

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No. 03-75-KAJ
)	
GEORGE STEVENS,)	
)	
Defendant.)	

MEMORANDUM ORDER

On January 5, 2004, the Defendant filed a motion to suppress (Docket Item ["D.I."] 13; the "Motion") and supporting memorandum, challenging the sufficiency of the warrant and the search pursuant to the warrant that uncovered evidence against the Defendant. For the reasons that follow, the Motion is denied.

Background

On December 17, 2002, Arizona state law enforcement officials stopped a car, a 1993 Mercury Marquis, bearing Delaware license plate number 88268. (Aff. ¶¶ 4-5.)¹ A search of the vehicle revealed 250 pounds of marijuana. The officers learned from the Delaware Department of Motor Vehicles that the car was registered to the Defendant, George T. Stevens, at 201 W. Third Street, in Wyoming, Delaware. (*Id.*) A search of records kept by the National Crime Information Center showed that the Defendant had been arrested twice before for drug offenses: in July of 1976 in Delaware, and in March of 1985 in Florida. (*Id.* at ¶ 6.)

¹The parties have agreed that the only facts pertinent are those set forth in the affidavit submitted in support of the challenged warrant, which affidavit is attached, in unredacted form, to the Government's Opposition to Defendant's Motion to Suppress Evidence (D.I. 18). All citations are to paragraphs of that affidavit.

The drug courier driving the car agreed to cooperate with law enforcement efforts to further investigate the crimes associated with the marijuana cargo. (See Aff. ¶ 4.) The courier explained that a James Crothers from Dover, Delaware had made the arrangements for the shipment and for two similar trips in previous months. (*Id.* at ¶¶ 7-11.) On December 20, 2003, law enforcement officials made a controlled delivery of the Mercury Marquis and marijuana to Crothers' residence. (*Id.* at ¶ 13.) A search of Crothers' property revealed firearms, currency, marijuana, and drug paraphernalia. (*Id.*) The following day, a cooperating witness provided information to the investigating agents that an individual known to the witness as "Tommy Stevens" drove up to Crothers' residence and left a bag of rabbit feed by Crothers' garage. The witness looked into the bag and found \$2,500 in cash and a note saying, "call me," signed "Tommy." (*Id.* at ¶14.) The witness further stated that he knew Mr. Stevens to be a resident of Wyoming, Delaware. (*Id.*) The Defendant's full name, noted on the face of the Affidavit and Application for Search Warrant (attached as Exhibit A to D.I. 17 and Exhibit 1 to D.I. 18), is George Thomas Stevens. Based on the foregoing information, a DEA agent obtained the challenged search warrant for the Defendant's home.

Discussion

"[A]fter-the-fact scrutiny by courts of the sufficiency of an affidavit [for a search warrant] should not take the form of *de novo* review." *Illinois v. Gates*, 462 U.S. 213, 236 (1983). Rather, a "determination of probable cause should be paid great deference by reviewing courts." *United States v. Williams*, 3 F.3d 69, 72 (3d Cir. 1993). I am "constrained to determine only whether the affidavit provides a sufficient basis for the

decision the magistrate judge actually made.” *United States v. Whitner*, 219 F.3d 289, 296 (3d Cir. 2000) (quoting *United States v. Jones*, 994 F.2d 1051, 1057 (3d Cir.1993)).

The record in this case presented ample evidence for the judge who issued the warrant to decide that there was probable cause to search Mr. Stevens’ residence. Mr. Stevens was directly linked to the enormous shipment of marijuana both by the use of his automobile and by the delivery of a large sum of cash to Mr. Crothers. It was perfectly logical to believe that the Tommy Stevens and the George Thomas Stevens identified in the affidavit and application for a warrant are one and the same person, particularly since Wyoming is a small rural community. Given, then, the Defendant’s clear link to the drug dealing through the use of his vehicle and his delivery of cash to Mr. Crother, and in light of his previous involvement with illegal drugs, albeit many years ago, there was a reasonable basis for believing that the Defendant was a conspirator in the shipment of the marijuana and that evidence of his involvement in the conspiracy would be available at his residence.

The Defendant asserts that, even if there was sufficient evidence to warrant further investigation of him, there was no evidence linking the criminal activity to his property. (See D.I. 17 at 6-8.) That argument simply fails to appreciate the approach a magistrate is to employ in reviewing an application for a search warrant. “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 ... there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Gates*, 462 U.S. at 238. Commonsense dictates that a drug dealer’s residence is often a location where evidence of the illegal activity can be found. The expertise of the DEA

agent who served as affiant gives explicit support for that conclusion. (See Aff. at ¶ 2.) That commonsense view, supported by years of law enforcement experience, is sufficient to support the issuance of a warrant. “[P]robable cause can be, and often is, inferred by 'considering the type of crime, the nature of the items sought, the suspect's opportunity for concealment and normal inferences about where a criminal might hide stolen property.'" *Jones*, 994 F.2d at 1056 (quoting *United States v. Jackson*, 756 F.2d 703, 705 (9th Cir.1985)).

Accordingly, it is hereby ORDERED that the Defendant's Motion to Suppress (D.I. 13) is DENIED.

Kent A. Jordan
UNITED STATES DISTRICT JUDGE

April 6, 2004
Wilmington, Delaware