



A District Court upholds the validity of a search warrant despite a typographical error in the address of the residence to be searched and, therefore, denies the Defendant's motion to suppress



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In *United States v. Grant*, 2018 WL 2718051 (D.S.C. June 6, 2018), Defendant David Grant moved to suppress the evidence that law enforcement officers discovered regarding Grant's distribution of heroin from his residence. Grant tendered two arguments as to why the District Court should suppress the evidence. First, Grant argued that the search warrant was invalid because it was not based on probable cause to search the premises identified in the warrant. Second, Grant contended that he did not receive any Miranda warnings before making statements to officers during a traffic stop. The District Court conducted an evidentiary hearing on Grant's motion to suppress and, thereafter, made the following determinations.

On April 26, 2017, the North Charleston, South Carolina narcotics unit worked with a confidential informant to orchestrate a drug deal between Grant and the CI. The drug deal was captured on video and on an audio recording. The North Charleston Narcotics Unit then obtained an arrest warrant for Grant based on that information.

On May 5, 2017, officers conducted surveillance on what they believed to be Grant's house located at 2681 Houston Street. While conducting surveillance, the officers observed Grant leave his house, and the officers proceeded to initiate a traffic stop of Grant's vehicle. During the traffic stop, officers provided Grant with Miranda warnings and arrested him on his outstanding arrest warrant. Officers also questioned Grant about where he had hidden drugs, and Grant told the officers that he had drugs in the nightstand of his house at Houston Street. Accordingly, a search warrant was obtained on May 5, 2017, to search the house located at 2681 Houston Street.

However, the search warrant had competing addresses contained therein. Specifically, the face of the search warrant was for 2681 Houston Street, but the "probable cause" section of the warrant stated that probable cause for issuing the search warrant stemmed from information that the North Charleston Narcotics Unit had received from the confidential informant that drugs were being packaged, distributed, and used at 3438 Navajo Street. Officers recovered sixty bags of heroin and various drug paraphernalia from the search at 2681 Houston Street.

On August 8, 2017, Grant was indicted with two counts of possession with intent to distribute heroin, with one count of felon in possession of a firearm, and with one count of use of a firearm in furtherance of a drug trafficking crime. On January 20, 2018, Grant filed a motion to suppress. The District Court conducted an evidentiary hearing on Grant's motion, and thereafter, the District Court denied Grant's motion.

As for Grant's argument that the search warrant was invalid based upon a lack of probable cause due to the discrepancy in the addresses of the location to be searched, the District Court explained that the search warrant stated that the location to be searched was "2681 Houston Street North Charleston, SC, 29405". The cover sheet of the search warrant also identified 2681 Houston Street.

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Furthermore, the “description of premises to be searched” stated that the location to be searched was 2681 Houston Street, North Charleston, SC, 29405, and described the location as “a single story, single family home; with light tan in color siding and a light brown shutters and trim. If one is looking at the front of the residence the driveway is on the right side of the residence and to the left is the front porch which is where the front door of the residence is located.”

However, the body of the search warrant, under the section entitled “reason for affiant’s belief that the property sought is on the subject premises,” stated: “Since the affidavit is being submitted for the limited purpose of securing authorization to search the evidence at 3438 Navajo Street in North Charleston, SC 29405.” This page contained the signature of the judge at the bottom of the page, and each page of the search warrant was initialed by the judge.

Notably, the warrant set out the probable cause determination. Specifically, it stated that the North Charleston Narcotics Unit received information about illegal drugs being packaged, distributed, and used from “the above location” by Grant. The probable cause section of the search warrant further stated that detectives conducted surveillance “at the location which is the target’s residence,” and after observing Grant leave his residence and drive off, the officers conducted a traffic stop and eventually took him into custody. During this traffic stop, Grant admitted that there was a quantity of heroin in his bedroom under the nightstand.

During the hearing on Grant’s motion, James Ford (“Ford”), a detective with the Narcotics unit of the North Charleston Police Department testified. Ford testified that, for safety reasons, he decided to serve the arrest warrant on Grant by initiating a traffic stop. North Charleston Police Department officer Catherine Kirkland (“Kirkland”) and Ford conducted surveillance on the Houston Street address and observed Grant leave his residence in the automobile registered to him on the DMV website, at which point Kirkland initiated a traffic stop to serve the arrest warrant. After Grant was handcuffed, Ford approached Grant to give him a verbal Miranda warning and questioned him. Ford asked Grant if he had any contraband, to which Grant responded, “yeah I had been selling a little bit” and that he had sixty bags of heroin “at my house” in his nightstand. Ford understood Grant’s location of “at my house” as the 2681 Houston Street address, which was the address listed as Grant’s residence on the DMV database, the address that the CI confirmed was Grant’s address, and the address that Ford and Kirkland observed Grant leave from on the morning of his arrest. Based on this information, Ford believed that he had probable cause to conduct a search of Grant’s residence at 2681 Houston Street.

