

STATE OF MICHIGAN
IN THE 16th CIRCUIT COURT FOR THE COUNTY OF MACOMB
CRIMINAL DIVISION

PEOPLE OF THE STATE MICHIGAN,)	
Plaintiff-Appellee,)	
)	
v.)	Cause No. 13-1880-FH
)	
)	Hon. Edward A. Servito, Jr.
)	
DAVID DABISH,)	Judge Presiding
Defendant-Appellant.)	

**DEFENDANT-APPELLANT PETITION FOR LEAVE TO APPEAL AND
MOTION TO STAY TRIAL**

ORAL ARGUMENT REQUESTED

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TABLE OF CONTENTS	Page No.
Index of Authorities	3
Jurisdictional Statement	4
Statement of Questions Involved	5
Statement of Facts	6
Argument I	9
Argument II	12
Argument III	14
Conclusion	15

INDEX OF AUTHORITIES

<i>People v. Russo</i> , 439 Mich. 584 (1992)	9, 10
<i>Illinois v. Gates</i> , 462 U.S. 213, 236 (1983)	10
<i>Aguilar v. Texas</i> , 378 U.S. 108, 112 (1964)	10
<i>Groh v. Ramirez</i> , 540 U.S. 551 (2004)	11
<i>Massachusetts v. Sheppard</i> , 468 U.S. 981 (1984)	11
<i>United States v. Stefonek</i> , 179 F.3d 1030 (CA7 1999)	11
<i>McDonald v. United States</i> , 335 U.S. 451 (1948)	11
<i>United States v. Leon</i> , 468 U.S. 897 (1984)	11
<i>People v. Gillam</i> , 93 Mich. App. 548, 552 (1972)	12
<i>People v. Mushlock</i> , 226 Mich 600 (1924)	12
<i>People v. Siemieniec</i> , 368 Mich. 405 (1962)	12
<i>United States v Harris</i> , 403 U.S. 573 (1971)	12
<i>People v. Briolo</i> , 58 Mich. App. 547 (1975)	13
<i>People v. Daughenbaugh</i> , 193 Mich. App. 506 (1992)	14
M.C.L., § 780.651(1)	9
MSA 28, 1259(l) (1)	9
M.C.L., 780.653	9
MSA 28.1259(3)	13
MCR § 6.120 (C)	14
MCR § 6.121 (B)	15

JURISDICTION

The Court of Appeals has jurisdiction over this timely-filed application for leave to appeal pursuant to MCR 7.205(A).¹

¹ The docket sheets and appealed from order are attached hereto as Exhibits G and H, respectively.

ISSUES

- I. **Whether the trial court failed to suppress evidence of artificial marijuana borne from a search warrant and affidavit devoid of probable cause for such contraband.**
- II. **Whether the trial court failed to suppress evidence derived from a stale warrant.**
- III. **Whether the trial court failed to grant a motion to bifurcate Mr. Dabish and his brother's trial when the alleged crimes ascribed to both individuals were unrelated to one another.**

FACTUAL BACKGROUND

In or about March 2012, the Shelby Township Narcotics Unit had received a tip that individuals at the Citgo Gas Station at 46555 Van Dyke ("Citgo") and Woodstock Tobacco at 46699 Van Dyke ("Woodstock Tobacco") were selling synthetic marijuana/K2 ("K2") (See residential search warrant and affidavit, attached as Exhibit A, at 3).

Then, during the week of July 9th, 2012, confidential informant number 411 ("CI") contacted the police to let them know he could arrange the purchase of K2 from the Citgo. (Exh. A, at 3). Sgt. Schmittler then met with this police officer at a pre-arranged location to give this individual funds with which to purchase contraband. (Exh. A at 3). Sgt. Schmittler then, from a distance, observed the CI enter the Citgo and then return to his vehicle. (Exh. A at 3). Mr. Dabish allegedly exited the Citgo, walked over to the CI's vehicle, and gave the CI supposed K2. (Exh. A at 3). Mr. Dabish, according to Sgt. Schmittler, then allegedly engaged in an additional transaction involving K2. (Exh. A at 3). No lab tests were conducted on the contraband at issue to confirm if the substance was K2. (See May 4th, 2015 hearing, attached as exhibit B, at 4.). Indeed, no evidence at all indicated that Mr. Dabish ever transacted with a controlled substance. (Exh. B, at 4.). The following week after this transaction, the CI purchased K2 at the Citgo from one of Mr. Dabish's brother's Audrek Dabish. (Exh. A at 3). Then, during the week of July 23, 2012, this CI purchased marijuana from Woodstock Tobacco. (Exh. A at 3). The affidavit stated that the Citgo and Woodstock facilities were owned by the "Dabish Family," based on

city records. (Exh. A at 6). However, though not indicated in the Affidavit, Jeffrey Dabish did not have an ownership interest in either location. (See May 11th, 2015 hearing, attached as exhibit C, at 8) Based on this affidavit, a search warrant was entered on October 30, 2012, granting permission to search Mr. Dabish's residence for the possession of substances in violation of the Michigan Health Code including marijuana, as well as Woodstock Tobacco and Citgo. (Exh. A at 8); (See Search Warrant and Affidavit for Woodstock Tobacco and Citgo, attached hereto as Exh. D and E). Based on the evidence discovered at these locations, the State charged Mr. Dabish with delivery/manufacture of a controlled substance (count one); possession of a controlled substance (count two); and maintenance of a drug house (count three). (See Complaint, attached as Exhibit F.).

Hearings on Motion to Suppress

A hearing to suppress the evidence garnered from Mr. Dabish's home was held at May 4th, 2015. (Exh. B, at 4.). At this hearing, the State admitted that none of the substances collected from Mr. Dabish at the exchanges with the CI referenced above tested positive for a controlled substance. (Exh. B at 4). Based on this, the trial court judge remarked "We don't have the delivery of a controlled substance...So there is really no probable cause that a control substance is at the residence...you [got] a search warrant on the basis that there is a controlled substance, when in fact there is no basis for the controlled substance." (Exh. B at 5). The State then argued that sufficient probable cause existed for a search for K2 and that anywhere K2 could be found the "real stuff" could be found, to which the trial court judge responded "But

the problem is the representation [in the affidavit] was that it was K-2, that's the problem, and in fact there is not a basis for it." (Exh. B at 6). The State then acknowledged that though David Dabish allegedly represented to the CI that the transacted substance was K2, laboratory tests revealed that it was not. (Exh. B at 8). The State also acknowledged that the only substance gathered from the various hand-to-hand transactions at issue testing positive for a controlled substance did not relate to Mr. Dabish. (Exh. B at 6, 14). The trial court judge then remarked that Mr. Dabish's brother's transactions did not give cause for a Search of Mr. Dabish's home. (Exh. B at 8). Though the trial court judge then decided that no laboratory test was required for finding probable cause of controlled substance in this matter, he nevertheless equivocated that "the problem I have is it's a **misrepresentation** with the warrant that it is a controlled substance. That's the problem." (Exh. B at 17) (emphasis added). At the follow up hearing, the trial court judge added the issue: "Was this **recklessness** on the part of the affiant, and was the representation that K-12 was being sold by the defendant an adequate representation for the magistrate." (Exh. C at 4) (emphasis added). The trial court judge believed that despite this "recklessness," sufficient probable cause to grant the warrants at issue existed and this appeal followed as a consequence.

