

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

UNITED STATES OF AMERICA, :
 :
 v. :
 :
JEROME WALKER, :
 Defendant. :

CRIMINAL ACTION NO. 15-492

MEMORANDUM OPINION

Rufe, J.

May 4, 2018

It is alleged that on three separate occasions in April 2015, Defendant Jerome Walker sold crack cocaine to a confidential informant working with the Philadelphia Police Department's Narcotics Field Unit. The Indictment charges Defendant with: distribution of cocaine base ("crack") in violation of 21 U.S.C. § 841(a) (Counts 1-3); possession with intent to distribute crack and cocaine in violation of 21 U.S.C. § 841(a) (Counts 4-5); possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c) (Count 6); and being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) (Count 7).¹

Before the Court is Defendant's motion to suppress evidence obtained from a search of his home and vehicle. The Court held hearings on the motion, and will now enter its findings of fact and conclusions of law.

I. BACKGROUND

The Indictment in this case describes three instances in which Defendant allegedly sold crack cocaine to a confidential informant working with the Philadelphia Police Department either from his home, located at 6735 Woodstock Street, or from his truck, a Dodge Ram. After

¹ Pursuant to this Court's Order dated December 21, 2017, Defendant's motion to bifurcate Count 7 of the Indictment was granted by agreement of the parties. Therefore, trial in this matter will be bifurcated, with Counts 1 through 6 of the Indictment being heard by the jury and then, following the verdict, if necessary, Count 7 being heard by the jury.

observing two controlled purchases, police obtained search warrants for 6735 Woodstock Street and the Dodge Ram. Police then conducted a third controlled purchase using the confidential informant, and immediately thereafter executed the search warrants on Defendant's home and vehicle, discovering crack cocaine, marijuana, and two firearms.

Defendant now challenges the sufficiency of the search warrants issued for 6735 Woodstock Street and the Dodge Ram pursuant to *Franks v. Delaware*.² The Government initially responded that a *Franks* hearing was unnecessary because Defendant failed to make a substantial preliminary showing that the challenged affidavits contained statements that were deliberately false or showed a reckless disregard for the truth. At the pretrial hearing held on December 21, 2017, however, the Court viewed the challenges to the affidavits in the light most favorable to Defendant and ordered a *Franks* hearing to be held. The *Franks* hearing was conducted over the course of three pretrial hearings held on December 21, 2017, March 22, 2018, and April 16, 2018, respectively.³ During these hearings, a record was developed concerning the investigation and identification of Defendant that correlates to the challenged statements in the affidavits in the motion before this Court.

II. FINDINGS OF FACT

1. On April 8, 2015, the Philadelphia Police Department received an anonymous tip indicating that “Jerome Walker 29 B/M” was selling crack cocaine inside and outside of 6735 Woodstock Street. The tip described the suspect as six feet tall, clean shaven, and indicated that he was seen driving a “Ford truck, newer model” and a “[g]rey color Kia Soul.”⁴

² 438 U.S. 154 (1978).

³ The Court also held a pretrial hearing on January 3, 2018 with the intention of conducting the *Franks* hearing. However, Defendant decided to proceed *pro se* at this hearing, and the *Franks* issue was postponed so Defendant could further develop his arguments regarding this issue.

⁴ Gov. Ex. 1; December 21, 2017 Pretrial Hearing at 118.

2. The tip was received via an anonymous phone call placed to the Philadelphia Police Department, and was transcribed by Officer Alayna Brown into a narcotics complaint information sheet.

3. The information sheet was given to Officer Theresa Weaver to investigate on April 16, 2015, who at the time had roughly eighteen years of experience working with the Philadelphia Police Department in its Narcotics Field Unit.⁵

4. Officer Weaver testified that she checked the police database for the name and address provided in the information sheet, and printed out the most recent photo produced from the search of “Jerome Walker” and “6735 Woodstock Street” to bring with her when she went “on the street” to investigate.⁶ Although the person depicted in the photo from the police database did not have a beard, and Defendant had a beard when he was arrested, Officer Weaver testified that she believed the person in the police database photo was Defendant, and so identified him at the *Franks* hearing.⁷

5. On April 16, 2015, Officer Weaver launched the investigation of Jerome Walker by attempting a controlled purchase of narcotics from 6735 Woodstock Street using a confidential informant. Officer Weaver and other officers met with the confidential informant near 6735 Woodstock Street. After searching the confidential informant for U.S. currency, drug paraphernalia, and narcotics, Officer Weaver gave the confidential informant twenty dollars to purchase narcotics. Officers watched the confidential informant knock on the front door of 6735 Woodstock Street. Officers saw a man open the door who they believed to be the same Jerome Walker pictured in the printed photo from the police database search. The officers watching the

⁵ December 21, 2017 Pretrial Hearing at 115-16.

