

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 v. : Case No. 00CR-I-03-089  
 :  
 SCOTT A. SPRIGGS, :  
 :  
 Defendant.\* :

Criminal case in the Court of Common Pleas of Delaware County, Ohio.

W. Duncan Whitney, Delaware County Prosecuting Attorney, Dane A. Gaschen and Marianne T. Hemmeter, Assistant Prosecuting Attorneys, for plaintiff.

David H. Bodiker, Ohio Public Defender, Kort W. Gatterdam and Tracey A. Leonard, Assistant State Public Defenders, for defendant.

Judgment entered August 23, 2000.

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\* Reporter's Note: On August 30, 2000, defendant entered a plea of guilty. On November 21, 2000, defendant was sentenced to 35 years to life.

HENRY E. SHAW, JR., Judge.

{¶1} Defendant Scott A. Spriggs was arraigned in this court on March 28, 2000, following the return of a ten-count indictment, three counts of which charged the defendant with the crime of aggravated murder, with two specifications of aggravating circumstances set forth at the end of the body of all three counts. The aggravated murder charges all relate to the death of Jason Bell, a twenty-year-old, mildly retarded, Delaware, Ohio man. The state moved this court to compel from defendant blood and handwriting samples. An April 19, 2000 hearing was duly scheduled to consider the state's motion. However, this court later determined that a full evidentiary hearing was necessary, and, consequently, continued the April 27, 2000 hearing May 3, 2000. On May 1, 2000, the state appeared before the Delaware Municipal Court and presented an application for a search warrant to obtain blood, hair, and handwriting samples from defendant. Following an application hearing, the Delaware Municipal Court issued the search warrant. The state executed the search warrant and obtained the samples described in the warrant.

{¶2} This court was then presented with defendant's motion to suppress. Defendant's motion sought to challenge the issuance of the search warrant by the Delaware Municipal Court. Defendant challenged the issuance of the search warrant on the grounds that the Delaware Municipal Court lacked jurisdiction to consider and the authority to issue the search warrant. Defendant contends that the Delaware Municipal Court lacked jurisdiction to issue the search warrant because a felony case against defendant was then pending before this court. Thus, defendant argued, because the Delaware Municipal Court lacked jurisdiction to consider the search warrant application it did not possess the authority to issue the search warrant.

{¶3} This court is presented with an issue apparently unaddressed under Ohio law: whether a municipal court may issue a search warrant to obtain evidence against a defendant for use in a felony case pending against that defendant in a court of common pleas. To issue a search warrant, a court must possess both the constitutional and statutory authority to do so. *State v. Wilmoth* (1986), 22 Ohio St.3d 251, 261-262. The United States Supreme Court has held that for a search warrant to be valid under the Fourth Amendment of the United States Constitution it must be issued by a "neutral and detached magistrate."<sup>1</sup> *Coolidge v. New Hampshire* (1971), 403 U.S. 443. Defendant does not contest the Delaware

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<sup>1</sup> The Supreme Court of Ohio has held that the protections of Section 14, Article I of the Ohio

Municipal Court judge's qualification as a "neutral and detached magistrate."

{¶4} Additionally, the Delaware Municipal Court must possess the statutory authority to issue the search warrant. Specifically, the statutory authority for an Ohio court to issue a search warrant resides in Rule 41(A) of the Ohio Rules of Criminal Procedure. Crim.R. 41(A) provides that "[a] search warrant authorized by this rule may be issued by a judge of a court of record to search and seize property located within the court's territorial jurisdiction." A "court of record" is often defined as a court that maintains a permanent record of its acts and judicial proceedings. See 22 Ohio Jurisprudence 3d (1998), Courts and Judges, Section 9. Indeed, R.C. 1901.01(A) establishes the Delaware Municipal Court as a "court of record." Defendant does not contest the Delaware Municipal Court's designation as a "court of record." Therefore, the issue turns on whether the property to be seized was located within the municipal court's territorial jurisdiction.