ARGUMENT

I. **The trial court failed to suppress evidence of artificial Marijuana borne from a search warrant and affidavit devoid of probable cause for such contraband.**

The Michigan Constitution provides that a search warrant may issue only on a showing of probable cause, supported by oath or affirmation:

The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation.

[Const. 1963, art 1, 11.]

Implementing this constitutional mandate, M.C.L., § 780.651(1) MSA 28, 1259(1) (1) and M.C.L., 780.653; MSA 28.1259(3) require that probable cause be shown in the form of an affidavit presented to a magistrate who will decide whether to issue a warrant on the basis of the affidavit's contents. "When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and **the affidavit establishes grounds for issuing a warrant pursuant to this act**, the magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated." [MCL 780.651(1); MSA 28.1259(1)(1) (emphasis added).] "The magistrate's findings of reasonable or probable cause **shall be based on all the facts related within the affidavit made before him or her.**" [MCL 780.653; MSA 28.1259(3) (emphasis added).]

This Court applies the standard set forth in *People v. Russo* when evaluating a magistrate's determination that probable cause existed to conduct a search. 439

Mich. 584, 604 (1992). The *Russo* standard requires a court to interpret a search warrant and underlying affidavit in a common-sense and realistic manner.” *Russo*, 439 Mich. at 604. Though a reviewing court must grant deference to a magistrate’s probable cause determination, this deference “requires the reviewing court to ask only whether a reasonably cautious person could have concluded that there was a ‘substantial basis’ for the finding of probable case.” *Russo*, 439 Mich. at 603, quoting *Illinois v. Gates*, 462 U.S. 213, 236 (1983). In making such a determination, this Court may only consider the facts presented to the magistrate. *Aguilar v. Texas*, 378 U.S. 108, 112 (1964).

Here, there was no hand to hand buy that was done at Mr. Dabish’s house directly or indirectly. Too, there was no evidence or testimony provided by the CI in the affidavits indicating that Mr. Dabish hid contraband at his home, facilitated the purchase or sale of contraband at his home. Finally, none of the tests performed on the substances involved in Mr. Dabish’s alleged hand-to-hand transactions, **outside of his home**, were marijuana or even K2 for that matter. For these reasons, a reasonably cautious person could not have concluded that there was a ‘substantial basis’ for the finding of probable case” that a controlled substance existed at Mr. Dabish’s home. *Russo*, 439 Mich. at 603.

In addition the misrepresentation on the warrant at issue for Mr. Dabish rendered it unlawful. The trial court judge concluded that reading a warrant in a “common sense” manner essentially gave him *carte blanche* to approve a warrant he defined as a “misrepresentation” and “reckless.” (Exh. B at 17)(Exh. C at 4) This is

not the law, however. The Fourth Amendment states unambiguously that “no warrants shall issue, but upon probable cause supported by Oath or affirmation, and **particularly describing** the place to be searched, and the person **or things to be seized.**” *Groh v. Ramirez*, 540 U.S. 551, 557 (2004) (emphasis in original). The Fourth Amendment by its terms requires particularity in the warrant, not in the supporting documents. See *Massachusetts v. Sheppard*, 468 U.S. 981, 988, n. 5 (1984) (“[A] warrant that fails to conform to the particularity requirement of the Fourth Amendment is unconstitutional”); see also *United States v. Stefonek*, 179 F.3d 1030, 1033 (CA7 1999) (“The Fourth Amendment requires that the *warrant* particularly describe the things to be seized, not the papers presented to the judicial officer . . . asked to issue the warrant”). And for good reason: “The presence of a search warrant serves a high function,” *McDonald v. United States*, 335 U.S. 451, 455 (1948). Therefore, a warrant that fails in its particularity requirement is in fact to be construed as no warrant at all. *Groh*, 540 U.S. at 558; *McDonald*, 335 U.S. at 455; *United States v. Leon*, 468 U.S. 897, 923 (1984). The trial court judge in this matter described the warrant’s description of what was to be sought as a “misrepresentation” and “reckless.” The Constitution’s requirement of “particularity” is hopelessly irreconcilable with the phrase “misrepresentation” and “reckless.” Observance of this particularity requirement is not a mere technicality. See *Groh*, 540 U.S. at 559 (“We are not dealing with formalities [b]ecause the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion stands at the very core of the Fourth Amendment” (internal quotes and

cites omitted)). This Court should reverse the trial court judge's refusal to suppress the search of Mr. Dabish's home as a consequence.

II. The trial court failed to suppress evidence derived from a stale warrant.

Assuming, *arguendo*, that probable cause for the search warrant existed after the controlled buy in this matter, this does not mean that probable cause existed when the warrant was effectuated, **over a month later**. The passage of time is a valid consideration in deciding whether probable cause exists. *People v. Gillam*, 93 Mich. App. 548, 552 (1972). For a warrant to be issued, there must be a showing of reasonable cause to believe that illegal activity is occurring at the time of the warrant request. *People v. Siemieniec*, 368 Mich. 405, 407 (1962). "There is no hard and fast rule as to how much time may intervene between the obtaining of the facts and the making of the affidavit upon which the search warrant is based." *People v. Mushlock*, 226 Mich 600, 602 (1924). *United States v Harris*, 403 U.S. 573 (1971). "In the final analysis, the measure of a search warrant's staleness rests not on whether there is recent information to confirm that a crime is being committed, but whether probable cause is sufficiently fresh to presume that the sought items remain on the premises." *People v Gillam, supra*, p 553; *United States v Townsend*, 394 F Supp 736 (EDMich,1975).

In *Siemieniec, supra*, the police officer's affidavit stated that defendant had illegally sold liquor four days earlier. The court noted that the fact that defendant sold liquor four days earlier was not probable cause to believe that she was continuing to illegally sell liquor. The court held that the affidavit must state that there is some

sort of continuing illegal activity. Similarly, in *People v. Briolo*, the defendant made a drug sale to a police officer. 58 Mich. App. 547, 552 (1975). Forty-two days after the second and final sale, the police officer obtained a search warrant. Citing to *Siemieniec, supra*, the Court held that any probable cause which had existed when the drug sale was made was stale by the time the search warrant was obtained. The court stated that when there is a substantial delay, no warrant may be issued unless there is a showing of continuing criminal activity.

