

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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State of Minnesota,

Court File No.: 62-CR [REDACTED]

Plaintiff,

v.

**ORDER**

[REDACTED],  
Defendant.

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This matter came before the Court for a contested hearing on [REDACTED] 2018 on Defendant's Motion to Suppress. The State of Minnesota is represented in this matter by [REDACTED]. Defendant is represented by Ryan Garry.

The issues at the contested hearing were: 1) whether Defendant's Fourth Amendment rights have been implicated such that he may contest a search warrant for and seizure of a package delivered to his residence, 2) whether the search warrant issued for the package was valid, 3) and whether the package was unlawfully seized by law enforcement.

The Court received four exhibits into evidence: 1) a Stipulation of Facts, 2) Judge [REDACTED]'s Order Granting Motion to Suppress in co-Defendant [REDACTED]'s case, 62-CR [REDACTED], 3) a search warrant signed by Judge [REDACTED], and 4) a search warrant signed by Judge [REDACTED].

The Court heard testimony from Defendant's wife [REDACTED].

At the conclusion of the hearing, counsel requested an opportunity to submit written arguments to the Court. Defendant's memorandum was submitted on [REDACTED], 2018. The State's memorandum in opposition was submitted on [REDACTED], 2018.

Based on the evidence presented at the contested hearing, the written arguments submitted by the parties, and review of the court file, the Court makes the following:

## FINDINGS OF FACT

1. For purposes of the Defendant's Motion to Suppress, the parties stipulated to the following facts:

- a. On [REDACTED] 2017, Minneapolis-St. Paul Airport Police Officer [REDACTED] received a tip from a confidential reliable informant about a suspicious package with a tracking number ending in [REDACTED].
- b. Officer [REDACTED] went to a FedEx location in Roseville, Ramsey County, Minnesota, to attempt to locate that package.
- c. Officer [REDACTED] found the package with a tracking number ending in [REDACTED] and had a FedEx employee take the package and put it on the ground.
- d. Officer [REDACTED]'s suspicions regarding the package were as follows: the 3.5 pound package was sent from California, a source state for narcotics; he had found packages containing narcotics sent from California in the past; the package was sent via air service, which is expensive, and drug couriers use air service to keep the narcotics in the system for a shorter period of time; the sender paid \$139.00 cash to send the package and drug dealers use cash when dealing; and the package was shipped person-to-person.
- e. Officer [REDACTED] used his K9, [REDACTED] who alerted him to the presence of narcotics when sniffing the package.
- f. The package was sent from R.M. in California and was addressed to [REDACTED] [REDACTED] St. Paul, MN [REDACTED].
- g. Officer [REDACTED] brought the package back to his office at the Minneapolis-St. Paul Airport, which is located in Hennepin County, Minnesota.
- h. Officer [REDACTED] applied for a search warrant from Judge [REDACTED] of Ramsey County District Court, who signed a warrant for him to search the package.
- i. Officer [REDACTED] then opened the package at the Airport in Hennepin County.
- j. The package contained approximately 580 grams of field-tested-positive methamphetamine.
- k. Officer [REDACTED] contacted Officer [REDACTED] with Ramsey County VCET to set up a controlled delivery of the package to the [REDACTED] address.
- l. Police removed approximately 458 grams of the suspected narcotics, leaving approximately 122 grams inside the package.

- m. Police then obtained an anticipatory search warrant for [REDACTED] in St. Paul, the destination written on the package.
  - n. Officer [REDACTED] dressed in a FedEx uniform and delivered the package to the [REDACTED] residence.
  - o. [REDACTED], the co-Defendant in this case, accepted the package, agreeing he was [REDACTED].
  - p. Police executed the search warrant and found Defendant [REDACTED] at the bottom of the stairs inside the residence cutting the package, which was torn open.
  - q. Both [REDACTED] and Defendant [REDACTED] were subsequently charged with drug offenses.
  - r. The parties stipulated that Defendant [REDACTED] lived at [REDACTED] in St. Paul.
  - s. [REDACTED] was charged in case number 62-CR-[REDACTED].
  - t. [REDACTED]'s case was dismissed on [REDACTED] 2018 following Judge [REDACTED] suppression of the evidence of the controlled substance found in the package.
  - u. The parties stipulated to Judge [REDACTED]'s [REDACTED], 2018 Order becoming a part of the record in this matter.
2. The parties did not stipulate to what happened after [REDACTED] took the package until police executed the search warrant.
  3. Defendant's wife [REDACTED] testified at the contested hearing.
  4. Ms. [REDACTED] testified that she lived with Defendant at the [REDACTED] residence on the day police executed the search warrant.
  5. Ms. [REDACTED] said that no one named [REDACTED] lived at the [REDACTED] residence.
  6. Ms. [REDACTED] stated that she observed a FedEx employee give a package to her son [REDACTED].
  7. Ms. [REDACTED] reported that she saw [REDACTED] place the package on top of a trash bin in the home.
  8. Ms. [REDACTED] testified that her grandson [REDACTED] saw the package and told Defendant that a present had arrived.
  9. Ms. [REDACTED] stated that [REDACTED] handed the present to Defendant, and Defendant took the package from [REDACTED] and went downstairs.

