STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

07-214293-FH

PEOPLE OF THE STATE OF MICHIGAN,

JUDGE MICHAEL WARREN
PEOPLE V JAMESON,MATT

Plaintiff

V

NO: 07-214293-FH
Honorable Michael Warren

MATTHEW ALAN JAMESON,

Defendant.

OPINION AND ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

At a session of said Court, held in the County of Oakland, State of Michigan Friday, August 10, 2007.

PRESENT: HON. MICHAEL WARREN

OPINION

Before the Court is the Defendant's Motion to Suppress. Extensive oral argument was conducted on the Motion on August 1, 2007. Because the search of the Defendant's camper-trailer falls within the scope of the search warrant and was otherwise permissible, the Motion is denied.

I

In February, 1761, James Otis would speak before the Superior Court of Massachusetts to attack recently renewed Writs of Assistance being used by the British Empire against colonists. As James Adams reflected, "Mr. Otis' oration breathed into this nation the breadth of life . . . then and there was the first scene

of the first act of opposition to the arbitrary claims of Great Britain. . . . American independence was then and there born."

Although Otis then stood before the Superior Court as a private lawyer challenging the propriety of the writs, not long before he had served as the Advocate-General on behalf of the government - and his duty as the Advocate-General would have been to defend the Writs. Instead, Otis resigned and took up the cause of Boston merchants who challenged the enforcement of the Writs.

The Writs were broadly worded instruments which empowered British officials to conduct extensive, almost limitless searches against the colonists. Otis decried the Writs as oppressive infringements of the rights of the colonists:

> It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law-book. . . .
>
> [T]he writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer. I say I admit that special Writs of Assistance, to search special places, may be granted to certain persons on oath; but I deny that the writ now prayed for can be granted . . . .
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> In the first place, the writ is universal, being directed "to all and singular justices, sheriffs, constables, and all other officers and subjects"; so that, in short, it is directed to every subject in the King's dominions. Every one with this writ may be a tyrant in a legal manner, also, may control, imprison, or murder any one within the realm. In the next place, it is perpetual; there is no return. A man is accountable to no person for his doings. Every man may reign secure in his petty tyranny, and spread terror and desolation around him, until the trump of the Archangel shall excite different emotions in his soul. In the third place, a person with this writ, in the daytime, may enter all houses, shops, etc., at will, and command all to assist him. Fourthly, by this writ not only deputies, etc., but even their menial servants, are allowed to lord it over us. What is this but to have the curse of Canaan with a

> witness on us: to be the servants of servants, the most despicable of God's creation?
>
> Now, one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege.

Not only did Otis' denouncement begin the long road to the American Revolution, it also formed the beginnings the rights eventually protected in the Fourth Amendment to the federal Constitution.[1]

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[1] The United States Supreme Court has previously explained that the protections of the Fourth Amendment "'must be read in light of 'the history that gave rise to the words' – a history of 'abuses so deeply felt by the Colonies as to be one of the potent causes of the Revolution * * *.'" *Chimel v California*, 395 US 752, 760-761 (1969), quoting *United States v Rabinowitz*, 339 US 56, 69 (1950) (Frankfurter, J., dissenting), rev'd *Chimel, supra.*

The Supreme Court elaborated in *Stanford v Texas*, 379 US 476, 481-482 (1965) (citations, footnotes omitted and emphasis omitted):

> The Fourth Amendment provides that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."
>
> These words are precise and clear. They reflect the determination of those who wrote the Bill of Rights that the people of this new Nation should forever be secure in their persons, houses, papers, and effects' from intrusion and seizure by officers acting under the unbridled authority of a general warrant. Vivid in the memory of the newly independent Americans were those general warrants known as writs of assistance under which officers of the Crown had so bedeviled the colonists. The hated writs of assistance had given customs officials blanket authority to search where they pleased for goods imported in violation of the British tax laws. . . .
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> But while the Fourth Amendment was most immediately the product of contemporary revulsion against a regime of writs of assistance, its roots go far deeper. Its adoption in the Constitution of this new Nation reflected the culmination in England a few years earlier of a struggle against oppression which had endured for centuries. The story of that struggle has been fully chronicled in the pages of this Court's reports, and it would be a needless exercise in pedantry to review again the detailed history of the use of general warrants as instruments of oppression from the time of the Tudors, through the Star Chamber, the Long Parliament, the Restoration, and beyond.

The Fourth Amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Justice Cooley, quoting William Pitt the Elder, First Earl of Chatham, *Speech on General Warrants (regarding the Excise Bill)* (1763), explained the general understanding encompassed by the Amendment in preventing searches unless authorized by a warrant:

> "The poorest man may, in his cottage, bid defiance to all the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the king of England may not enter; all his force dares not cross the threshold of the ruined tenement." [Constitutional Limitations (1868), p. 299.]