Here, the warrants for Woodstock and for Mr. Dabish's home were not effectuated until October 31st, 2012, over a month from the date the hand to hand buy occurred at Woodstock by Mr. Dabish's brother to the time the warrant was effectuated. Too, the amount of time lapse is even greater if you consider the trial court judge's original statement that Mr. Dabish may not be held accountable for the illegal activity of his brother. (Exh. B at 8). The affidavits supporting these warrants did not evidence "continued criminal activity" directly related to Mr. Dabish either. Though the trial court apparently waived in its original belief that Mr. Dabish is not accountable for his brother's sins, he later believed Mr. Dabish's brother's hand-to-hand transaction at Woodstock Tobacco in July 2012 somehow evidenced a criminal connection to Mr. Dabish, such is not the case. Mr. Dabish's brother, Jeffrey Dabish, has no ownership interest in Woodstock Tobacco or Citgo. (Exh E at 8). Thus, the only connection Mr. Dabish has to Jeffrey Dabish is familial, not criminal. This is insufficient to establish a criminal connection. Moreover, Woodstock Tobacco cannot be held vicariously liable for one who possesses no ownership interest in it

who committed criminal activity at its premises without authorization. Accordingly, in the absence of continued criminal activity attributable to Mr. Dabish, these search warrants were both stale. *Siemieniec*, 368 Mich. at 407; *Briolo*, 58 Mich. App. at 552.

III. The trial court failed to grant a motion to bifurcate Mr. Dabish and his brother's trial when the alleged crimes ascribed to both individuals were unrelated to one another

Upon a defendant's motion, a trial court **must** sever unrelated offenses. MCR § 6.121 (B); MCR § 6.120 (C). Offenses are related they are: "(a) the same conductor transaction, or (b) a series of connected acts, (c) a series of acts constituting parts of a single scheme or plan." That is, two offenses are related if based on the same conduct or a series of connected acts or acts constituting part of a single scheme or plan. *People v. Daughenbaugh*, 193 Mich. App. 506, 09-11 (1992). As the *Daughenbaugh* court further explained:

"Same conduct" refers to multiple offenses "as where a defendant causes more than one death by reckless operation of a vehicle." "A series of acts connected together" refers to multiple offenses committed "to aid in accomplishing another, as with burglary and larceny or kidnapping and robbery." "A series of acts . . . constituting parts of a single scheme or plan" refers to a situation "where a cashier made a series of false entries and reports to the commissioner of banking, all of which were designed to conceal his thefts of money from the bank.

Daughenbaugh, 193 Mich. App. at 509-10. In the present case, the record reveals no evidence that the Dabish brothers colluded or corroborated with one another to commit their separate alleged crimes. Nor, was there any evidence put forth that the Dabish brothers alleged offenses, when considered together, exhibit some scheme or modus operandi. For these reasons, the trial court erred by failing to abide by both

the plain and mandatory language regarding severance--“a trial court **must** sever unrelated offenses.” MCR § 6.121 (B).

CONCLUSION

Defendant-Appellant David Dabish hereby requests this Court to reverse the trial court’s ruling denying his motion to Suppress and Bifurcate Trial, as well as to order any other appropriate relief. In addition, Defendant-Appellant requests that his trial scheduled for July 24th, 2015 be stayed during the pendency of this appeal.

7.23.2015

Date

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SEARCH WARRANT AND AFFIDAVIT

State of Michigan)
)SS
County of Macomb)

12-38445

TO: The Sheriff or any Peace Officer of said county:

Detective Troy J. Titchenell, having subscribed and sworn to an affidavit for a Search Warrant, and I having under oath examined, am satisfied that probable cause exists:

THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you search the following described place:

The residence located at 2200 Edgestone Dr., Sterling Heights, Macomb County, Michigan. The residence is a two story single family dwelling. The residence has white brick with tan siding and a gray shingled roof. The residence is located east of Dequindre on the north side of Edgestone Dr. The front door faces south and the numbers "2200" are directly above the door. Also to be searched any and all persons, storage buildings and garages associated with 2200 Edgestone, Sterling Heights, Macomb County, Michigan, and all persons, and/or vehicles located at the residence or to any persons, at the residence during the execution of the search warrant.

and to seize, secure, tabulate and make return according to law, the following property and things:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to synthetic marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or use of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds. Vehicles, tools, firearms, computers, computer equipment, computer hardware and/or software, and any other equipment found to be stolen or suspected of being stolen property.

The following facts are sworn to by the Affiant in support of the issuance of this warrant:

Affiant has been employed as a Police Officer since 1989.

Affiant has been employed by the Shelby Township Police Department as a Police Officer since 1995.

Affiant is currently assigned to Shelby Townships Detective Bureau to investigate the illegal trafficking/use of controlled substances and other crimes

Affiant has been involved in over 1500 investigations and has over 9 year experience investigating the illegal trafficking of controlled substances.

It is affiant's experience that persons involved in the trafficking/use of controlled substances are often in possession of currency and/or negotiable instruments from prior drug transactions.

It is affiant's experience that persons involved in the illegal trafficking/use of controlled substances often store additional quantities of the controlled substances within their residence and storage facilities.

It is affiant's experience that scales, packaging, containers, records, computers, computer equipment, books, accounts and telephone records are often used by persons involved in the trafficking/use of illegal controlled substances. Records, bills and photographs are often found establishing ownership and/or residency.

It is affiant's experience that firearms are very often used by persons involved in the trafficking/use of illegal controlled substances for their protection, and/or the protection of their controlled substances and/or proceeds.

It is affiant's experience that persons involved in the trafficking/use of controlled substances often keep additional quantities of the controlled substances, packaging materials, and scales in vehicles registered to them and use these vehicles to facilitate the purchase and/or sale of illegal controlled substances.

It is affiant's experience that persons involved in the trafficking/use of controlled substances are often also involved in other criminal activity including but not limited to thefts, larcenies and possession of stolen property.

During the past 9 months Shelby Twp narcotics unit has received at least 100 tips that the owners of Citgo at 46555 Van dyke and Woodstock Tobacco at 46699 Van dyke are selling synthetic marijuana/k2. Affiant has personally received several tips from detectives throughout Macomb County in reference to Citgo and Woodstock selling synthetic marijuana/ K2.

Affiant has been contacted by D/Lt. Eric Old from the COMET task force stating he has received numerous tips about Citgo/Woodstock selling K2.

During the week of 7-9-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. buy funds to make the purchase. ci was then followed directly to 46555 van dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walked out getting back into his/her vehicle. D/Sgt Schmittler observed David Dabish w/m 12-28-72 exit the Citgo gas station walk over to ci's vehicle and give ci k-2 and ci then gave Dabish the Shelby Twp buy funds. D/Sgt Schmittler observed David Dabish make additional k2 transactions in the Citgo lot.

CI then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria K2 which he/she stated was purchased from David Dabish with the Shelby Twp buy funds

During the week of 7-16-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van Dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. Buy funds to make the purchase. Ci was then followed directly to 46555 Van Dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walk out getting back into his/her vehicle. D/Sgt Schmittler observed Audrick Dabish w/m 8-11-94 exit the Citgo gas station walk over to ci's vehicle and give ci k-2. The ci then gave Audrick Dabish the Shelby Twp buy funds.

CI drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria k2 which he/she stated was purchased from Audrick Dabish with the Shelby Twp buy funds

During the week of 7-23-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of marijuana from Dabish " Jeff" Dabish at the Woodstock tobacco shop located at 46699 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Affiant gave ci prerecorded Shelby twp. Buy funds to make the purchase. CI was then followed directly to 46699 van dyke.