⁶ *Id.* at 118-20.

⁷ *Id.* at 141-44.

front door described the man to be “tall, slim, [and] black,” and provided this description to Officer Weaver.⁸ The man allowed the confidential informant to enter. Shortly thereafter, the confidential informant left the home, walked around the corner, and sat on the steps of 2066 Eastburn Avenue. Officer Weaver walked to Eastburn Avenue to maintain surveillance on the confidential informant, while the other officers maintained surveillance on the front of 6735 Woodstock Street.⁹

6. While maintaining surveillance on the front of 6735 Woodstock Street, the other officers saw Defendant exit the front door, lock the door with keys, and then enter a Dodge Ram parked nearby.¹⁰

7. Officers saw Defendant drive the Dodge Ram around the corner to the back of 6735 Woodstock Street and park in the home’s rear driveway.¹¹

8. The confidential informant got up from the steps of 2066 Eastburn Avenue, walked up to the parked Dodge Ram, and entered the vehicle. After staying inside the Dodge Ram for a brief period, the confidential informant exited the vehicle, returned to Officer Weaver, and turned over “a piece of paper that contained crack-cocaine.”¹² The confidential informant also provided a phone number and the seller’s name—Jerome.

9. After the confidential informant returned to Officer Weaver with the crack cocaine, the officers watched Defendant drive from the home and followed him. The officers

⁸ *Id.* at 144-45.

⁹ Defendant takes issue with the fact that Officer Weaver did not observe him at the front door of 6735 Woodstock Street herself because she had walked around the corner to maintain surveillance on the confidential informant. However, the affidavits do not suggest that Officer Weaver observed Defendant at the front door. Rather, the affidavits state that Officers Francis and Cuffie saw him interact with the confidential informant at the front door. This contention, therefore, does not challenge the sufficiency of the affidavits and will not be considered here.

¹⁰ December 21, 2017 Pretrial Hearing at 123.

¹¹ *Id.* at 123-24.

¹² *Id.* at 123.

saw Defendant drive for a few blocks and then pull over to talk to someone on the sidewalk. At that point, the officers slowly passed the Dodge Ram, and Officer Weaver confirmed that the driver was the same person in the photo printed from the police database. During the pretrial hearing on December 21, 2017, Officer Weaver identified Defendant as the person she saw driving the Dodge Ram on that occasion.¹³

10. Officer Weaver testified that the crack cocaine recovered from the first controlled purchase was catalogued on a property receipt.¹⁴ Officer Weaver testified that when she completed the property receipt, she identified the seller as “J. Doe” (abbreviated from John Doe) and the location of the sale as “6700 Woodstock Street.” Although the officers had observed Defendant selling the crack cocaine to the confidential informant in the rear driveway of 6735 Woodstock Street, Officer Weaver did not expressly identify him or his home address on the property receipt because she was conducting an ongoing, confidential investigation, did not want to jeopardize the investigation, and sought to ensure that the investigation remained confidential until an arrest was made.¹⁵

11. Officer Weaver testified that when she got back to the Police Department later that day, she typed notes transcribing the events that took place during her investigation. These notes described the beginning of her investigation and the first controlled purchase of narcotics, and were later used to create the affidavits of probable cause.¹⁶

12. On April 21, 2015, Officer Weaver and fellow officers met with the confidential informant to attempt a second controlled purchase of narcotics from Defendant.¹⁷ This time the

¹³ *Id.* at 143-44.

¹⁴ *Id.* at 124.

¹⁵ *Id.* at 130-31; March 22, 2018 Pretrial Hearing at 15-16, 23, 30, 33.

¹⁶ December 21, 2017 Pretrial Hearing at 172.