Ford further testified that another detective with the North Charleston Police Department typed up the search warrant using the information that Ford verbally provided to him. The search warrant included the erroneous Navajo Street address in the “reason for affiant’s belief” section, but none of the numbered statements under this boilerplate statement set forth the address to be searched as the Navajo Street address.

Finally, Ford testified that search warrants are typed up using existing search warrants as a template. As such, it appeared that the Navajo Street address was in a previous search warrant, and it was a mere clerical error by the transcribing detective that the Navajo address was included in the search warrant. It was the Houston Street address that appeared on the face of the search warrant and in the conclusion of the search warrant. The numbered statements in the “reason for affiant’s belief” section of the warrant did not include an address but repeatedly refer to Grant’s “residence.” And upon executing the search warrant at the Houston Street address, Ford recovered a plastic baggie with forty-six bags of heroin from underneath a nightstand in Grant’s bedroom. The location of the heroin was consistent with where Grant told Ford that the heroin was during the traffic stop. During the search of the Houston Street address, Ford also recovered a “for sale” sign with Grant’s phone number on it, which Ford knew was Grant’s phone number because he had it from the CI who was familiar with Grant before the controlled purchase.

The District Court concluded that the clerical error in the search warrant did not render it invalid. The District Court explained that courts “routinely uphold” warrants with partial inaccuracies so long as the description contains enough accurate information “to identify the place to be searched with particularity.” Therefore, even an incorrect address is not fatal if the rest of the description leads the officers in the right direction.

In this case, the District Court noted that the face of the search warrant had the correct Houston Street address, and it contained a detailed description of the house to be searched. The District Court held that this qualitative description led the officers to search the correct house.

Furthermore, the District Court held that, to the extent that the inclusion of the Navajo Street address in the probable cause section of the search warrant was as the result of a clerical error, “honest errors by the affiant are not grounds for suppression.” *United States v. Sanchez*, 725 F.3d 1243, 1247 (10th Cir. 2013). The District Court questioned how a clerical error could have occurred twice in the probable cause section of the search warrant but ultimately rejected Grant’s argument, holding that the error would only render the warrant invalid if the officers made “a false statement knowingly and intentionally, or with reckless disregard for the truth” and if “the allegedly false statement is necessary to the finding of probable cause.” Because there was no such evidence presented by Grant, the District Court held that his Fourth Amendment rights were not violated and denied his motion to suppress.

As for Grant’s Miranda argument, the District Court opined that two factors must be considered to determine whether a waiver was voluntary, knowing, and intelligent. First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. The totality of the circumstances surrounding the questioning must be examined to determine the sufficiency of Miranda warnings and any waiver of rights.

Moreover, a valid Miranda waiver may be made orally or may be implied based on the defendant’s conduct. Specifically, the United States Supreme Court has stated that, while an express written or oral statement of a waiver is strong proof as to the validity of a waiver, it is not necessary or sufficient to establish a waiver. Verbal statements by a suspect acknowledging an understanding of his Miranda rights followed by answering questions can qualify as an implicit waiver of Miranda protections.

Here, the District Court noted that there was no body camera video and no written Miranda waiver. Nevertheless, Ford testified that he verbally gave the Miranda warning and that Grant’s demeanor after his verbal waiver of his Miranda rights was very calm and that Grant displayed no hostility. Grant argued in his written motion that no Miranda warning was given, but during the hearing on his motion, Grant neither made any argument on the Miranda issue nor testified as to what happened during the traffic stop. As such, the District Court determined that Grant had abandoned his Miranda argument, stating that it was a battle of credibility between a testifying officer who testified under oath that he gave verbal Miranda warnings and a non-testifying defendant who made no argument during the hearing on the Miranda issue. Accordingly, the District Court concluded that it had no reason to doubt that Grant was properly administered Miranda warnings and found that there was no testimony or evidence to support a finding that Grant made anything but a voluntary, knowing, and intelligent waiver of his Miranda rights. Accordingly, the District Court denied Grant’s motion to suppress.