Det Heisler observed as ci walked into the Woodstock tobacco shop and exit a short time later. CI walked out getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave Affiant marijuana which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

Affiant field tested the marijuana using Nark II test kit 5 obtaining positive results.

During the week of 9-25-12 affiant was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from Dabish "Jeff" Dabish in Sterling Heights.

Affiant and agents from DEA met with ci at a prearranged location. Affiant searched the ci and the ci's vehicle with negative results. Affiant gave the ci prerecorded DEA buy funds to make the purchase. Ci was then followed directly to the Knights Inn at 7887 17 mile in Sterling Heights.

TFO Debottis observed as ci walked into room 246 then walked out a short time later getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer k2 which he/she stated was purchased from Dabish "Jeff" Dabish with the DEA buy funds.

TFO Debottis advised affiant after ci left he observed Dabish "Jeff" Dabish and Audrick Dabish exit room 246 both looking up and down the parking lot. There was a gray Cadillac CTS MI- CGA-7888 in front of room 246 that affiant has seen Dabish Dabish in frequently.

During the week of 10-08-12 writer was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the Dabish "Jeff" Dabish in the area of 18 mile and Dequindre.

Writer met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. CI was then followed directly to 18 mile and Dequindre where Det R. Heisler observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle.

Dabish "Jeff" Dabish exited ci's vehicle in less than a minute returning to his Cadillac then exiting the area. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 4 different

21

brands of k2/potpourri which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

The k2/synthetic marijuana was sent to the MSP crime lab and tested positive for AM-2201 and MAM 2201 which are both schedule 1 narcotics.

Affiant was contacted over the past 48 hours by confidential informant #411 (herein after referred to as ci). Ci stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. Ci stated he/she could make the buy from the Dabish Dabish in the area of Mound and M59.

Affiant met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. CI was then followed directly to mound and M59 where Agent Joyner observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle. Dabish Dabish exited ci's vehicle in less than a minute returning to his Cadillac before exiting the area.

The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer several different brands of k2/potpourri which he/she stated was purchased from Dabish Dabish with the Shelby Twp buy funds. Writer transported the k2 back to Shelby Twp PD where it was logged into property.

DEA agents and Shelby Twp narcotics unit surveilled Dabish directly to the Dabish family owned Citgo gas station at 46655 van dyke. Dabish was observed walking into the gas station and opening the cash register. Dabish placed money made from the illegal K2 sale into the cash register. Dabish exited Citgo put gas in his Cadillac and was then surveilled throughout the West Bloomfield area before returning to his residence at 5444 Paul Louis in West Bloomfield.

Affiant ran Dabish Jeffrey-Adel Dabish 8-8-77 through lein and it shows an address of 5444 Paul Louis Ln. in West Bloomfield. Dabish was charged in 1998 by Farmington Hills with a Felony Traffic offense. Dabish pled guilty to Fleeing and Eluding 3rd, Possession of Marijuana and operating-no license/multiple licenses.

Dabish was charged in 1998 by MSP- CID with Felony controlled substance. Dabish was found guilty of Attempt -- Misdemeanor Controlled Substances (Cocaine, Heroin or another narcotic less than 25 grams.

Dabish was charged in 2002 by Sterling Heights with Dangerous Drugs. Dabish pled guilty to Poss. of Drug Paraphernalia.

Dabish was charged in 2002 by White Lake Twp 4 counts of Felony Forgery and counterfeiting. Dabish pled guilty to Felony Uttering and Publishing and was sentenced to 34 months to 28 years in State Prison.

Dabish was charged in 2004 by Utica Police with Felony Larceny. Dabish pled guilty to Misdemeanor false Pretenses-\$200-\$1000.

Dabish was charged in 2010 in Walled Lake with Larceny. Dabish Pled guilty to Larceny \$200-\$1000.

Affiant ran David Edel Dabish 12-28-72 through Lein and it shows David's address as 2200 Edgestone in Sterling Heights. David was charged in 1994 in Farmington Hills with a Felony Weapons charge. David Pled guilty to Felony Weapons-Carrying Concealed.

David Dabish was charged in 1996 by MSP-TET with Felony Tax/ Revenue. David pled guilty to Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2004 by MSP SECID with Misdemeanor Gambling. David was Found Guilty of Misdemeanor Gambling- Disassociated Person Trespassing.

David Dabish was charged in 2006 by Shelby Twp Police with Assault excluding sexual and Public peace violations. David pled guilty to Assault and Public Peace was dismissed.

David Dabish was charged in 2010 by MSP SECID with 6 counts of Felony Tax/Revenue. David pled guilty to Attempt-Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2012 by Sterling Heights PD with 1 count Public Peace and 1 count Obstructing Police. David Pled guilty to Disorderly Person.

Audrick David Dabish 08-11-94 has made a delivery of K2 to CI. Audrick works at Woodstock Tobacco and Citgo gas station and is the Son of David Dabish. Affiant arrested Audrick in 2012 for Disorderly Conduct and Minor in possession of tobacco.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family according to Shelby Twp records. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

Based on the above facts and Affiants experience it is Affiants belief that additional quantities of Synthetic Marijuana may be located at 2200 Edgestone Dr., Sterling Heights, Macomb County Michigan, therefore this request to search is being made.

This is an ongoing covert investigation and the safety of persons involved and/or integrity may be harmed if the affidavit is made public at this time. Therefore, Affiant requests this affidavit remains suppressed for a minimum of fifty-six days or until so ordered by the court.

Further Affiant sayeth not.

Reviewed on _____ by

Prosecuting Official

Affiant

[Signature]

Subscribed and sworn to before
me on 10/30/12 5:50 p.m.

[Signature]
Judge/Magistrate

33044

SEARCH WARRANT

Sate of Michigan)
) SS
County of Macomb)

12-38445

Detective Troy J. Titchenell, Affiant has sworn to the attached affidavit regarding the following:

1. **The person, place or thing to be searched is described as and located at:**

The residence located at 2200 Edgestone Dr., Sterling Heights, Macomb County, Michigan. The residence is a two story single family dwelling. The residence has white brick with tan siding and a gray shingled roof. The residence is located east of Dequindre on the north side of Edgestone Dr. The front door faces south and the numbers '2200' are directly above the door. Also to be searched any and all persons; storage buildings and garages associated with 2200 Edgestone, Sterling Heights, Macomb County, Michigan, and all persons, and/or vehicles located at the residence or to any persons, at the residence during the execution of the search warrant.

The PROPERTY to be searched for and seized, if found, is specifically described as:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or use of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds. Vehicles, tools, firearms, computers, computer equipment, computer hardware and/or software, and any other equipment found to be stolen or suspected of being stolen property.

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: I have found that probable cause exists and you are commanded to make the search and seize the described property.

Issued: 10/30/12
Date and time

[Signature]
Judge/Magistrate
5:50 p.m. 33044

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

- - -

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs.

Case No. 13-1880-FH

DAVID ADEL DABISH,

Defendant.