¹⁷ *Id.* at 128.

officers used the phone number provided from the first controlled purchase. After dialing the phone number and hearing a male voice answer, the officers gave the phone to the confidential informant who arranged to meet with Defendant to purchase crack cocaine. The confidential informant was told to meet Defendant at the back of 6735 Woodstock Street. The officers watched the confidential informant go to the location, and observed Defendant's Dodge Ram pull into the rear driveway. The confidential informant entered the vehicle. After a brief period, the confidential informant exited the vehicle, returned to the officers, and turned over "two clear packets of crack cocaine."¹⁸

13. After this second controlled purchase, the crack cocaine was catalogued on a property receipt. Rather than identify Defendant or the exact location of the sale on the property receipt, Officer Weaver again listed the seller's name as "J. Doe" to protect the confidential nature of the ongoing investigation.¹⁹ She also listed the location of the purchase as "6700 Woodstock Street."²⁰ Officer Weaver testified that she did not want to jeopardize the confidentiality of the investigation before an arrest was made.

14. Officer Weaver returned to the Police Department and typed notes transcribing the events that took place during the second controlled purchase of narcotics. Officer Weaver testified that she used the notes she completed after each narcotics purchase to write out the affidavits of probable cause for the search of 6735 Woodstock Street and the Dodge Ram. Officer Weaver testified that she faxed her affidavits to the District Attorney's Charging Unit to determine if she had probable cause, and received confirmation and approval.²¹ The next day,

¹⁸ *Id.* at 129.

¹⁹ *Id.* at 129-30; March 22, 2018 Pretrial Hearing at 15-16, 23, 30, 33.

²⁰ December 21, 2017 Pretrial Hearing at 129-31.

²¹ *Id.* at 137-38.

April 22, 2015, Officer Weaver presented the affidavits of probable cause to the Honorable Rayford A. Means of the Court of Common Pleas for Philadelphia County, who reviewed, signed, and issued the search warrants.²²

15. Officer Weaver testified that she did not include any inaccurate statements in the affidavits for 6735 Woodstock Street or the Dodge Ram.²³

16. On April 23, 2015, Officer Weaver and fellow officers went to 6735 Woodstock Street to attempt a third controlled purchase of narcotics from Defendant and to execute the search warrants. The confidential informant was able to purchase a “bulk” amount of crack cocaine from Defendant while the two met in the rear driveway of 6735 Woodstock Street. After Defendant reentered his home, officers executed the search warrants on 6735 Woodstock Street and the Dodge Ram, discovering crack cocaine, marijuana, and two firearms. Defendant was immediately arrested.²⁴

III. DISCUSSION

Defendant moves to suppress evidence found in his home, located at 6735 Woodstock Street, and his Dodge Ram by challenging the truthfulness of the affidavits supporting the search warrants. He also contends that the warrants were not supported by probable cause.

A. The Motion to Suppress Evidence Based on Challenges to the Affidavits Used to Support the Search Warrants Will Be Denied

In *Franks v. Delaware*,²⁵ the United States Supreme Court held that a defendant has the right to challenge the truthfulness of facts alleged in an affidavit supporting a search warrant.²⁶

²² *Id.* at 137-40.

²³ *Id.* at 136. Officer Weaver also testified that she did not attempt to obtain a search warrant for the Kia Soul mentioned in the narcotics complaint information sheet because she did not observe any drug activity associated with that vehicle during the investigation. *Id.* at 133.

²⁴ *Id.* at 141.

²⁵ 438 U.S. 154 (1978).

If a *Franks* hearing is held, the defendant must prove by a preponderance of the evidence “(1) that the affiant knowingly or deliberately, or with a reckless disregard for the truth, made false statements or omissions that create a falsehood in applying for a warrant; and (2) that such statements or omissions were material, or necessary, to the probable cause determination.”²⁷ Omissions and assertions are made “with reckless disregard” for the truth when an officer has obvious reasons to doubt the truth of what he or she is asserting.²⁸ “A court may infer that an affiant acted with reckless disregard for the truth where his affidavit contains an averment that was without sufficient basis at the time he drafted it.”²⁹

The Third Circuit recognizes a difference between affirmative misrepresentations and omissions when examining materiality.³⁰ Where the statement is an affirmative misrepresentation, the court must excise the false statement.³¹ Where the statement is an omission, the court must remove the “falsehood created by the omission by supplying the omitted information to the original affidavit.”³² Ultimately, the defendant must prove by a preponderance of the evidence that probable cause does not exist under the corrected affidavit.³³ If the defendant meets his burden, the warrant must be voided and the fruits of the search excluded.³⁴

Here, Defendant argues that the affidavits are not credible for the following reasons:

²⁶ *Id.* at 156.

²⁷ *Yusuf*, 461 F.3d 374, 383 (citation omitted).