{¶5} R.C. 1901.02(A) states that the Delaware Municipal Court shall have jurisdiction within the corporate limits of the city of Delaware.<sup>2</sup> The property the state sought to seize -- samples of defendant's blood, hair, and handwriting -- was located in the Delaware County Jail. The location of the Delaware County Jail -- 844 U.S. Route 42 -- places the jail within the corporate limits of the city of Delaware.<sup>3</sup> Therefore, the property to be seized was located within the territorial jurisdiction of the municipal court. Consequently, the Delaware Municipal Court apparently possessed the legal authority to issue the search warrant.

{¶6} The heart of defendant's argument rests with his characterization of the search warrant process before the Delaware Municipal Court. Defendant argues that because the state had already initiated before this court criminal proceedings against defendant, the process to obtain the search warrant in this case was a part of the "felony case" against him. Defendant contends that the search

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Constitution are coextensive with those of the Fourth Amendment to the United States Constitution. *State v. Kinney* (1998), 83 Ohio St.3d 85.

<sup>2</sup> Moreover, R.C. 1901.02(B) provides that the Delaware Municipal Court shall have jurisdiction within Delaware County.

<sup>3</sup> This court takes judicial notice of the location of the Delaware County Jail. Abstracts on file at the Delaware County Courthouse in the Map Department of the Delaware County Engineer's Office clearly place the jail within the corporate limits of the city of Delaware.

warrant application hearing and the issuance of the search warrant were not within the Delaware Municipal Court's subject matter jurisdiction as conferred by R.C. 1901.20(B) because the instant felony case against defendant was then pending before the court of common pleas.<sup>4</sup> Section 1901.20(B) limits a municipal court's subject matter jurisdiction in felony cases to any hearing prior to indictment or a hearing to determine whether probable cause exists to bind a defendant over to the court of common pleas or otherwise "discharge, recognize or commit the defendant." Thus, defendant concludes, because the state had already indicted him and his case was pending before this court when the state sought the search warrant before the Delaware Municipal Court, that court lacked jurisdiction to consider, and, ultimately the authority to issue, the search warrant.

{¶7} Defendant cites three cases in support of his argument, none of which addresses a municipal court's jurisdiction and authority to issue a search warrant.<sup>5</sup> The state cites one case that

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<sup>4</sup> {¶a} R.C. 1901.20(B) states:

{¶b} "The municipal court has jurisdiction to hear felony cases committed within its territory. In all felony cases the court may conduct preliminary hearings and other necessary hearings prior to indictment of the defendant or prior to the court's finding that there is probable and reasonable cause to hold or recognize the defendant to appear before a court of common pleas and may discharge, recognize, or commit the defendant."

<sup>5</sup> {¶a} Defendant cites three cases in support of his proposition. First, defendant cites *State v. Nelson* (1977), 51 Ohio App.2d 31 (8th Dist.). In *Nelson*, the Eighth District Court of Appeals held that at a preliminary hearing, the municipal court is limited to determining probable cause and binding the accused over to the court of common pleas, or ordering the accused discharged, or finding probable cause to believe that the accused committed a misdemeanor and retaining the case for trial. Thus, *Nelson* is merely an application of Crim.R. 5(B).

{¶b} Next, defendant cites *State v. Ryneer* (July 18, 1990), Wayne App. No. 2564, 1990 WL 102458 (9th Dist.), for the holding that a municipal court lacks jurisdiction to hear a motion to recover property seized by law enforcement officers once a case is bound over to a court of common pleas. In *Ryneer*, the municipal court denied defendant's motion to recover seized automobiles because, subsequent to bindover, it lacked jurisdiction over the matter. However, as the Ninth District Court of Appeals' opinion indicates, the automobiles were in the possession of the Federal Bureau of Investigation. Thus, the property to be seized was likely outside the municipal court's territorial jurisdiction. Here, defendant Scott Spriggs was clearly within the municipal court's territorial jurisdiction at the time of the application for the search warrant.