_____ /

PROCEEDINGS

BEFORE THE HONORABLE EDWARD A. SERVITTO, JR., JUDGE

Mount Clemens, Michigan - May 4, 2015

APPEARANCES:

For the Plaintiff: WILLIAM DAILEY
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586-469-5350

For the Defendant: ELIAS MUAWAD
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TABLE OF CONTENTS

Page
WITNESSES:
(No witnesses offered)

EXHIBITS:
(No exhibits offered)

Received

B 2

1 Mount Clemens, Michigan

2 May 4, 2015

3 At about 10:44 a.m.

4 - - -

5 THE COURT: People versus Dabish.

6 MR. DAILEY: William Dailey here on behalf of
7 the People.

8 MR. MUAWAD: Your Honor, good morning. Elias
9 Muawad on behalf of David Dabish who's here sitting
10 down.

11 MR. DAILEY: Your Honor, Mr. Kramer is also
12 here regarding co-defendant Dabish Dabish. I think
13 the motion at this point primarily applies to David
14 Dabish though.

15 THE COURT: All right.

16 MR. MUAWAD: Judge, we been spending the last
17 hour and a half going through the dates, and this is
18 what we show. There are no tests concerning David
19 Dabish or the children to get into the home. We've
20 confirmed that. Mr. Dailey and Sergeant Titchenel
21 confirmed that, and I believe that regarding the
22 search warrant to the home that I do not think they
23 had probable cause to get into the house.

24 We also know --

25 THE COURT: Mr. Dailey.

B 3

1 MR. DAILEY: Judge, there were, one, two,
2 three, four, five, six controlled purchases of
3 suspected K-2 or what was being called K-2 in this
4 case. Several of the suspected purchases of K-2 did
5 not go to a crime lab, either DEA or the state police.
6 One in fact did and we'll let you know that was a
7 first purchase of suspected, what's called K-2
8 suspected synthetic marijuana, that was from David
9 Dabish. That went to the Michigan State Police crime
10 lab and came back negative for any controlled
11 substance.

12 MR. MUAWAD: Right.

13 MR. DAILEY: The purchase was made by a
14 confidential informant. There were, in that case,
15 there were two packets of suspected K-2 done. It was
16 a hand to hand in the parking lot outside the business
17 of the Citgo gas station, and then the affidavit goes
18 on to say there is a police officer who observes
19 suspect David Dabish making additional hand to hand
20 transactions of suspected K-2 in the Citgo parking
21 lot. And then they detail going back and receiving
22 the suspected K-2.

23 THE COURT: But here's what we have, if it is
24 true.

25 MR. DAILEY: It is true.

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1 THE COURT: We don't have the delivery of a
2 controlled substance.

3 MR. DAILEY: Correct. In fact we know it's
4 not a controlled substance, according to the lab.

5 THE COURT: So there is really no probable
6 cause that a controlled substance is at the residence.

7 MR. DAILEY: Well, that's -- I want to let
8 you know another one too because I'm going to make a
9 similar argument, but I'll get right to it. The tip
10 is that these individuals are selling K-2, which is
11 suspected synthetic marijuana. During the course of
12 their investigation they make controlled purchases
13 from David Dabish, Dabish Dabish and it's Audra Dabish
14 at different locations. The transactions are hand to
15 hand transactions out in a parking lot, at a hotel.
16 And, Judge, as you know, it is also a felony in the
17 State of Michigan to distribute imitation controlled
18 substance.

19 THE COURT: No question.

20 MR. DAILEY: Correct.

21 THE COURT: No question that's true. But if
22 -- what are you searching for when you're not
23 searching for -- you get a search warrant on the basis
24 that there is a controlled substance, when in fact
25 there is no basis for the controlled substance

1 probable cause?

2 MR. DAILEY: There is a basis, though. In
3 looking right at the search warrant to believe that on
4 multiple different occasions they are selling K-2 or
5 suspected K-2 which is suspected synthetic marijuana
6 to an informant at different locations, these are hand
7 to hand transactions and they are called K-2, and
8 anyplace that an officer could look for imitation K-2
9 or suspected K-2, they might likely find the real
10 stuff.

11 THE COURT: But the problem is the
12 representation was that it was K-2, that's the
13 problem, and in fact there is not a basis for it.

14 MR. DAILEY: The representation in this case,
15 Judge, was that it was K-2. There's one specific
16 reference in the affidavit that, and I'm going to find
17 that for you -- well, there is one that was a positive
18 field test for marijuana, but there is another one
19 where there was specific reference given to Michigan
20 State Police crime lab testing positive for controlled
21 substance, doesn't relate to his client, it does not
22 relate to David directly.

23 To the extent that David and Dabish Dabish
24 and Audra Dabish are family members and they are
25 selling this stuff at multiple different locations in

B 6

1 town, tested positive at this time and on this date
2 the affidavit frankly is silent as to the other buys,
3 but I'm telling you in fact it was negative on one
4 occasion, but I don't think that obviates whether or
5 not there was probable cause for the police to believe
6 there was imitation controlled substance feloniously
7 being sold around the county.

8 THE COURT: But the purpose of going into the
9 home was not to find imitation controlled substance.

10 MR. DAILEY: Correct. It was to find K-2.

11 THE COURT: And there is no basis to
12 determine that K-2 was actually ever sold.

13 MR. DAILEY: The K-2 was represented by David
14 Dabish to the informant.

15 THE COURT: In fact the only information that
16 you have is that it was not in fact K-2.

17 MR. DAILEY: Once it was not and once it was
18 nothing. Other times with co-defendant it was
19 positive, his brother. The synthetic marijuana, Judge
20 --

21 THE COURT: It was positive for the brother
22 at what time frame?

23 MR. DAILEY: It was positive for the brother
24 -- well, one time it was marijuana that was positive.
25 And then it was positive during the week of 9-25 and

B 7

1 then it was positive during the week of 10-8.

2 THE COURT: And the search warrant was signed
3 when?

4 MR. DAILEY: 10-30.

5 THE COURT: So, then your argument is -- all
6 right. He's selling imitation controlled substance,
7 your client. His brother is selling marijuana and an
8 actual controlled substance.

9 MR. DAILEY: Yes.

10 THE COURT: How does the crime of the brother
11 relate to the -- how do you become responsible for
12 your brother's wrongdoing? You can't. Can't do it.
13 The search of his home just -- there's no basis for
14 his home.

15 MR. DAILEY: Is the Court specifically
16 finding then that -- and I don't know, maybe you want
17 to read the affidavit before you make that finding.

18 THE COURT: Let me read the affidavit.

19 MR. DAILEY: I did write notes on it. So I
20 want you to understand I wrote notes on what the
21 positive and negative tests were. Please don't let
22 that influence you --

23 MR. MUAWAD: I don't care.

24 MR. DAILEY: -- use our representations.

25 MR. MUAWAD: Right. I'll tell you that the

1 warrant and while you're reading it is based upon
2 controlled substance, not an imitation substance. But
3 take your time.