²⁸ *Id.*

²⁹ *United States v. Brown*, 631 F.3d 638, 649 (3d Cir. 2011).

³⁰ *Yusuf*, 461 F.3d at 383-84.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 383.

³⁴ *Id.* at 384.

1. The picture of “Jerome Walker” from the police database portrayed a person without a beard. Defendant contends that when he was arrested on April 23, 2015, he had a beard.
2. Officers described the person who answered the door at 6735 Woodstock Street as a “tall, slim, black male,” whereas the person arrested a week later was described in the biographical information section of police reports as “stocky.”
3. The property receipts stated the drugs obtained from the first two controlled purchases were sold by “J. Doe” of “6700 Woodstock Street,” and did not identify Defendant or the exact location of each sale. Defendant contends these notations on the property receipts demonstrate that the officers did not identify him as the person selling drugs on these two occasions, because Philadelphia police regulations require the seller of the drugs and the location of the transaction to be identified on each property receipt.
4. According to Defendant, the supporting documentation of the Philadelphia police narcotics complaints referenced in the affidavit, Nos. 72916 and 74871, are not similar. Defendant challenges the veracity of the complaints referenced in the affidavits and asserts that they may have been fabricated.³⁵

Defendant also argued at the pretrial hearing on April 16, 2018 and in his supplemental memorandum that the following five facts were omitted from the affidavits:³⁶

1. During the second controlled purchase of narcotics, Officer Weaver did not hear the person speaking on the phone to the confidential informant when arranging the controlled purchase.
2. Officer Weaver never saw drug activity at 6735 Woodstock Street.
3. Officer Weaver never explained that Defendant was not listed as an owner of 6735 Woodstock Street.
4. Officer Weaver did not include the description of the truck as a “newer model Ford” from the narcotics complaint information sheet in the affidavits.
5. Officer Weaver did not include the fact that the confidential informant did not know Defendant.

³⁵ Def.’s Omnibus Motion at 6 (citations omitted).

³⁶ Defendant also reiterated his challenge regarding the property receipts, which will be discussed below.

During the *Franks* hearing, the parties questioned the police officer responsible for swearing out the affidavits, Officer Theresa Weaver, as well as the police officer responsible for transcribing the initial tip on the narcotics complaint information sheet, Officer Alayna Brown. The Court will now address Defendant's challenges in turn.

1. The Issue of the Suspect's Facial Hair

First, Defendant challenges his identification made in the affidavits by arguing that there is a difference in his facial hair between the time the police took a photo of him for the police database and the time he was arrested on April 23, 2015. During the *Franks* hearing, however, Officer Weaver testified that she believed the person pictured in the police photo was the same "Jerome Walker" that she observed during her investigation, despite any difference in facial hair.³⁷ She testified that she confirmed the match after the first controlled purchase when the officers slowly passed Defendant's vehicle, which was pulled over on the side of the road.³⁸ Officer Weaver confirmed her belief, and identified Defendant as the seller of narcotics at the *Franks* hearing.³⁹ The Court finds Officer Weaver's testimony credible, and this challenge is without merit.

2. The Description of the Suspect's Build

Second, Defendant challenges his identification made in the affidavits by arguing that he is described as both "slim" and "stocky."⁴⁰ Officer Weaver testified that Officers Francis and Cuffie observed the person who answered the door on April 16, 2015, and described the suspect as a "tall[,] slim," black male to her.⁴¹ Defendant contends that when he was arrested a week

³⁷ December 21, 2017 Pretrial Hearing at 118-21, 125-26, 141-44.

³⁸ *Id.* at 128-30, 141-44.

³⁹ *Id.*

⁴⁰ Def.'s Omnibus Mot. at 6, 17.

⁴¹ *See* Gov. Ex. 1; *see also* December 21, 2017 Pretrial Hearing at 144-45.

later, other officers described him as “stocky” in the police report.⁴² The police report, however, was completed after Defendant’s arrest and is irrelevant to the statements made in the affidavits, which were written during the investigation and were based on the perceptions of Officer Francis and Officer Cuffie. Moreover, the police report is not probative of their impressions of Defendant’s build, and there is no suggestion that these officers deliberately made false statements or misrepresentations about their initial identification and observations of Defendant. Thus, this challenge is unpersuasive.

