

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
v. : CR. NO. 01-428-1
ANTHONY MILLER :

MEMORANDUM

ROBERT F. KELLY, J.

FEBRUARY 28, 2002

Presently before the Court is Defendant's Motion to Suppress Evidence obtained as a result of the execution of a search warrant on premises known as 4991 Parkside Avenue, Building 1918, Apartment 72. It is Defendant's contention that the affidavit attached to the search warrant failed to contain sufficient facts from which the Magistrate could find probable cause for the issuance of the search warrant.

A review of the affidavit reveals the following:

1. On October 28, 1999, the affiant interviewed a confidential informant (hereinafter "C/I"). The C/I stated that the 600 block of Creighton Street is a 24 hour a day crack cocaine operation. The C/I identified a male as Victor Ragan, who the C/I stated operates the crack distribution on the block. The C/I identified other males in the Victor Ragan organization as Anthony Miller a/k/a "DEUCIE" and his brother Shawn Miller a/k/a "SHIZZIE." The C/I states that when workers run low on supplies of crack cocaine, they page Anthony Miller at Pager # 215-245-5922 and put in the code "52 ". The C/I advised the affiant that after being paged, Anthony Miller usually arrives within a half hour at the 600 block of Creighton Street and

delivers five (5) to six (6) \$200 packs of crack cocaine and collects the money generated from prior sales.

2. The C/I stated that when workers are done selling their “packs”, they put the money in a white Monte Carlo parked on the north end of the 600 block of Creighton Street. The C/I advised that when Anthony Miller delivers the “packs”, he puts them in the same white Monte Carlo and, at the same time, takes the proceeds generated from previous sales from the vehicle.

3. The C/I also advised the affiant that Anthony Miller owns a bar called the Mirage located at 53rd and Market Streets and that Victor Ragan, Anthony Miller and other associates spend a lot of time there and at another bar located at 52nd and Market Streets called Jerry’s Green Room. The C/I advised that Ragan and Miller used Jerry’s Green Room to arrange transactions with their customers and that they sell an ounce of cocaine for between \$900 to \$1,000.

4. The C/I stated that the packaging is done at the Parkside Village Apartments in the area of Bryn Mawr Avenue and Parkside Avenue. The C/I further stated that that location is used to store large amounts of crack cocaine by Victor Ragan and other associates. The C/I stated that Victor Ragan lives at 551 Creighton Street and operates a GMC Yukon truck with Pennsylvania Registration ARD 6470. A Bureau of Motor Vehicle check of the tag indicated that it was registered to Marcus Wilson and Inez Regan, 5023 W. Stiles Street, Philadelphia, Pennsylvania. The C/I also advised that Anthony Miller’s vehicle is a cream and brown Lexus ES 300 with Pennsylvania registration BLN 3549. Bureau of Motor Vehicle records indicate that this vehicle is registered to Robert Leach, Murry Drive, P.O. Box 82, Parksburg, Pennsylvania.

The C/I also advised that Miller keeps his narcotics in the trunk of his car and also carries a gun.

5. On November 8, 1999, at approximately 12:25 p.m., the affiant and other agents from the Office of Attorney General Bureau of Narcotics Investigation conducted a surveillance at 600 Creighton Street in Philadelphia. The affiant observed three black males standing on the corner. Male number one was approximately 5'7", medium complected, wearing a black jacket with lettering on the back. Male number two was approximately 5'10" to 6', medium complexion, medium build, and male number three was 5'10" to 6' with a brown complexion. The white Monte Carlo described by this C/I was observed parked on the northeast side of the block.

6. At approximately 12:27 p.m., the affiant observed a black male in his early 30's enter the alley on the northeast end of 600 Creighton Street followed by male number one. Male number three then entered the alley after approximately 20 or 30 seconds. He walked out and sat on the steps adjacent to the alley.

7. At 12:28 p.m., another black male was observed by the affiant entering the alley as a vehicle pulls up and parks at the corner. The operator of this vehicle walks into the same alley on 600 Creighton Street and within seconds all of the males who entered the alley leave. Based on his observations and experience, the affiant believed that narcotics' transactions were being conducted in the alley.

8. Between 12:27 p.m. and 12:45 p.m., approximately ten individuals were observed by the affiant entering the alleyway followed by male number one, after which, within a minute or two, they were observed exiting the alley and leaving the area. At approximately 1:05 p.m., male number one was observed by the agent walking over to the house next to the alley

where he obtained what appeared to be a key with which he opened the front passenger side door of the Monte Carlo. Male number one then reached across the seat and exited the vehicle and handed male number two what appeared to be a clear sandwich type bag. Male number two then took the bag and walked into the alleyway. Male number one was then observed by the affiant walking across the street and placing an object on a tree branch. Male number two was observed by the affiant conducting several alleged narcotics' transactions in the alleyway on 600 Creighton Street until surveillance was terminated at 3:06 p.m.

10. On November 19, 1999 at approximately 12:51 p.m., agents conducted another surveillance of the 600 block of Creighton Street. Upon arriving, they observed a black male, earlier identified as male number two, and a black female sitting on the steps at the north end of the block. From approximately 1:00 p.m. to 2:30 p.m., male number two was observed conducting what appeared to be seven (7) narcotics transactions from 600 Creighton Street. At approximately 2:00 p.m., Narcotics Agent Kenneth Bellis contacted the C/I, who advised that male number one was going to contact Deucie in about half an hour to get resupplied. At 2:45 p.m., Agent Bellis went to the Parkside Apartments and observed a white Lexus ES 300 parked outside Building 1918.

