**

Late of Tyrone Township, Adams
County, Pennsylvania

Administratrix: Wanda L. Heebner, c/o
2011 W. Trindle Road, Carlisle, PA
17013

Attorney: Andrew H. Shaw, Esq., 2011
W. Trindle Road, Carlisle, PA 17013
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ESTATE OF LEROY J. MCDANNELL a/k/a**LEROY JOHN MCDANNELL, DEC'D**

Late of Straban Township, Adams
County, Pennsylvania

Executor: William O. McDannell, 1295
Highland Avenue Road, Gettysburg,
PA 17325

Attorney: John J. Murphy III, Esq.,
Patrono & Murphy, LLC, 28 West
Middle Street, Gettysburg, PA 17325

ESTATE OF IVAN A. POIST, DEC'D

Late of Oxford Township, Adams County,
Pennsylvania

Personal Representative: Shelby I. Poist,
40 Hidden Acres Drive, New Oxford,
PA 17350

ESTATE OF LOIS P. SHOEMAKER,**DEC'D**

Late of Reading Township, Adams
County, Pennsylvania

Executor: Lori A. Forsythe, c/o P.O. Box
606, East Berlin, PA 17316

Attorney: Sharon E. Myers, CGA Law
Firm, PC, P.O. Box 606, East Berlin,
PA 17316

ESTATE OF DONALD F. SILLIK a/k/a**DONALD FRANCIS SILLIK, DEC'D**

Late of Tyrone Township, Adams County,
Pennsylvania

Executrix: Regina M. Toner, c/o Salzmann
Hughes, P.C., 112 Baltimore St.,
Gettysburg, PA 17325

Attorney: Todd A. King, Esq., Salzmann
Hughes, P.C., 112 Baltimore St.,
Gettysburg, PA 17325

ESTATE OF JUDE THOMAS SMITH,**DEC'D**

Late of Conewago Township, Adams
County, Pennsylvania

Executor: David J. Smith, c/o Barley
Snyder, LLP, 14 Center Square,
Hanover, PA 17331

Attorney: Jennifer M. Stetter, Esq.,
Barley Snyder, LLP, 14 Center Square,
Hanover, PA 17331

ESTATE OF CLINTON W. WAGAMAN**a/k/a C. WAYNE WAGAMAN a/k/a****CLINTON WAYNE WAGAMAN, DEC'D**

Late of Oxford Township, Adams County,
Pennsylvania

Executrix: Jodi L. Quillen, c/o Law
Offices of Craig A. Diehl, 119A West
Hanover Street, Spring Grove, PA
17362

Attorney: Craig A. Diehl, Esq., CPA, c/o
Law Offices of Craig A. Diehl, 119A
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