

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff,

-vs-

Case # 96-14968

Hon. Timothy Kenny

TROY HARRIS,

Defendant.

Patricia Leonard, Assistant Prosecutor
Wayne County Prosecutor's Office
1441 St. Antoine – 12th floor
Detroit, MI 48226
(313) 224-5777

Steven Fishman (P23049)
Attorney for Defendant
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MOTION FOR *IN CAMERA*
PRODUCTION OF INFORMANT

Now comes Troy Harris, Defendant herein, by and through his attorney Steven Fishman and in support of his motion for *in camera* production of informant states as follows:

1. Defendant Harris is charged with possession with intent to deliver over 50 grams of cocaine and possession with intent to deliver heroin.
2. These charges arose on May 27, 1996 as a result of the execution of a search warrant by Detroit Police officers at 11668 Lauder in the city of Detroit.
3. The search warrant also authorized the search of a black male named "Troy", described as being 5'9" tall and weighing 180 pounds.

4. Defendant Harris contends that the search warrant affidavit contains false and inaccurate information concerning his description and activities alleged by the informant to have taken place inside the Lauder address on May 26.

5. Defendant Harris has supported his contention with affidavits concerning the activities in and around the Lauder address on May 26.

6. An *in camera* hearing is necessary for the Court to inquire into the circumstances surrounding the information allegedly provided to the affiant by the informant.

WHEREFORE, for the reasons set forth in the attached brief, Defendant Harris requests that this Court grant his motion for *in camera* production of the informant.

Respectfully submitted,

Steven Fishman (P23049)
Attorney for Defendant Harris
615 Griswold, Suite 1125
Detroit, MI 48226
(313) 962-4090

Dated: August 29, 2001

**MEMORANDUM OF LAW IN SUPPORT
OF MOTION FOR *IN CAMERA*
PRODUCTION OF INFORMANT**

Statement of Facts

Defendant Harris adopts and incorporates by reference the statement of facts contained in his motion to quash search warrant and suppress evidence.

Argument

Where a defendant has satisfied the conditions set forth in Franks v Delaware, 438 US 154, 57 LEd2d 663 (1978), the trial judge may exercise his discretion and require that an informant be produced who allegedly supplied police with the information that led to the issuance of the search warrant. People v Poindexter, 90 Mich App 599 (1979). That hearing may be held *in camera* to protect the identity of the informant.

In the instant case, the identity of the informant is already known to the defense. That informant, one Gregory Stanley, lived with his family in the same neighborhood as Defendant Harris. On information and belief, at the time of the issuance of the instant search warrant, Mr. Stanley was approximately twenty-four years old. On information and belief, at the time of the issuance of the search warrant, Mr. Stanley had a pending drug case that eventually resulted in his incarceration.

Though Mr. Stanley had been inside Defendant Harris's home on one prior occasion in the winter of 1995-96, he was not at the Lauder address on May 26. The contention in the affidavit that the informant had been inside 11668 Lauder on May 26 and had observed Defendant Harris "rocking up" cocaine with an unknown black male is, therefore, patently false. Defendant Harris did encounter Mr. Stanley twice on May 26; however, both times were at locations in the neighborhood away from the Lauder address and neither occasion had anything to do with drugs.

On information and belief, Mr. Stanley had good reason to lie about his whereabouts on

May 26 and the things he claimed he saw Defendant Harris doing. At that time, he was facing serious drug charges resulting from a prior arrest. He knew that he would receive consideration from the police and/or the Prosecutor's Office if he provided information that led to the seizure of drugs and/or the arrest of individuals for drug-related offenses. With this type of incentive to fabricate, it was the responsibility of the supervising officers to take steps to insure that Mr. Stanley was providing them with accurate information.

There is nothing in the affidavit to indicate that the affiant (or any other police officer for that matter) kept the informant under surveillance while he allegedly visited the Lauder address on May 26. Nor is there anything to indicate that the affiant or any other officer did any independent investigation to verify the information allegedly provided by the informant. Since the entire search warrant affidavit was based on the informant's allegations, this would be a particularly good case for the Court to require that the informant be produced.

Conclusion

Wherefore, Defendant Harris requests that this Court grant his motion for *in camera* production of the informant, and require the affiant to produce Gregory Stanley to answer the Court's questions concerning the information allegedly provided by him to the affiant in connection with the instant search warrant.

