

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
 :  
 v. : CRIMINAL ACTION  
 :  
 THAIS THOMPSON : NO. 05-440-22  
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**SURRICK, J.**

**DECEMBER 14, 2007**

**MEMORANDUM & ORDER**

Presently before the Court are Defendant Thais Thompson's Motion to Suppress **evidence seized during the search of 5 Burden Hill Road, Quinton, New Jersey from the house and from a Chevrolet Suburban automobile located outside the home (Doc. No. 428)** and Defendant Thompson's Supplemental Motion to Suppress statements made during the search (Doc. No. 500). **A Suppression Hearing was held on August 20 and 31, 2007.** For the following reasons, Defendant's Motions will be **denied**.

**I. BACKGROUND**

On August 10, 2005, approximately 15 agents from the Bureau of Alcohol, Tobacco and Firearms ("ATF"), the Drug Enforcement Administration ("DEA"), and the local police executed a federal search warrant at 5 Burden Hill Road, Quinton, New Jersey. (Doc. No. 428; Hrg. Tr. 4, August 31, 2007.) The search warrant was obtained on the basis of an affidavit made by Special Agent Anthony Tropea, a seventeen year veteran of the Bureau of Alcohol, Tobacco, and Firearms. (Burden Hill Search Warrant Aff. at 1.) The search warrant was issued by the Honorable Joel B. Rosen, United States Magistrate Judge for the District of New Jersey, on August 6, 2005. (Burden Hill Search Warrant.) The affidavit incorporated by reference a more

substantial affidavit, also sworn by Agent Tropea, which resulted in the issuance of a search warrant for twenty-one other properties. That search warrant was issued by the Honorable Thomas J. Rueter, United States Magistrate Judge for the Eastern District of Pennsylvania, on August 5, 2005. (Search Warrant For Various Properties.) The evidence contained in both affidavits was obtained from a number of sources. (Burden Hill Search Warrant Aff. at 2.) Those sources included, *inter alia*, wiretaps of two cellular phones belonging to co-defendant Alton Coles and observations of ATF agents, detectives, the police, and interviews with confidential sources. (*Id.*)

The agents conducting the search on August 10, 2005, knocked on the door of 5 Burden Hill Road and announced their presence at approximately 6 AM. (Hrg. Tr. 4, August 31, 2007.) There was no reply, so the agents entered the premises to find Defendant, her boyfriend and co-defendant James Morris, and two of her children. (*Id.* at 4-5.) The agents did a preliminary sweep of the house for any additional occupants or threats. (*Id.* at 5.) They then escorted Defendant and her children outside of the residence and to a government vehicle. (*Id.*)

While the agents searched the house, Agent Kim Thompson-Campbell informed Defendant that she was not under arrest. (*Id.* at 6.) Agent Thompson-Campbell nevertheless read Defendant her *Miranda* warnings and asked her if she understood them. (*Id.* at 7-8.) Defendant indicated that she understood her rights. (*Id.* at 8.) Agent Thompson-Campbell then asked Defendant a few background questions and returned to the house. (*Id.*)

During the search, agents seized numerous pieces of evidence in the home. (*Id.* at 9.) That evidence included a large quantity of ammunition, a digital scale, a firearm in a handbag, over \$500,000 in cash found in various locations around the home, as well as kilo wrappers for

packaging cocaine. (*Id.* at 9-10.) During the search, a narcotics detection dog was brought in to assist in looking for drugs. (Doc. No. 428.) Following the search of the house, the dog sniffed around the outside of a 2001 Chevrolet Suburban. (*Id.*) When he reached the rear of the car, the dog alerted, indicating the presence of drugs. (*Id.*) A search warrant was obtained for the vehicle. (*Id.*) Execution of that search warrant<sup>1</sup> resulted in the seizure of 547 grams of cocaine from the car. (*Id.*)

The search of the house was completed in approximately two hours. (Hrg. Tr. 10, August 31, 2007.) After the search was completed, Agent Thompson-Campbell, in the presence of Agent Christine Kellerher, approached Defendant for the purpose of going over the inventory of the items which the agents had seized. (*Id.*) Standard DEA procedure is to advise a resident as to what items are being removed from his or her home. (*Id.* at 11.) Agent Thompson-Campbell read the inventory list to Defendant. (*Id.* at 12.) When Agent Thompson-Campbell reached the handgun, Defendant stated that the gun was legally hers and that she had the paperwork to prove it. (*Id.* at 26.) She made no other comments while Thompson-Campbell read the list. (*Id.* at 12.) After reading the inventory list to Defendant, Agent Thompson-Campbell served Defendant with a subpoena to appear before the federal grand jury. (*Id.* at 14.) The agents then left 5 Burden Hill Road.

As the agents were leaving the premises, Morris approached Agent Thompson-Campbell and Special Agent Weir from across the lawn and indicated that the large amount of cash seized from the home was his, and that it had recently been returned to him from a federal agency. (*Id.*

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<sup>1</sup>The car was seized immediately but the search warrant for the car was not executed until the following day, August 11, 2005.

at 14, 33.) He could not recall which federal agency had originally seized the money. (*Id.* at 14.)

