

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DWANE C. RIDGEWAY,	§	No. 616, 2012
	§	
Defendant-Below,	§	Court Below: Superior Court of
Appellant,	§	the State of Delaware, in and for
	§	Sussex County
v.	§	
	§	Cr. I.D. No. 1112011001
STATE OF DELAWARE,	§	
	§	
Plaintiff-Below,	§	
Appellee.	§	

Submitted: May 15, 2013

Decided: May 23, 2013

Before **STEELE**, Chief Justice, **BERGER** and **JACOBS**, Justices.

**ORDER**

This 23<sup>rd</sup> day of May 2013, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Dwane Ridgeway, the defendant-below (“Ridgeway”), appeals from an October 26, 2012 Superior Court order sentencing him for Aggravated Possession of Marijuana and other related charges. On appeal, Ridgeway claims that the evidence discovered at his residence was the fruit of an illegal search that was based on a defective search warrant. Because the information omitted from the warrant affidavit was immaterial to a showing of probable cause, and the conduct of the police did not rise to the level of reckless disregard, we affirm.

2. In August 2011, a cooperating individual (“CI-1”) informed the police that Terence Ahmaad Jackson (“Jackson”) was selling crack cocaine from Jackson’s residence at 13776 South Old State Road, Ellendale, Delaware (“13776”). That residence includes a main house where Jackson’s mother lives (“Main House”), and also a tan-and-white trailer where Jackson lives (“Jackson’s Trailer”). That trailer has a front door that faces south and is attached to the west side of the Main House. The front entrance to the Main House has a blue door facing east towards South Old State Road. Along the driveway to the Main House a white mailbox clearly labeled “13776” is located a few feet from that road. Jackson also owns a green car (“Green Car”) that he parks in the driveway of the Main House.

3. Ridgeway lives at 13806 South Old State Road (“13806”) in a tan-and-white trailer (“Ridgeway’s Trailer”) that looks similar to Jackson’s Trailer and is located south of the Main House. Ridgeway’s Trailer has a front entrance facing south and a dirt driveway extending from its east side to South Old State Road. A black unmarked mailbox on that dirt driveway has hard-to-see “numbers written over numbers” on it. According to the Sussex County Tax Mapping Records,<sup>1</sup> both 13776 and 13806 are located on property Parcel No. 41.

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<sup>1</sup> *Sussex County Tax Mapping* (May 17, 2013), <http://map.sussexcountycle.gov/SussexMapping>.

4. Between August and November 2011, CI-1 performed three controlled buys of crack cocaine from Jackson: (i) in the yard between the Main House and Ridgeway's Trailer, (ii) in the yard west of the first controlled buy, and (iii) in Jackson's Green Car parked in the driveway of the Main House. In December 2011, a second cooperating individual ("CI-2") performed a fourth and final controlled buy, in which CI-2 and an undercover police officer drove into the driveway of the Main House. CI-2 knocked on the Main House's front door, but nobody answered. CI-2 and the police officer then drove onto the dirt driveway of Ridgeway's Trailer. CI-2 knocked on the front door of Ridgeway's Trailer, and Jackson answered the door. Jackson spoke to CI-2, walked around the west side of Ridgeway's Trailer, and disappeared from view. Shortly thereafter, Jackson returned, went back inside Ridgeway's Trailer and then came back to the front entrance of Ridgeway's Trailer. Jackson and CI-2 then conducted the fourth controlled buy outside the front entrance of Ridgeway's Trailer.

5. On the basis of those four controlled buys, the police executed a warrant affidavit in support of an application to search both Ridgeway's Trailer (that the police mistakenly believed belonged to Jackson) and Jackson's Green Car. At this point, the police were unaware of Ridgeway's existence. One police officer later testified that in preparing the warrant affidavit, she determined the

address of Ridgeway's Trailer from the Sussex County Tax Maps, which indicated that Ridgeway's Trailer was located on Parcel No. 41 with the address 13776.

6. In December 2011, after obtaining a search warrant, the police executed a search of Ridgeway's Trailer and Jackson's Green Car. During their search of Ridgeway's Trailer, the police discovered mail addressed to Ridgeway at "13806 South Old State Road." Only then did the police realize that there were actually two residences—Jackson's and Ridgeway's, both located on Parcel No. 41—having different addresses. During their search, the police also discovered marijuana in Ridgeway's Trailer. As a result of that search, Ridgeway was found guilty of Aggravated Possession of Marijuana and other related charges.<sup>2</sup> This direct appeal followed.

7. We review a trial court's denial of a motion to suppress for abuse of discretion.<sup>3</sup> We review *de novo* a trial judge's legal conclusions and a defendant's claim of an infringement of constitutional rights.<sup>4</sup> Where the trial judge's decision

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<sup>2</sup> Ridgeway was convicted of one count of Aggravated Possession of Marijuana, three counts of Possession of Drug Paraphernalia, and three counts of Endangering the Welfare of a Child. The Superior Court sentenced him to six-and-a-half years of imprisonment, all of which was suspended for one year at Level III probation.

<sup>3</sup> *Lopez-Vazquez v. State*, 956 A.2d 1280, 1284 (Del. 2008) (citations omitted).

