



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JUSTIN CHAFFIER,)
)
 Defendant Below,)
 Appellant,)
) No. 209, 2023
 v.)
)
 STATE OF DELAWARE,)
)
 Plaintiff Below,)
 Appellee.)

APPELLANT'S REPLY BRIEF

ON APPEAL FROM THE SUPERIOR COURT
IN AND OF NEW CASTLE COUNTY

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DATE: May 21, 2024

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I. THE SUPERIOR COURT ABUSED ITS DISCRETION IN REFUSING TO SUPPRESS ALL INFORMATION SEIZED FROM CHAFFIER'S ELECTRONIC DEVICES BECAUSE THE WARRANTS THAT AUTHORIZED THOSE SEARCHES ARE INVALID GENERAL WARRANTS IN VIOLATION OF CHAFFIER'S RIGHTS UNDER THE FOURTH AND FOURTEENTH AMENDMENTS OF UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 6 OF THE DELAWARE CONSTITUTION.

On direct appeal, Chaffier narrowed the issue and record before this Court to include the procedural posture of the suppression motion and the Superior Court's written Opinion dated February 9, 2023 denying the motion. Op. Br. at 3. However, perhaps sensing it could be effective, the State now brings into play the trial record. Ans. Br. at 3-9. Not only is this completely irrelevant to the instant appeal, its highly inflammatory and prejudicial to Chaffier. In an appeal on a pretrial motion to suppress, the record on appeal typically includes the motion to suppress, the trial court's ruling on that motion, and any relevant hearing transcripts or other court documents related to the motion. Regarding whether later events from the trial can be brought up on appeal, the record on appeal generally includes transcripts from trials and related hearings, documents and exhibits introduced into evidence at trial, as well as materials and exhibits offered, but not admitted, into evidence. These are usually marked only for identification and are part of the record on appeal for determination of their admissibility. However, this depends

on whether they contributed to the trial court's decision, were considered by the trial court, and are necessary to the disposition on appeal.¹ Here, none of the facts adduced by the State from Chaffier's trial contributed to the trial court's decision or were considered on the motion to suppress. Thus, they have no place in the instant appeal.

The State operates as if *Terreros v. State*² was not decided by this Court. In fairness to the Superior Court, it did not have the benefit of this Court's opinion as it was issued after denial from the motion to suppress. However, the bedrock principles surrounding general warrants of electronic devices remain constant. Warrants must be particular regarding the categories of data to be searched or they will be deemed general for purposes of constitutional protection.³

The State attempts to sanitize the warrant in this case by admitting that "the search warrants necessarily allowed investigators to search **several** categories of data". Ans. Br. at 19. However, a careful review of the warrants reveals that they "allowed investigators to conduct an unconstitutional rummaging through all of the contents of [Chaffier's devices] to find whatever they decided might be of interest to their investigation."⁴ It left little to the imagination and the State fails to identify a data category that was unsearched because it cannot.

¹ *Delaware Elec. Co-op., Inc. v. Duphily*, 703 A.2d 1202, 1207 (Del. 1997).

² 2024 WL 193104 (Del. Jan. 18, 2024).

³ *Id.* at *10.

⁴ *Taylor v. State*, 260 A.3d 602, 615 (Del. 2021).

“To borrow *Terreros’s* analogy, if law enforcement submits an affidavit with sufficient facts to support a search of one closet in one room of a house, a warrant authorizing a search of the entire house does not become sufficiently particular because it identifies each individual room in the house rather than saying ‘any and all rooms.’”⁵ This is effectively what law enforcement did here. “[T]he warrant[s] authorized the very type of unbounded fishing expedition that the particularity requirement is intended to prevent.”⁶ The warrants at issue gave police the authority to conduct an indiscriminate search of nearly Chaffier’s entire phone and laptop.⁷

In its Answering Brief, the State argues that the search warrant allowed the search of the cell phone and laptop internet history, searches, stored data photos and videos, and WIFI connections because “family members reported that Chaffier was sending them messages through social media [and that] would provide probable cause to search Chaffier’s internet history and searches.” Ans. Br. at 25-26. The State’s contention hardly makes logical sense. In particular, sending messages through social media is too attenuated and incongruent to probable cause

⁵ *Terreros*, 2024 WL 193104, at *13.

⁶ *Id.* at *11.

⁷ *Id.* at *10.

to search internet history. In other words, the warrant lacked a sufficient nexus between the types of digital media to be searched and the probable cause.⁸

Even if the warrant had the proper temporal limitations, it would still have enabled law enforcement to rummage through vastly expansive categories of data despite the absence of any conceivable probable cause, or any direction as to what police would be looking for. In the aggregate, the “categories” listed in the warrant make up almost the entire phone and laptop, and contain information, which is far more private, and “far more than the most exhaustive search of a house.”⁹ But the warrant not only failed the particularity requirement as to the places to be searched, it also failed to describe what evidence was being sought within those places.¹⁰

Because this Court has consistently made clear that the evidence seized under a general warrant must be suppressed in its entirety, the Superior Court abused its discretion when it denied Chaffier’s Motion to Suppress. Reversal is now required.

⁸ *Wheeler v. State*, 135 A.3d 282, 299 (Del. 2016).

⁹ *Riley*, 573 U.S. 373, 396 (2014); see *People v. Coke*, 461 P.3d 508 (Col. 2020) (given “cell phones’ immense storage capacities,” search warrant that permitted “search [of] all texts, videos, pictures, content lists, phone records, and any dates that showed ownership or possession violates the particularity demanded by the Fourth Amendment”).

¹⁰ 11 *Del.C.* § 2307(a) (recognizing particularity requirement applies to, both, locations to be searched and the evidence sought within those locations).

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Justin Chaffier's convictions should be reversed.

\s\ Santino Ceccotti
Santino Ceccotti, Esquire

DATE: May 21, 2024