3. The Property Receipts

Third, Defendant challenges the affidavits by arguing that the property receipts from the first two controlled purchases indicated that the drugs were sold by “J. Doe” of “6700 Woodstock Street” and did not identify Defendant or the exact location of each sale. Defendant asserts that these notations on the property receipts demonstrate that the officers did not identify him as the person selling drugs on these two occasions, because Philadelphia police regulations require the seller of the drugs and the location of the transaction to be identified on the property receipt. However, Officer Weaver testified that although she had observed Defendant selling crack cocaine to the confidential informant in the rear driveway of 6735 Woodstock Street, she did not expressly identify him or his home address on the property receipt because she was conducting an ongoing, confidential investigation, did not want to jeopardize the investigation, and sought to ensure that the investigation remained confidential until an arrest was made.⁴³ The Court finds Officer Weaver’s consistent testimony on this issue to be credible, and concludes that this challenge is unpersuasive.

⁴² Def.’s Omnibus Mot. at 17.

⁴³ December 21, 2017 Pretrial Hearing at 129-30; March 22, 2018 Pretrial Hearing at 15-16, 23, 30, 33.

4. The Narcotics Complaint Information Sheet and the Narcotics Complaints Referenced in the Affidavits

Fourth, Defendant challenges the affidavits by arguing that they reference two narcotics complaint numbers, 74871 and 72916, but that the supporting documentation for the two alleged complaints are not similar. Specifically, Defendant argued during the *Franks* hearing that supporting documentation, such as the printed sheet containing searches for complaints by locations that included complaint number 74871,⁴⁴ called into question the veracity of the narcotics complaint information sheet and Officer Weaver's resulting investigation. However, Officer Weaver consistently testified that she used the narcotics complaint information sheet provided by Officer Brown to begin her investigation, and referenced the information sheet in the affidavits as containing two "complaints" based on the two numbers, 74871 and 72916, written at the top of the information sheet.⁴⁵ Officer Weaver explained that she did not use any documentation other than the narcotics complaint information sheet to begin her investigation. She also explained that the narcotics complaint information sheet likely referenced two complaint numbers because multiple anonymous tips had been made containing this same information.⁴⁶ The Court finds Officer Weaver's testimony on this point credible, and Defendant has not shown that any differences in the documents call into question the accuracy of the affidavits.

⁴⁴ See Def. Ex. 5.

⁴⁵ See March 22, 2018 Pretrial Hearing at 41-44; see also April 16, 2018 Pretrial Hearing at 27-30, 36-38; Gov. Ex. 1.

⁴⁶ See March 22, 2018 Pretrial Hearing at 41-44; see also April 16, 2018 Pretrial Hearing at 27-30, 36-38. When asked why the date of the printed sheet containing searches for complaints included the complaint date as April 13, 2015, rather than the date of April 8, 2015, which was written on the narcotics complaint information sheet, Officer Weaver explained that the dates could have been different because the multiple calls could have been made to the police station on these two dates, or that the handwritten information on the narcotics complaint information sheet may not have been entered into the police database until April 13, 2015. She also explained that she did not receive the handwritten narcotics complaint information sheet until April 16, 2015, so these dates did not affect her investigation. See March 22, 2018 Pretrial Hearing at 41-44.

5. Facts that Defendant Contends Were Omitted from the Affidavits

Defendant contends that several facts were omitted from the affidavits. First, he argues that Officer Weaver did not hear the person speaking on the phone to the confidential informant when the second controlled purchase was arranged. However, the affidavits make no suggestion to the contrary. Instead, the affidavits state that Police Officer Barber, who was working with Officer Weaver on the investigation, was responsible for dialing the phone number provided by the confidential informant, and handed the phone to the confidential informant once someone answered. Defendant's contention that this fact somehow challenges the statements made in the affidavit, therefore, is without merit.

Second, Defendant contends that Officer Weaver omitted the fact that she never saw drug activity at 6735 Woodstock Street.⁴⁷ However, Officer Weaver explained that she and other officers observed Defendant enter and exit 6735 Woodstock Street, and drive his Dodge Ram to the rear driveway of the home to sell drugs to the confidential informant. In fact, Officer Weaver testified that all three controlled purchases of narcotics occurred in the rear driveway of 6735 Woodstock Street. Officer Weaver was questioned about the circumstances of her investigation on several occasions, and her testimony was consistent, credible, and corroborated the affidavits. This argument is without merit.