{¶c} Finally, defendant cites *Smith v. Cockrell* (Apr. 24, 1991), Summit App. 1991 WL 65114 (9th Dist. 1991). In *Smith*, the Ninth District Court of Appeals held that the municipal court lacked jurisdiction to issue a writ of restitution after the case had been transferred to the court of common pleas. *Smith* is clearly inapplicable to this case. Writs of restitution are fundamentally different devices than search warrants. Writs of restitution are civil devices used to recover the value of one's , property that is in the possession of another. Search warrants are essentially a mechanism for the state to seize potential evidence of the commission of a crime.

suggests that the state's actions were legally permissible. See *State v. Pearson* (1996), 114 Ohio App.3d 168 (3d Dist.). The facts in *Pearson* closely parallel the facts in this case. *Pearson* was indicted and arraigned in the Seneca County Court of Common Pleas on charges of rape and kidnapping. Initially, the state sought and obtained a court order to take blood samples from *Pearson*. The state subsequently sought and obtained a search warrant from the Tiffin Municipal Court to take a blood sample from *Pearson* for DNA testing. Later, the court of common pleas denied *Pearson's* motion to suppress the evidence obtained from the search warrant and eventually *Pearson* was convicted at trial. Ultimately, the Third District Court of Appeals upheld the admissibility at trial of the evidence obtained from the search warrant.

{¶8} Although the Third District did not address the Tiffin Municipal Court's authority to issue the warrant, the court's holding certainly implies that a municipal court possesses the jurisdiction to consider and the authority to issue a search warrant where a felony case is pending before a court of common pleas. However, whatever implied authority may be found in the Third District's holding, no statutory or case law expressly confers upon a municipal court the authority to issue a search warrant after felony proceedings have begun in a court of common pleas.

{¶9} Nevertheless, the implications are considerable in finding that obtaining a search warrant is part of the felony case against a defendant. A felony case, at its simplest, consists of the state and the accused, through their respective counsel, adjudicating the issue of the guilt or innocence of an accused. A felony case ultimately results in a final determination as to the guilt or innocence of the accused. In contrast, the search warrant process historically is an *ex parte* proceeding exclusively within the province of law enforcement officers and/or the prosecution. The guilt or innocence of an accused is not an issue in the search warrant process; the issue in the search warrant process is merely whether there is probable cause to find that the search warrant will produce evidence of a crime.

{¶10} Moreover, search warrants typically are available at any time whether the state has initiated a felony case against a defendant. Essentially, defendant's argument calls for two types of search warrant processes. The first type would be those conducted prior to the initiation of a felony case in a court of common pleas, the second type after such initiation. To so hold would radically alter criminal

procedure and effectively eliminate search warrants as an investigatory tool after a felony case has begun against a defendant.

{¶11} An effective search warrant process requires secrecy, confidentiality, and exclusion of the person or persons under investigation. However, holding that the search warrant process is part of a felony case against a defendant suggests that the state conducted a de facto adversarial judicial proceeding against a defendant. And this de facto judicial proceeding against a defendant raises the issue of whether the search warrant process constitutes a "critical stage" in judicial proceedings against a defendant, thus implicating a defendant's Sixth Amendment right to counsel. See *Gilbert v. California* (1967), 388 U.S. 263 (holding that the right to counsel attaches at all "critical stages" of the proceedings which affect the defendant's right to a fair trial). If a defendant and counsel are permitted to take part in the search warrant process, then the state can no longer guarantee affiants and witnesses the secrecy and confidentiality the state relies upon to elicit the testimony necessary to meet the probable cause requirement. The efficacy of search warrants as a tool to discover evidence of a crime would be lost to the state.

{¶12} Finally, the action the state took in seeking the search warrant in the Delaware Municipal Court actually added a layer of due process to defendant's case. Rather than placing this court in the awkward position of reviewing for probable cause the actual search warrant it may have earlier issued, this court is placed in the position of reviewing a search warrant issued by another court. Considering the gravity of three aggravated murder charges with death penalty specifications pending against him, defendant received the added protection of review of the evidence necessary to support probable cause to issue the search warrant by two "neutral and detached" magistrates rather than one.

{¶13} In conclusion, this opinion is perhaps nothing more than an express statement of what is already implicit criminal procedure in Ohio courts. Nevertheless, defendant presents a unique issue exposing an apparent gap in Ohio law. At any rate, this court is of the opinion that the Delaware Municipal Court possessed the jurisdiction to consider and the authority to issue a search warrant to obtain blood, hair, and handwriting samples from defendant although a felony case against defendant was then pending before this court. Accordingly, defendant's motion to suppress the evidence obtained

in executing the search warrant is hereby OVERRULED.

Motion to suppress denied.