

STATE OF MAINE  
SAGADAHOC, ss

SUPERIOR COURT  
CRIMINAL ACTION  
DOCKET NO. CR-05-038

11-5-9/05

STATE OF MAINE

v.

JOHN TOUCHTON,

Defendant

ORDER ON DEFENDANT'S  
MOTION TO SUPPRESS AND  
MOTION TO DISMISS

The defendant argues that the search warrant is defective on its face based on the language on page three of the warrant and that the affidavit does not provide a substantial basis for a finding of probable cause. For the following reasons, the motion to suppress is denied.

The affidavit provides the officer's rationale for requesting a "no knock and night time warrant." See Affidavit at 9; M.R. Crim. P. 41(i). The warrant provides that "this warrant may be executed in the daytime or nighttime between the hours of 7:00 a.m. and 7:00 a.m." See Warrant at 3; M.R. Crim. P. 41(h). Evidence "obtained in objectively reasonable reliance on a subsequently invalidated search warrant" need not be suppressed in every case. U.S. v. Leon, 468 U.S. 897, 922 (1984). Assuming that the warrant in this case is defective, nothing in this case suggests that the officers' reliance on the technical sufficiency of the warrant was not objectively reasonable. See id. The defect, if any, in this warrant is not so facially deficient to establish a lack of good faith on the part of the officers and is not the kind to alert the executing officers. See U.S. v. Dethlefs, 883 F.Supp. 766, 773-74 (D. Me. 1995).

The affidavit contains sufficient facts to establish probable cause that a crime had been committed on the premises to be searched and to justify issuance of the warrant.


See State v. Crowley, 1998 ME 187, ¶ 4, 714 A.2d 834, 836.

The entry is

The Motion to Suppress is DENIED.

The Motion to Dismiss is DENIED.

Date: September 8, 2005



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Nancy Mills  
Justice, Superior Court

STATE OF MAINE  
vs  
JOHN TOUCHTON  
786 CARDING MACHINE ROAD  
BOWDOINHAM ME 04008

SUPERIOR COURT  
SAGADAHOC, ss.  
Docket No BATSC-CR-2005-00038

**DOCKET RECORD**

DOB: 01/09/1957

Attorney: ANDREWS CAMPBELL  
CAMPBELL LAW OFFICE  
45 KALERS CORNER ROAD  
WALDOBORO ME 04572  
RETAINED 03/25/2005

State's Attorney: GEOFFREY RUSHLAU

Filing Document: INDICTMENT  
Filing Date: 03/24/2005

Major Case Type: FELONY (CLASS A,B,C)

**Charge (s)**

1	UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS	01/20/2005 BOWDOINHAM
Seq 8541	17-A 1103(1-A)(A) Class B	
WOODMAN	/ MDE	
2	UNLAWFUL POSSESSION OF SCHEDULED DRUG	01/20/2005 BOWDOINHAM
Seq 8568	17-A 1107-A(1)(B)(1) Class C	
WOODMAN	/ MDE	
3	CRIMINAL FORFEITURE OF PROPERTY	01/20/2005 BOWDOINHAM
Seq 7049	15 5826 Class U	
WOODMAN	/ MDE	

**Docket Events:**

03/24/2005 FILING DOCUMENT - INDICTMENT FILED ON 03/24/2005

TRANSFER - BAIL AND PLEADING GRANTED ON 03/24/2005

TRANSFER - BAIL AND PLEADING REQUESTED ON 03/24/2005

03/24/2005 Charge(s): 1,2,3

HEARING - ARRAIGNMENT SCHEDULED FOR 04/07/2005 @ 1:00

NOTICE TO PARTIES/COUNSEL

03/24/2005 Charge(s): 1,2,3

HEARING - ARRAIGNMENT NOTICE SENT ON 03/24/2005

03/24/2005 SUMMONS/SERVICE - SUMMONS TO APPEAR FOR ARRAIGN ISSUED FOR 03/24/2005

03/25/2005 Party(s): JOHN TOUCHTON

ATTORNEY - RETAINED ENTERED ON 03/25/2005

Attorney: ANDREWS CAMPBELL

03/29/2005 BAIL BOND - \$2,500.00 CASH BAIL BOND FILED ON 03/29/2005

Bail Receipt Type: CR

Bail Amt: \$2,500