Respectfully submitted,

Steven Fishman (P23049)
615 Griswold, Suite 1125
Detroit, MI 48226
(313) 962-4090

Dated: August 29, 2001

AFFIDAVIT OF EUNICE DAWSON

STATE OF MICHIGAN)
)SS.
COUNTY OF WAYNE)

EUNICE DAWSON, being first duly sworn, deposes and says as follows:

1. I reside at 700 Merton, Apt. 410 in the city of Detroit.
2. My mother, Loretta Farmer, resides at 11668 Lauder in the city of Detroit.
3. I spent Memorial Day weekend, May 24 - 27, 1996 at my mother's home on Lauder.
4. I was at my mother's home on Monday, May 27, 1996, when the home was raided by Detroit Police narcotics officers.
5. The only other civilian adults present at the home at the time of the raid were my mother and my son, Troy Harris.
6. I had been at my mother's home all day on Monday, May 27, prior to the raid.
7. On Sunday, May 26, 1996, I was at my mother's home all day until leaving at 5:00 p.m. to attend a baby shower.
8. I returned from the baby shower between 8:30 and 9:00 p.m. and did not leave the house again until the search warrant raid the next day.
9. Other than my mother, my son Troy Harris, and possibly my brother Richard Farmer, no one else was inside my mother's house on Sunday, May 26, or Monday, May 27, until the police arrived to conduct the search warrant raid.

10. My son Troy Harris left the house early Sunday morning, returned to the house for approximately 10 - 15 minutes around 2:00 p.m., left again and did not return until the early morning hours of Monday, May 27.

FURTHER DEPONENT SAYETH NOT.

EUNICE DAWSON

Subscribed and sworn to before me
this ____ day of _____, 2001

Notary Public

AFFIDAVIT OF LORETTA FARMER

STATE OF MICHIGAN)
)SS.
COUNTY OF WAYNE)

LORETTA FARMER, being first duly sworn, deposes and says as follows:

1. I own the house located at 11668 Lauder in the city of Detroit.
2. I have lived there for approximately 31 years.
3. I was in my house on Memorial Day, May 27, 1996, when a search warrant raid was conducted by Detroit Police narcotics officers.
4. The only other civilian adults in the home at the time of the raid were my daughter Eunice Dawson and my grandson Troy Harris.
5. I was home all day on Monday, May 27, 1996, prior to the raid.
6. On Sunday, May 26, 1996, I was home all day until leaving at 5:00 p.m. to attend a baby shower.
7. I returned from the baby shower at approximately 6:30 p.m. and did not leave the ho use again until the search warrant raid the next day.
8. Other than my daughter Eunice Dawson, my grandson Troy Harris, and possibly my son Richard Farmer, no one else was inside my home on Sunday, May 26, or Monday May 27 until the police arrived with the search warrant.
9. My grandson Troy Harris left the house early Sunday morning, returned to the house for approximately 10-15 minutes around 2:00 p.m., left again and did not return until the early morning hours of Monday, May 27.

FURTHER DEPONENT SAYETH NOT.

LORETTA FARMER

Subscribed and sworn to before me
this ____ day of _____, 2001

Notary Public

AFFIDAVIT OF TROY HARRIS

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

TROY HOWARD, being first duly sworn, deposes and says as follows:

1. In May, 1996, I resided with my grandmother at 11668 Lauder in Detroit.
2. I was living at my grandmother's house on Memorial Day weekend, May 24-27.
3. I was at home on Monday, May 27, 1996, when the home was raided by Detroit

Police narcotics officers.

4. On Sunday, May 26, I left the home early in the morning, returned to the home for approximately 10-15 minutes around 2:00pm, left again, and did not return until the early morning hours of Monday, May 27.

5. I know an individual named Gregory Stanley.

6. Mr. Stanley had only been in my grandmother's house on one occasion in the winter of 1995-96.

7. Gregory Stanley was not inside my grandmother's home on Sunday, May 26, 1996.

8. On May 26, 1996, I saw Mr. Stanley on two occasions; both were at locations in the neighborhood away from my grandmother's home and neither had anything to do with drugs.

9. I did not tell Gregory Stanley on May 23, 1996 that I had cocaine for sale in my possession or in my grandmother's home.

FURTHER DEPONENT SAYETH NOT.

TROY HARRIS

Subscribed and sworn to before me
this _____ day of _____, 2001

Notary Public