<sup>4</sup> *Id.* at 1285 (citations omitted); *Pierce v. State*, 911 A.2d 793, 796 (Del. 2006) (citation omitted).

is based on factual findings, we review for whether there was sufficient evidence to support the findings and whether those findings were clearly erroneous.<sup>5</sup>

8. On appeal, Ridgeway claims that the search warrant violated his rights under the Fourth Amendment to the United States Constitution and Article I, Section 6 of the Delaware Constitution. He first argues that the police's search of his residence exceeded the scope of the warrant. He contends that under *Bradley v. State*,<sup>6</sup> “[i]f police search areas or things outside of the warrant’s scope, the improperly seized evidence may be suppressed.”<sup>7</sup> He contends that because the warrant was limited to a search of 13776, and the police exceeded the scope of the warrant by searching 13806, the evidence found in Ridgeway’s Trailer at 13806 must be suppressed. The State responds that because the police intended to search Ridgeway’s Trailer, and the warrant sufficiently described Ridgeway’s Trailer “but with the 13776 address,” the search did not exceed the scope of the warrant.

9. The Superior Court, relying on a section of *Corpus Juris Secundum*<sup>8</sup> that is directly on-point, properly ruled that the detailed physical description of

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<sup>5</sup> *Lopez-Vazquez*, 956 A.2d at 1285 (citations omitted).

<sup>6</sup> 51 A.3d 423 (Del. 2012).

<sup>7</sup> *Id.* at 433 (citation omitted).

<sup>8</sup> 79 C.J.S. *Searches* § 237 (Mar. 2013) (citations omitted) (“A warrant is not necessarily invalidated by the fact that it contains an incorrect address or apartment number, or incorrectly identifies a person as the owner of the premises, or incorrectly identifies the person in possession of the premises, or incorrectly describes the property as to section and range or metes and

Ridgeway's Trailer contained in the warrant prevails over the incorrect street address. Because Jackson's Trailer was attached (on its east side) to the Main House, and *not* to any driveway, the description in the warrant could only have referred to Ridgeway's Trailer, despite the incorrect "13776" street address. Therefore, the police did not exceed the scope of the warrant in searching Ridgeway's Trailer.

10. Ridgeway next claims that the warrant was ambiguous and could have referred to any one of three properties: Ridgeway's Trailer, Jackson's Trailer, or the Main House. The State does not directly address Ridgeway's argument. We conclude that the warrant described Ridgeway's Trailer with sufficient particularity. The warrant could not have referred to the Main House, because it is not a mobile home. Nor could the warrant have referred to Jackson's Trailer, because it did not have a dirt driveway on its east side. Only Ridgeway's Trailer corresponded to the warrant's description of the premises to be searched, despite the incorrect street address listed therein.

11. Finally, Ridgeway claims that the warrant was not supported by probable cause. He raises a reverse-*Franks* claim, arguing that the police knowingly, intentionally or with reckless disregard for the truth, omitted facts from

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bounds. A detailed physical description which speaks to the precise location or appearance or character of the premises will prevail over a street address.”).

the warrant affidavit that were material to a finding of probable cause. Therefore, he claims, the evidence obtained as a result of the warrant must be suppressed.

12. In *Rivera v. State*, this Court, analyzing a reverse-*Franks* claim, held that:

If the police omit facts from a search warrant affidavit that are material to a finding of probable cause with reckless disregard for the truth, then the rationale of *Franks v. Delaware* applies, and the evidence obtained as a result of that search warrant must be suppressed. To succeed on a reverse-*Franks* claim, a defendant must show by a preponderance of the evidence that the police knowingly or intentionally, or with reckless disregard for the truth, omitted information from the search warrant affidavit that was material to a finding of probable cause.<sup>9</sup>

13. Ridgeway argues that no magistrate judge could have found probable cause for the search had the police included certain key facts in its warrant affidavit. Those omitted facts were that: (i) during the fourth controlled buy, the police and CI-2 first approached the Main House before going to Ridgeway's Trailer to buy drugs from Jackson; (ii) there were two separate buildings on Parcel No. 41 (*i.e.*, #13776 and #13806), not just one; and (iii) there were two mailboxes—one clearly marked “13776” in front of the Main House, and the other, unmarked, mailbox in front of Ridgeway's Trailer. The State responds that “[t]o the extent police erred or omitted information that should have been provided to

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<sup>9</sup> *Rivera v. State*, 7 A.3d 961, 968 (Del. 2010) (internal quotations and citations omitted).

search the tan and white trailer, their actions were at most negligent, and in good faith.”

14. In ruling on these claims, the Superior Court addressed the first “materiality” prong under *Rivera*. The court determined that although the omission of information about the fourth controlled buy from the warrant affidavit was a “significant failure” by the police, that information “does not materially affect probable cause for [Ridgeway’s Trailer].” We agree. The original warrant affidavit set forth facts that established a fair probability that the police would recover evidence of drug dealing at or near Ridgeway’s Trailer. The omitted facts were therefore not “material.”

15. The Superior Court next addressed the second prong, *i.e.*, whether the police acted with reckless disregard in omitting information from its warrant affidavit. The court held that:

[T]he police did not knowingly and intentionally or with a reckless disregard for the truth, omit information from the search warrant affidavit that was material to a finding of probable cause. I find that [the police] had an honest but mistaken belief about the address of Ridgeway’s residence. Nothing more than negligence has been shown. The police simply retrieved the address from Sussex County records.

16. Because the omitted facts were immaterial to a finding of probable cause, it is irrelevant whether or not the police made the omissions with reckless disregard. In the alternative, the police acted at most negligently by omitting that

information from its warrant affidavit. Ridgeway's claims on appeal do not show by "a preponderance of the evidence that the police knowingly and intentionally, or with reckless disregard for the truth, omitted information from the search warrant affidavit that was material to a finding of probable cause."<sup>10</sup>

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>10</sup> *Id.* at 968.