4 And my facts and my motion mirror the facts
5 alleged in the search warrant, affidavit.

6 THE COURT: There was nothing positive taken
7 from the Citgo station.

8 MR. MUAWAD: Correct.

9 MR. DAILEY: Nothing that tested positive,
10 Judge, that's correct.

11 THE COURT: And Mr. Dabish, David Dabish's
12 relationship is part owner of the Citgo gas station,
13 nothing else. There's no other connection other than
14 family. There's nothing further to warrant a search
15 of his residence. There's nothing to here that -- a
16 search, a search warrant was obtained for controlled
17 substance violations.

18 MR. DAILEY: Yes.

19 THE COURT: David Dabish is not, as a matter
20 of fact, involved in the distribution of controlled
21 substances by the facts in the affidavit.

22 I mean they said -- no, there's no basis to
23 go into -- let's assume they had said in the affidavit
24 that the test results were negative, that he's selling
25 artificial controlled substance. That's not a basis

1 to go into someone's home to find artificial
2 controlled substance. However, it would be a basis to
3 find maybe records, computer records, and things of
4 illegal transactions associated with the sale,
5 artificial controlled substances. Not a basis to go
6 look for controlled substances.

7 MR. DAILEY: I see what you're saying. The
8 first time you said it, I think you said if we had
9 indicated he was selling imitation controlled, and I
10 like imitation, because that's the word in the
11 statute, that there would be no basis to look for
12 imitation controlled.

13 THE COURT: I think you can go look for
14 imitation controlled.

15 MR. DAILEY: Fair enough. That's not what I
16 heard the first time you verbalized it.

17 THE COURT: But what is imitation controlled?
18 I mean that's -- I guess you could find imitation
19 controlled substance, packaging materials.

20 MR. DAILEY: It looks just like K-2. It's
21 the same thing. It's being sold as K-2. It's being
22 sold in a parking lot, sold multiple times in a
23 parking lot. There is a business right there, the
24 Citgo, the affidavit indicates you have a person
25 coming out of the business doing hand to hand

1 transactions in a parking lot outside the business,
2 and it fits the definition in the public health code,
3 by the way under the controlled substances, Article 7
4 controlled substances, of distribution of imitation.

5 And part of the logic I guess I'm asking you
6 and the legal analysis I'm asking you to employ, it's
7 similar to what the Michigan Supreme Court did in
8 People versus Keller where you have police officers
9 saying, "Look, we got a tip that someone was selling
10 marijuana," and the police go and they do a trash pull
11 and they find a pizza box with some marijuana stems
12 and seeds in it, for lack of a better, that's the main
13 part of what they found, indicating there was
14 marijuana distribution going on at this residence.

15 So they then go get a search warrant to look
16 for evidence of distribution and delivery of
17 marijuana. The Court of Appeals and Supreme said --
18 technically the Supreme Court said, "Look, there might
19 not -- that might not constitute evidence of
20 distribution of marijuana, which is what you were
21 going to look for, but it does show there was crime
22 potentially going on there and there's probable cause
23 to believe that there is marijuana there." So they
24 could go and look where they might find marijuana.
25 And that's when they said it's okay.

1 I'm asking you to use -- employ a similar
2 analysis. You have somebody selling K-2, which I
3 think K-2 is actually listed in the statute, but it's
4 not a controlled substance.

5 THE COURT: I don't know that he's selling
6 K-2.

7 MR. DAILEY: He's selling it as K-2 to the
8 informant.

9 THE COURT: Okay.

10 MR. DAILEY: And to other people, at least in
11 surveillance, taking the affidavit for what it's
12 worth.

13 THE COURT: But it's not actual K-2.

14 MR. DAILEY: Well, K-2 dope or drugs or
15 illegal -- K-2 is not the controlled part of it. He's
16 selling it as K-2. The public knows it's K-2. The
17 public ingests it to get high. The actual controlled
18 substance, I think were MAM2201, AM2201. There's a
19 number of JWH's that were found in the lab reports,
20 Judge.

21 That's where the imitation part of it comes
22 in. If you're selling K-2 to an informant or selling
23 it as K-2 in a parking lot hand to hand, two packs of
24 it, and doing it outside these locations as opposed to
25 maybe buying your Orange Crush out of the cooler at

1 the Citgo gas station, there's a strong argument,
2 Judge, and strong belief, at least to a probable
3 cause, for a magistrate to find that that is an
4 appropriate search to go look for that stuff.

5 MR. MUAWAD: Look, Judge, he's getting away
6 from the fact that when you look at the four corners
7 of the warrant, it says controlled substance. You
8 can't rewrite the warrant today and say controlled
9 substance and imitation controlled substance. They
10 don't have it. It's not in the four corners of the
11 affidavit.

12 Now, the case law he cites where they found
13 marijuana in the trash, yeah, that will give him
14 probable cause to go into the house, but because none
15 of the drugs dealing with Dave Dabish of the alleged
16 drugs were tested, they don't have probable cause and
17 you can't rewrite this affidavit today and say, "Wait
18 a minute. We have a separate theory now and it's
19 imitation controlled substance." It's not in the
20 affidavit. They should have put that in the affidavit
21 if they were going to go there for both controlled
22 substance and/or imitation controlled substance.

23 And that's what I think he's trying to do and
24 he's making a nice argument. But when you look at
25 this affidavit, it's controlled substance any day of

1 the week.

2 MR. DAILEY: It does say that. It absolutely
3 says that, and I'm asking you to consider, Judge -- in
4 this case they are asking you to suppress evidence. A
5 Court suppresses evidence when there is something that
6 the police did wrong and violated a fourth amendment
7 or a Michigan State Constitution which is analogized
8 similarly to the fourth amendment in every case to my
9 knowledge. In fact, I think our Supreme Court said we
10 look at it in the Michigan State fourth amendment.

11 What did the police do wrong here
12 constitutionally? They are out buying suspected
13 synthetic marijuana. In this case some of it tested
14 positive. None of it tested positive for David
15 Dabish, absolutely didn't. I can't fight that.

16 But they didn't constitutionally do anything
17 wrong here to warrant suppression. They still
18 investigated and obtained evidence of a public health
19 code 333.7341, controlled substance, Article 7, by
20 violation, imitation as opposed to actual. Both are
21 felonies. There's a strong case that the place they
22 wanted to search would lead to evidence being found of
23 those exact items.

24 There's nothing to warrant suppression here.
25 The police didn't do anything wrong. So, I know

1 Sergeant Titchenel is in the courtroom, his writing
2 probably could have been better, maybe he should have
3 put in and/or imitation controlled substance--

4 THE COURT: But the problem is they only knew
5 of the one transaction as being negative. The others,
6 I take it, they assumed were not negative. I don't
7 know.

8 MR. DAILEY: That might be for testimony. I
9 can tell you what I think he'd say if you swore him
10 in. He'll tell you yeah, he assumed that.

11 THE COURT: I would assume that's what he
12 would testify to.

13 MR. DAILEY: Yes, probably the next search
14 warrant Sergeant Titchenel writes similar to this will
15 say and/or imitation. We have marijuana that tested
16 positive.

17 THE COURT: The problem that you have is you
18 can't field test K-2.

19 MR. DAILEY: That's correct.

20 THE COURT: So, you don't have a field test
21 that will demonstrate whether it's the actual
22 controlled substance or an imitation controlled
23 substance, and David Dabish's involvement is only of
24 those K-2 products where there was either a negative
25 or no test associated with it.