11. At 2:47 p.m. Agent Bellis observed Anthony Miller exit Building 1918 and enter the Lexus and drove to the 600 block of North 52nd Street. Miller parked his vehicle near 52nd and Poplar Streets. At approximately 3:00 p.m., Anthony Miller a/k/a Deucie, was observed crossing Girard Avenue carrying a dark bag in his left hand and walking to 600 Creighton Street, where he met with male number one. Agent Bellis observed Anthony Miller hand the dark color bag to male number one, who then entered the alley and later exited the alley without the bag. At

approximately 3:02 p.m., Anthony Miller was observed leaving the 600 block of Creighton Street without the dark colored bag and walking south on 52nd Street. Agent Bellis contacted the C/I who stated that "Deucie" had resupplied the corner. Male number one was then observed conducting three (3) more alleged narcotics transactions.

12. On December 1, 1999, at approximately 8:00 a.m., agents set up a surveillance on the 600 block of Creighton Street. Between the hours of 11:00 a.m. and 2:00 p.m., Agents Bradby and Rodriguez observed approximately seventeen (17) alleged narcotics' transactions at that location. At approximately 1:15 p.m., a male, later identified as Rickie Williams, of 5222 Wyalusing Avenue, Philadelphia, Pennsylvania, entered the alley located on the northeast end of Creighton Street followed by male number one. Williams exited the alleyway onto Creighton Street at approximately 1:18 p.m. Williams was stopped by Agents Bellis and Marinoff in the 5200 block of Wyalusing Avenue. Recovered from Williams' coat pocket was a blue plastic zip-lock bag containing alleged cocaine. The substance was later field tested positive for cocaine.

13. On December 16, 1999, at approximately 5:30 p.m., Agent Bellis was advised by the C/I that Deucie was contacted to resupply 600 Creighton Street and that he was driving a black Mercedes. On that same date, Agents set up a surveillance at the Parkside Apartments at 4991 Parkside Avenue. At approximately 6:10 p.m., Agent Marinoff observed a black male (later identified as Anthony Miller a/k/a Deucie) entering Building 1918. Miller went to the second floor apartment on the right (later identified as Apartment 72). After entering the apartment using a set of keys, Agent Marinoff observed the apartment lights turn on. At approximately 7:09 p.m., Agent Marinoff observed Anthony Miller exit the building and enter a

black Mercedes leaving the apartment complex.

14. At 7:24 p.m., Agent Marinoff observed Anthony Miller enter Building 19 and 18 and Apartment 72 using a set of keys. After ten (10) seconds, Anthony Miller was observed exiting the building, entering the same black vehicle and leaving the apartment complex.

Anthony Miller traveled eastbound on Parkside Avenue. At approximately 7:34 p.m., the affiant observed a black Mercedes parked on 52nd Street facing north, and Anthony Miller was observed exiting the vehicle. Miller met with a black male in his late 20's or early 30's. Miller was observed entering Jerry's Green Room Bar with the black male. Miller exited the bar, entered his car, and traveled to the Mirage Bar.

15. At 7:39 p.m., the affiant observed the black male who had met with Anthony Miller, walk from the bar into 600 Creighton Street. The unknown black male handed a second unknown black male an item and walked back to the bar.

16. At approximately 8:31 p.m., Agents Kelly and Ralston observed a black male, later identified as Corbin Thompson, enter the 600 block of Creighton Street. The black male exited the 600 block of Creighton Street at approximately 8:39 p.m., when he was later stopped by the agents. At that time, Thompson dropped a blue plastic zip-lock bag containing what was later identified as cocaine.

17. The affidavit goes on to state that the affiant believes, because of the foregoing investigation, that there are ongoing crack cocaine sales taking place at the 600 block of Creighton Street, Philadelphia, Pennsylvania and that he believes that the crack cocaine being sold there is supplied by Anthony Miller a/k/a Deucie, who is storing the packets of cocaine insider 4991 Parkside Avenue, Building 1918, Apartment 72, Philadelphia, Pennsylvania. He

recites that he believes that Miller is storing the packets of cocaine inside the apartment building before transporting them to the 600 block of Creighton Street in a white Lexus, registration VLN 3594 or a black Mercedes with Pennsylvania registration CPB 5648.

DISCUSSION

It is clear to the Court that the observations made by the agents provided probable cause to believe that drugs were being sold at the 600 block of Creighton Street and that the operation at that location was being supplied from a store of drugs located in Apartment 72 at the Parkside Apartments, 4991 Parkside Avenue, Building 1911. The affidavit also clearly establishes probable cause to believe that the white Lexus ES 300, Pennsylvania registration BLN 3594 and the Black Mercedes, Pennsylvania registration CPB 5648 were used to transport these drugs.

At the hearing on this motion, defense counsel seemed to focus on the fact that the C/I was being used for the first time and the affidavit did not contain any statement to the effect that the affiant considered him reliable. It is clear from the affidavit that the affiant did not rely upon the credibility of the C/I, but simply acted upon the information given by the C/I by surveillance. This surveillance is what justified the issuance of the warrant, not the information of the C/I. In any event, the surveillance thoroughly validated the information that was being given by the C/I. Under the facts of this case, the information given by the C/I could have been given anonymously, and the information that was independently obtained by the surveillance of the agents would have still provided the probable cause in the affidavit. In the case of Illinois v. Gates, 103 S.Ct. 2317, there the Court held that probable cause for a warrant authorizing the search of defendants' home and automobile was established by an anonymous letter indicating

that defendants were involved in activities in violation of the state drug laws, and predicting future criminal activities where the major portions of the letters' predictions were corroborated by information provided to the affiant by federal agents.

In the present case, the corroboration is much stronger than in Illinois v. Gates, supra, and I find, under all of the facts set forth in the affidavit, that there was probable cause for the issuance of the search warrant. I, therefore, enter the following Order.