Justice Cooley also explained the limitations surrounding a search authorized by a warrant:

> But as search-warrants are a species of process exceedingly arbitrary in character, and not to be resorted to except for very urgent and satisfactory reasons, the rules of law which pertain to them are of more than ordinary strictness; and if the party acting under them expects legal protection, it is essential that these rules be carefully observed.
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> * * *
>
> [T]he warrant which the magistrate issues must particularly specify the place to be searched, and the object for which the search is to be made. If a building is to be searched, the name of the of the owner or occupant should be given, or, if not occupied, it should be particularly described, so that the officer will be left to no discretion in respect to the place; and a misdescription in regard to the

ownership, or a description so general the it applies equally to several buildings or places, would render the warrant void in law. Search-warrants are obnoxious to very serious objections, and the law requires the utmost particularity in these cases before the privacy of a man's premises is allowed to be invaded by the minister of the law. [*Id.* at 303-304 (footnotes omitted).]

II

In the instant Motion, the Defendant challenges the propriety of a search of a separate, free standing camper-trailer on his property. There is no dispute that the camper-trailer in question was on the driveway of the residence located at 590 Brooks. The camper-trailer was visible from the street, was not attached to the Defendant's residence, and was registered in the Defendant's name. There is no dispute the camper-trailer has no motor and is not self-propelled.[2] Nor do the People dispute that the camper-trailer possesses a kitchen (including refrigerator, stove/oven, microwave, and sink), bathroom (with "running" water and shower), bedroom, hot and cold "running water," electricity, and air conditioning. The camper-trailer is 28 feet long.

There is also no question that the police had filed a duly sworn affidavit and a search warrant was issued thereon. The warrant makes no specific mention of the camper-trailer, but the warrant specifically addresses the residence of 590 Brooks, vehicles, and buildings located within the curtilage.

Although the Defendant attempts to show that the camper-trailer did not fall within the four corners of the warrant because it is not a "motor vehicle," the warrant itself simply refers to "vehicles" – motorization is not a necessary to the inquiry. Indeed, contrary to the assertions of the Defendant, the camper-trailer is

[2] Although there is a question as to whether it had wheels or was placed on blocks, it is immaterial to the Court's decision.

defined as a vehicle under Michigan law. The Motor Vehicle Code, for example, defines "Vehicle" as follows:

> every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and except, only for the purpose of titling and registration under this act, a mobile home as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws. [MCL 257.79.]

The Motor Vehicle Code specifically defines a "motor vehicle" as "every vehicle that is self-propelled . . . ", MCL 257.33, which naturally means that there are vehicles that are not motor vehicles. In fact, the Motor Vehicle Code consistently defines non-motorized, nonself-propelled trailers, campers, and similar items as "vehicles." See, e.g., MCL 257.79 (defining vehicle as "***every device*** in, upon, or ***by which*** any person or property is or may be transported ***or drawn*** upon a highway"); MCL 257.40a (defining "pickup camper" as "a nonself-propelled recreational ***vehicle, without wheels for road use*** . . . ."); MCL 257.41 (defining "pole-trailer" as "every ***vehicle without motive power*** designed to be drawn by another vehicle . . . ."); MCL 257.59 (defining "semi-trailer" as "every ***vehicle with or without motive power*** . . . ."); MCL 257.62 (defining "special mobile equipment" as "every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors . . . ."); MCL 257.74 (defining "trailer coach" as "every vehicle primarily designed and used as temporary living quarters for recreational, camping, or traveling purposes and drawn by another vehicle").

Whether a trailer coach, pick-up camper, or other similar item, the camper-trailer falls squarely within the meaning of "vehicle" in the Motor Vehicle Code and Michigan law.[3] Thus, contrary to the assertions of the Defendant, the warrant did authorize the search of the vehicle, as there is no question it was on the curtilage of the 590 Brooks.

This finding falls squarely within the Fourth Amendment's clear dictate that warrants must possess language "particularly describing the place to be searched," and Justice Cooley's cautionary instruction that the language of warrants should be read strictly, with the utmost particularity. The warrant specifically authorizes the search of vehicles, and the camper-trailer at issue is a vehicle. This is not a warrant that gives unlimited discretion to the investigating officers; it was issued by a neutral magistrate after reviewing an extensive affidavit sworn under oath, based upon probable cause; and it specifically designates those places to be searched. This warrant and search is not akin to the Writs of Assistance and other abuses for which the Fourth Amendment serves as a palladium.

Moreover, as a vehicle, the Defendant's argument that the camper-trailer is akin to a separate apartment unit or home is inapposite. In the instant case, the Defendant admits the camper-trailer was registered to him and on his premises. There is more than sufficient probable cause to justify the issuance of the warrant of the premises, including the curtilage. Thus, the search was permitted and its fruits are admissible.

[3] Whether it had wheels or sat on blocks on the time hardly changes its nature. A car sitting on blocks still remains a car. In any event, if it was magically transformed by this minor change, the People's argument that it was a storage compartment or building would then be correct.

ORDER

In light of the foregoing Opinion, the Defendant's Motion is hereby DENIED.

HON. MICHAEL WARREN
CIRCUIT COURT JUDGE