1 But nonetheless you have the representation
2 that they are the drug from David, according to the
3 confidential informant, that you're buying a
4 controlled substance.

5 Assuming there is no test even for heroin or
6 marijuana or anything else, you have confidential
7 informants that go in and say, "I'm buying this," and
8 charge an amount of money, the drug is not tested but
9 officers come back and say the confidential informant
10 went in, offered a hundred dollars to buy marijuana,
11 was given a package and took the hundred dollars with
12 the representation it was marijuana. Would that be
13 sufficient probable cause absent any controlled
14 substance, I guess is the question, or the magistrate
15 makes the determination there's probable cause,
16 evidence of a crime taking place.

17 MR. MUAWAD: No, because there is a certain
18 statute and you're talking about imitation controlled
19 substance.

20 THE COURT: No, I'm talking about a search
21 warrant in general.

22 MR. MUAWAD: I see. No.

23 THE COURT: You don't think that an officer
24 based on a confidential informant obtaining a drug,
25 obtaining a substance that the seller represents to be

1 a controlled substance, takes the money for it with
2 the representation it's a controlled substance, for
3 the officer to go to the magistrate and say,
4 "Magistrate, the conformant informant went in, bought
5 this, with the understanding that I want to buy
6 marijuana," that the defendant saying, "Here's your
7 marijuana. Give me 100 bucks," or ten bucks or
8 whatever the case may be, that that would not be
9 sufficient for an examining magistrate?

10 MR. MUAWAD: Without a field test of lab
11 report, no.

12 THE COURT: Where is the test required is the
13 question. The test is not required. This Court is
14 satisfied that a test is not required. It would be
15 sufficient.

16 The problem I have is it's a
17 misrepresentation with the warrant that it is a
18 controlled substance. That's the problem.

19 MR. MUAWAD: That's what I was going to get
20 to. That's the problem it has in there.

21 THE COURT: And I can't put myself in the
22 position of the magistrate. The magistrate only knows
23 -- would I have signed the warrant on the basis that
24 it wasn't tested in light of all the information
25 that's contained in the warrant? I would.

1 MR. DAILEY: Again, I know you're the one
2 reviewing this obviously, Judge. The search warrant
3 itself has one line and it's a stand alone line and
4 it's after the purchase that took place, and it's the
5 purchase that took place after 10-8, Judge, and the
6 purchase that took place after the week of 10-8,
7 there's a stand alone line and it indicates, "The K-2
8 synthetic marijuana was sent to the M.S.P. crime lab
9 and tested for positive AM 2201 and MAM 2201," which
10 are both schedule one narcotics.

11 THE COURT: And those were sold by David.

12 MR. DAILEY: Those were sold by Dabish
13 Dabish.

14 MR. MUAWAD: The brother.

15 MR. DAILEY: The brother.

16 MR. MUAWAD: Yeah.

17 MR. DAILEY: What I want to tell you though
18 is it isn't that Sergeant Titchenel after each -- and
19 that's accurate, he has the lab report to back up
20 that. He did not indicate after each purchase that
21 they were -- they tested positive at the lab and
22 another controlled buy, they tested positive at the
23 lab. The affidavit is actually silent as to all of
24 them except for the one buy that tested positive at
25 the lab, and it did test positive at the lab.

1 So going under the misrepresentation idea,
2 and I understand we're exploring how it's put into the
3 affidavit, that statement is backed up by lab report.
4 I'm representing that to you even though he's not
5 under oath.

6 MR. MUAWAD: I think the Judge is talking
7 about Dave Dabish, my client, not Jeff Dabish.

8 MR. DAILEY: He's talking about what's
9 represented in the affidavit by the officer in terms
10 of it being a misrepresentation. It's represented in
11 there one time it went to the crime lab and tested
12 positive. It isn't represented after the previous
13 controlled buys, nor is it represented after the next
14 controlled buy, because there was one after that, and
15 it doesn't say after that it tested positive either.

16 THE COURT: Let me ask you. Were any of
17 David's sales confirmed to --

18 MR. DAILEY: I debated, frankly, sending it
19 to the crime lab now. I talked with people in my
20 office that I respect their opinion. One of them was
21 confirmed negative, and I don't think any others were
22 sent to the lab.

23 MR. MUAWAD: But it wouldn't matter, Judge,
24 as I said in the supplement brief, it has to form the
25 basis for the probable cause. You can't test it now

1 and go back.

2 THE COURT: I understand. That's for my own
3 edification.

4 MR. MUAWAD: I'm so sorry.

5 MR. DAILEY: I kind of got to the same point
6 Counsel got to. Because I know you're going to be
7 pointing me back in the document. If we have a Franks
8 hearing, maybe we do go past that document.

9 THE COURT: No, I don't think -- I think it
10 rests on the document itself. I'm going to give you
11 written opinion.

12 MR. MUAWAD: Can I finish up with a couple of
13 other points, Judge, if I may?

14 THE COURT: Go ahead.

15 MR. MUAWAD: Also, as you know, the Citgo
16 search warrant was invalid, no testing. That goes to
17 count two. Why? Because when they went in on the
18 Citgo warrant, they patted down David Dabish and they
19 found hydrocodone, I think, two pills on him. So if
20 the Citgo warrant is bad, then the pat down is bad and
21 therefore the fruits of the poisonous tree would
22 dismiss count two.

23 THE COURT: Were the only sales at Citgo --
24 see, there is a whole -- like the warrant doesn't
25 discuss the relationship other than the family

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relationship.

MR. MUAWAD: Correct.

THE COURT: It does reference that the Dabish's owned the Citgo. It doesn't identify which Dabish, simply the Dabish's.

MR. MUAWAD: Right.

THE COURT: And there's certainly sufficient basis for the other Dabish's without David to be the subject of the search, anything associated with them based on the warrant and the activity alleged that was taking place there, the search of the Citgo, is appropriate. The Court denies your motion relative to the Citgo gas station.

MR. MUAWAD: Okay. So, Woodstock, just so you know the issue on that, and I know you got to get going and you got other issues, you certainly got a staleness argument on the Woodstock because that warrant was not effectuated until three months from --

THE COURT: The activity continued long after the Woodstock.

MR. MUAWAD: Not at Woodstock.

THE COURT: Not at Woodstock, but involving the Dabish -- but Woodstock being one of the places that transactions took place, I believe that was the marijuana.

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MR. MUAWAD: Correct.

THE COURT: That's the marijuana. And all the other activities associated with the business. Now Woodstock being also a Dabish enterprise, that being the case, it is sufficient that that happened at the Dabish -- at Woodstock.

The Court is satisfied that there was sufficient nexus to order the execution of the warrant.

MR. MUAWAD: And the last thing that obviously you're going to get a written opinion on David because there is nothing to show --

THE COURT: David's residence.

MR. MUAWAD: Right, David's residence. And I would argue count one goes. If you got nothing on David at all as far as any delivery, count one goes.