## **II. LEGAL ANALYSIS**

### **A. Suppression of Evidence Seized Pursuant to the Search Warrant - Lack of Probable Cause**

Defendant argues that the search warrant executed on August 10, 2005 lacked probable cause and therefore the evidence seized in the search must be suppressed. We have addressed this very issue in response to co-defendant James Morris's Motion to Suppress Evidence. In the Memorandum and Order, dated **December 14, 2007**, we found that sufficient probable cause existed for the issuance of the search warrant by Magistrate Judge Rosen. That decision applies to this motion as well. The search warrant for 5 Burden Hill Road was properly issued and executed and application for suppression will be denied.

### **B. Knock and Announce**

Defendant argues that the requirements for a waiver of the "knock and announce" rule were not met. However, since the agents did in fact knock and announce when they executed the search warrant, Defendant's claim is of no consequence. (August 31, 2007 Hrg. Tr. at 4.) If this was a viable issue, we would nevertheless find that the waiver's requirements were met. "The practice of allowing magistrates to issue no-knock warrants seem entirely reasonable when sufficient cause to do so can be demonstrated ahead of time." *Richards v. Wisconsin*, 520 U.S. 385, 396 n.7 (1997). Agent Tropea based his concerns on his general knowledge about locations used to store narcotics as well as his specific knowledge about Coles's organization and their heavy use of firearms. In addition, he based his concerns on the location of the property in question - a residential neighborhood in which there may be innocent bystanders. Therefore, in

the interest of the safety of the agents conducting the search as well as those uninvolved parties who reside nearby, a no-knock warrant is entirely appropriate.

**C. Suppression of Evidence As Fruit of the Poisonous Tree**

Defendant argues that the search warrant issued for the Chevrolet Suburban found on her property was the fruit of the poisonous tree since it was based on the unconstitutional search of her home.<sup>2</sup> (Hrg. Tr. 76, August 20, 2007); *Wong Sun*, 371 U.S. at 485. She also argues that the statements she made to Agent Thompson-Campbell during the search were the product of an illegal search and therefore should be suppressed as well. (Doc. No. 500); *Wong Sun*, 371 U.S. at 485. As discussed above, the search warrant for 5 Burden Hill Road was properly issued. Therefore the warrant subsequently obtained for the car and the statements made by Defendant during the course of the search are not the fruit of a poisonous tree.

**D. Suppression of Defendant's Statements to Agent Thompson-Campbell**

Defendant argues that the statement she made to Agent Thompson-Campbell regarding

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<sup>2</sup> Defendant does not actually claim ownership of the car or the cocaine seized from the car and therefore lacks standing to suppress evidence seized from it. To have standing to bring a Fourth Amendment suppression claim for the search of an automobile, a defendant must have either a possessory or a property interest in the car or an interest in the property seized. *Rakas v. Illinois*, 439 U.S. 128, 148 (1978). The affidavit in support of the search warrant attributes ownership of “a gold Chevrolet Suburban, bearing New Jersey license MRP-32P” associated with 5 Burden Hill Road to Linda Fletcher. (Burden Hill Search Warrant Aff. at 11.) Further, it is Morris and not Defendant who has been seen driving the gold Suburban. Defendant is linked to a green Honda sedan, registered in her name, also seen outside 5 Burden Hill road. (*Id.* at 11-12.) Absent information to the contrary, this Court makes the inference that the 2001 Chevrolet Suburban that was seized during the August 10, 2005 search and searched pursuant to a warrant the next day is the gold Chevrolet Suburban belonging to Fletcher and seen in Morris’s possession. Therefore, Defendant lacks standing to challenge the search of the car, absent additional information that demonstrates she has a possessory interest in the car or the cocaine seized from it. Regardless, Defendant’s claim is also without merit and has been disposed of on those grounds.

ownership of the gun should be suppressed as a violation of her Fifth Amendment rights. She contends that she was questioned without properly receiving and waiving her *Miranda* warnings.

Initially, we note that Defendant was in fact advised of her rights under *Miranda* at the time of her first interaction with Agent Thompson-Campbell. At thtime, Defendant waived her rights. More importantly, however, *Miranda*, 384 U.S. 436, 455 (1966), applies exclusively to custodial interrogation. When Defendant made the statement to Agent Thompson-Campbell she was not in custody and she was not being interrogated. Therefore there was no Fifth Amendment violation.

Defendant volunteered the statement about ownership of the gun while Agent Thompson-Campbell read her the search warrant inventory list. At no time during the interaction did anyone ask Defendant about the gun or anything else. Instead the inventory list was simply read to her as part of a standard DEA procedure and no response was required from her or requested of her. There is no basis upon which to suppress her statement.

### **III. CONCLUSION**

For these reasons, Defendant's Motion to Suppress evidence seized from 5 Burden Hill Road during the August 10, 2005 search conducted pursuant to a valid warrant will be denied. The Motion to Suppress the evidence seized from the 2001 Chevrolet and the statement made to Agent Thompson-Campbell will also be denied.

An appropriate Order follows.

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**ORDER**

AND NOW, this 14th day of December, 2007, upon consideration of Defendant **Thais Thompson's** Motions to Suppress evidence seized during the search of 5 Burden Hill Road, Salem, New Jersey from both the home and the automobile (Doc. No. 428), and Defendant's Supplemental Motion to Suppress statements made during the search (Doc. No. 500), and all documents submitted in support thereof and in opposition thereto, it is ORDERED that said Motions are DENIED.

IT IS SO ORDERED.

BY THE COURT:

/s/ R. Barclay Surrick

U.S. District Court Judge