Third, Defendant argues Officer Weaver never explained that Defendant was not listed as an owner of 6735 Woodstock Street. It is unclear, however, how this fact would be relevant to the criminal activity of which Defendant is accused. There is no suggestion in the affidavits that Defendant owned the home. Rather, Officer Weaver testified that when she searched for "Jerome Walker" and "6735 Woodstock Street" in the police database, a photo was produced

⁴⁷ Def.'s Supp. Mem. at 5.

and used during the investigation to confirm Defendant's identity. Defendant's argument regarding ownership of 6735 Woodstock Street is therefore irrelevant to the probable cause determination.

Fourth, Defendant argues that Officer Weaver did not include the tip's description of the truck as a "newer model Ford" in the affidavits. It is true that the initial description of the truck contained in the tip as a "newer model Ford" is absent from the affidavits. However, even if this omitted description was included in the affidavits, an issuing Court would nonetheless have probable cause to issue the search warrants for Defendant's Dodge Ram and 6735 Woodstock Street based on the remaining information contained therein. Moreover, the tip's misidentification of Defendant's truck as a "newer model Ford" rather than a Dodge Ram does not call into question the overall accuracy of the affidavits, the identification of a truck, and the location of the controlled purchases. Therefore, this omitted description of the truck as a "newer model Ford" contained in the initial tip, when included in the affidavits, does not strip them of probable cause.

Fifth, Defendant contends that Officer Weaver did not include the fact that the confidential informant did not know Defendant prior to the controlled purchases. Officer Weaver testified to this fact, and the affidavit suggests that the confidential informant did not know Defendant prior to the first controlled purchase because the informant was given a piece of paper with the name "Jerome" along with narcotics during this first sale, which was turned over to police. Explicitly stating this fact in the affidavits would not have changed the probable cause determination, as a full reading of the affidavits already suggested that Defendant and the confidential informant did not know one another prior to the investigation. This argument is without merit.

B. The Search Warrants Were Supported by Probable Cause

Defendant also contends that the search warrants were not supported by probable cause. The test to be applied in determining whether probable cause exists is “a ‘totality-of-the-circumstances analysis,’ under which a magistrate judge must ‘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.’”⁴⁸ “[A]n issuing court need only conclude that it would be reasonable to seek the sought-after objects in the place designated in the affidavit; a court need not determine that the evidence is in fact on the premises.”⁴⁹ Furthermore, “a reviewing court is to uphold the warrant as long as there is a substantial basis for a fair probability that evidence will be found.”⁵⁰

Here, as set forth in the findings of fact, the affidavits sufficiently state probable cause by including details of controlled purchases of narcotics from Defendant in the Dodge Ram parked in the rear driveway of 6735 Woodstock Street. Under the totality of the circumstances, all the information in the supporting affidavits was sufficient to support a finding of probable cause to issue search warrants for Defendant’s home and vehicle, that is, there was a “fair probability that contraband or evidence of a crime will be found in a particular place.”⁵¹ There was probable cause to believe that items of drug trafficking would be found both in Defendant’s home and truck. Since the search warrants were supported by probable cause, the motion to suppress evidence obtained as a result of those searches will be denied.

⁴⁸ *United States v. Williams*, 124 F.3d 411, 420 (3d Cir. 1997) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)).

⁴⁹ *United States v. Ritter*, 416 F.3d 256, 263 (3d Cir. 2005) (citation omitted).

⁵⁰ *Id.*

⁵¹ *Williams*, 124 F.3d at 420 (citation omitted).

IV. CONCLUSIONS OF LAW

1. Probable cause existed to issue the search warrants.

2. Defendant has failed to prove by a preponderance of the evidence that Officer Weaver knowingly or deliberately made a false statement or omission, or acted with reckless disregard for the truth, when she included the identification of Defendant in the affidavits.

3. Evidence lawfully obtained during the execution of the valid search warrants will not be suppressed.

V. CONCLUSION

For the foregoing reasons, the motion to suppress will be denied. An appropriate Order follows.

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

UNITED STATES OF AMERICA

v.

**JEROME WALKER,
Defendant.**

:
:
:
:
:
:

CRIMINAL ACTION NO. 15-492

ORDER

AND NOW, this 4th day of May 2018, upon consideration of Defendant's Pretrial Motion to Suppress (Doc. No. 43), the responses and replies thereto, arguments made at the pretrial hearings held on December 21, 2017, March 22, 2018, and April 16, 2018, and in accordance with the accompanying Memorandum Opinion issued this day, it is hereby **ORDERED** that the Motion to Suppress (Doc. No. 43) is **DENIED**.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.