## CONCLUSIONS OF LAW

### 1. Defendant's Ability to Challenge the Seizure and Search of the Package

- a. In determining whether a defendant can bring a claim asserting a violation of his/her Fourth Amendment rights, a court must decide whether the action taken by law enforcement has infringed an interest of the defendant protected by the Fourth Amendment. *State v. McBride*, 666 N.W.2d 351, 360 (Minn. 2003) (citing *State v. Carter*, 569 N.W.2d 169, 174 (Minn. 1997)).
- b. The Fourth Amendment protects against unreasonable searches and seizures, and its protections are not triggered unless an individual has a legitimate expectation of privacy in the invaded space. *State v. Perkins*, 588 N.W.2d 491, 492 (Minn. 1999).
- c. Legitimate expectations of privacy are those expectations of privacy that "society is prepared to recognize as reasonable." *Katz v. United States*, 389 U.S. 347, 361 (1967).
- d. If an individual's expectation of privacy is violated, the evidence sought to be introduced against that person may be suppressed. *Rakas v. Illinois*, 439 U.S. 128, 140 (1978).
- e. It is reasonable that a person would have an expectation of privacy in a package that is addressed to his/her home.
- f. This Court concludes that Defendant had a legitimate expectation of privacy in a package addressed to the residence where he lives.
- g. The State intends to use evidence of the controlled substance found in the package against Defendant.
- h. Because Defendant's Fourth Amendment rights have been implicated, Defendant has the right to challenge the seizure of the package and the search warrant issued for the package.

### 2. Validity of the Search Warrant Issued by Judge [REDACTED] on [REDACTED] 2017 and Lawfulness of Law Enforcement's Seizure of the Package

- a. On [REDACTED] 2018, Judge [REDACTED] issued an order suppressing evidence obtained pursuant to the [REDACTED] 2017 search warrant signed by Judge [REDACTED] in co-Defendant [REDACTED]'s case, 62-CR-[REDACTED].
- b. In the interest of judicial consistency in cases involving similarly situated defendants, this Court adopts the finding and conclusion in Judge [REDACTED]'s Order.

**c. Validity of the Search Warrant**

- i. Search warrants may be issued by a court having jurisdiction in the area where the place to be searched is located. Minn. Stat. § 626.06.
- ii. The [REDACTED] 2018 search warrant was issued by a Ramsey County judge for an officer located in Hennepin County with an object to be searched that was also in Hennepin County.
- iii. The exclusionary rule may be invoked for statutory violations in the warrant process if “the violation of the statute was a serious one that subverted the purpose of the statute.” *State v. Jordan*, 742 N.W.2d 147, 153 (Minn. 2007).
- iv. Evidence obtained pursuant to execution of a technically defective search warrant does not require suppression absent a violation of a defendant’s constitutional rights. *State v. Lunsford*, 507 N.W.2d 239, 243 (Minn. Ct. App. 1993).
- v. The issuing judge did not have jurisdiction to issue a search warrant for a package that was not in Ramsey County at the time law enforcement applied for the warrant.
- vi. The defects in the [REDACTED] 2017 warrant signed by Judge [REDACTED] are technical in nature.
- vii. Suppression of the evidence discovered during the execution of the technically defective warrant is not required absent a constitution violation of Defendant’s rights.

**d. Seizure of the Package**

- i. The United States Constitution and Minnesota Constitution protect against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10.
- ii. It is the State’s burden to prove that a warrantless search or seizure was justified by an exception to the warrant requirement. *State v. Lussier*, 770 N.W.2d 581, 586 (Minn. Ct. App. 2009) (citing *State v. Metz*, 422 N.W.2d 754, 756 (Minn. Ct. App. 1988)).
- iii. Evidence seized in violation of a defendant’s constitutional rights must be suppressed. *State v. Jackson*, 742 N.W.2d 163, 177-178 (Minn. 2007).

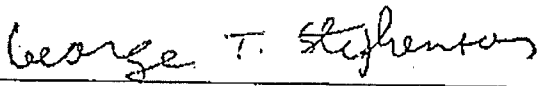
- iv. A seizure of property must entail meaningful interference with a possessory interest in that property, and a possessory interest may include retention of custody by a mail carrier. *State v. Eichers*, 852 N.W.2d 114, 122 (Minn. 2014).
- v. In *Eichers*, the court found that a seizure occurred when law enforcement took a package from a UPS facility in Minneapolis, Minnesota and transported it to Saint Cloud, Minnesota. *Id.* at 123.
- vi. Here, Officer [REDACTED] removed the package from the FedEx facility and took it to the Minneapolis-St. Paul Airport.
- vii. Officer [REDACTED] did not obtain a warrant before removing the package from the FedEx facility.
- viii. Officer [REDACTED] interfered with Defendant's possessory interest in the package when he prevented FedEx from retaining custody of the package.
- ix. In this situation, Officer [REDACTED] was constitutionally required to obtain a warrant before permanently removing the package from the FedEx facility.
- x. The State has not presented evidence of the existence of any exception to the warrant requirement that would allow Officer [REDACTED] to take the package without first obtaining a warrant.
- xi. Because Officer [REDACTED] unlawfully seized the package when he took it from the FedEx facility without a warrant, the evidence obtained as a result of that seizure must be suppressed.

ORDER

1. That Defendant's motion to suppress evidence is Granted.

By the Court:

Dated: [REDACTED] 2018

  
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George T. Stephenson  
Judge of District Court