THE COURT: But the only thing that troubles me with your argument is the ostensibly the representation that the Dabish's, without exception, owned each of these locations where drug trafficking was taking place, independent of the individual sale of David, the relationship to the activities of the businesses co-owned by the individuals, why wouldn't that be a sufficient basis within the four corners of the warrant?

1 MR. MUAWAD: Well, because there is nothing
2 to show with David Dabish there was any delivery at
3 all.

4 THE COURT: Delivery isn't the issue.
5 Delivery is the issue from the locations, that you
6 don't have to be the actual person delivering to be
7 involved in the enterprise, suffice it to say that my
8 home is the home that's being utilized as a narcotics
9 trafficking location, even though I stay somewhere
10 else. I may very well be subject to a search if I'm
11 allowing my home to be used for that purpose.

12 MR. MUAWAD: I think my argument was the
13 Court -- not on a probable cause standard but on the
14 actual count one, that he did, meaning David Dabish,
15 possess with the intent to deliver the controlled
16 substance, I think that goes if the warrant -- the
17 warrant goes on David. That's my only argument. I
18 don't think it's an issue of fact, I think it's gone.

19 THE COURT: I understand.

20 MR. MUAWAD: Okay. Fair enough.

21 MR. DAILEY: Judge, I was trying to get a
22 citation quickly, and I understand you're going a
23 little quicker, and maybe I can give it to the Court
24 subsequent, I'll give it to you later, it's People
25 versus Darwich (ph) when you're evaluating whether or

1 not the search of the home is appropriate in light of
2 the previous two findings that you have made, I'd ask
3 you again to please look at the language of the search
4 warrant and consider People versus Darwich which is a
5 published Court of Appeals case.

6 MR. MUAWAD: And unfortunately that case
7 doesn't help him because they went in on the home at
8 the same time they went into the business. If they
9 went into the businesses first and then say, "Hey,
10 we're going to get a second warrant to the home," then
11 he may have that argument. But because they went in
12 on this warrant with David Dabish that they didn't
13 have probable cause on, you can't argue that. I'm
14 just putting it on the record, Judge.

15 THE COURT: I don't know.

16 MR. MUAWAD: Thanks, Judge.

17 MR. DAILEY: Do we have a return date, your
18 Honor?

19 MR. MUAWAD: We have trial on May 19.

20 THE COURT: So if you want to come back next
21 week.

22 MR. MUAWAD: Do you want to look at it?

23 THE COURT: Let me look at it a little more.

24 MR. MUAWAD: Keep the search warrant. That's
25 fine.

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MR. DAILEY: I actually need to make a copy because that's my copy. I'll leave a copy for you, Judge. Do you want the Keller opinion, Supreme Court opinion?

THE COURT: That would be helpful.

MR. DAILEY: I'll give it to you and give you a copy of People versus Darwich as well.

MR. MUAWAD: Do you want us back here next Monday?

THE COURT: Yeah. I'll have to decide it.

MR. KRAMER: Afternoon or morning?

THE COURT: Afternoon is probably better.

MR. MUAWAD: All right. Thanks, Judge.

THE CLERK: 1:30.

(Proceedings concluded at 11:18 a.m.)

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CERTIFICATION

STATE OF MICHIGAN)
COUNTY OF MACOMB) SS

I, Mary T. Nader-Cimini, Official Court Reporter of the Sixteenth Judicial Circuit, State of Michigan, do hereby certify that the foregoing pages comprise a full, true and correct transcript taken in the matter of The People versus David Adel Dabish, Case Number 13-1880-FH, on May 4, 2015.

/s/ Mary T. Nader-Cimini, CSR-2643
Official Court Reporter

Date: _____
Mount Clemens, Michigan

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

- - -

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs.

Case No. 13-1880-FH

DAVID ADEL DABISH,

Defendant.

_____ /

PROCEEDINGS

BEFORE THE HONORABLE EDWARD A. SERVITTO, JR., JUDGE

Mount Clemens, Michigan - May 11, 2015

APPEARANCES:

For the Plaintiff: WILLIAM DAILEY
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TABLE OF CONTENTS

Page
WITNESSES:
(No witnesses offered)

EXHIBITS:
(No exhibits offered)

Received

C 2

1
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Mount Clemens, Michigan
May 11, 2015
At about 3:09 p.m.

- - -

THE COURT: People versus Dabish. Is everybody here?

MR. DAILEY: Yes, Judge.

THE COURT: All right. Your appearances.

MR. DAILEY: Your Honor, good afternoon. William Dailey for the People.

MR. MUAWAD: Your Honor, Elias Muawad on behalf of David Dabish.

MR. KRAMER: Elliot Kramer on behalf of the co- defendant Jeffrey Dabish.

THE COURT: We were last here and the Court ruled that the search of the Citgo gas station was appropriate under the circumstances based on the information that was approved by the magistrate and the defendant David Dabish's relationship to the Citgo gas station as well as to the other establishment, the --

MR. DAILEY: Woodstock.

THE COURT: Woodstock.

MR. MUAWAD: I think you mean Jeff Dabish. That's the brother.

1 MR. DAILEY: You just indicated that the
2 search was upheld as to those two locations, and
3 that's what you indicated last time.

4 THE COURT: That's what I indicated last
5 time.

6 What remained, however, was his home and the
7 question relative to his home was that the K-2 sold
8 was not tested.

9 MR. MUAWAD: One was tested and no results
10 and the other was not tested.

11 THE COURT: And the search warrant affidavit
12 did not indicate or demonstrate testing for those.
13 The question becomes was there -- a couple of
14 questions. Was this recklessness on the part of the
15 affiant and was the representation that K-12 was being
16 sold by the defendant an adequate representation for
17 the magistrate.

18 In reviewing the affidavit, the information
19 that was relied to the examining magistrate was
20 information that the defendants supplied, "This is
21 what I'm selling," and he represents that to the
22 person that purchased the K-12. "This is what I'm
23 selling."

24 Now the fact that they were not tested with
25 one exception that came back negative really doesn't

1 affect the validity of the warrant.

2 Again, and this is People versus Whitfield,
3 461 Michigan 441, 444. "Adequate support. The
4 affidavit need not prove anything. It need only
5 provide a substantial basis for concluding that a
6 search would undercover evidence of wrongdoing. The
7 affidavit must be read in a common sense and realistic
8 manner."

9 The defendant's representation that he was
10 selling a controlled substance, even if it were an
11 imitation controlled substance and the imitation were
12 on the site, would be a sufficient basis.

13 MR. MUAWAD: I'm a little unsure where the
14 Court's getting my client admitted that he was selling
15 a controlled substance.

16 THE COURT: When the person went in to buy
17 K-12, he represented he's selling K-12.

18 MR. MUAWAD: No. I mean it's not anywhere in
19 the police reports is what I'm saying. I think you're
20 deduction that, is what you're saying.

21 THE COURT: Well, I believe that the warrant
22 affidavit, the search warrant affidavit represents
23 that he sold what was represented to be K-12 to the
24 confidential informant. Am I mistaken? I don't have
25 it in front of me. Let me see what the warrant -- let

1 me see the affidavit.

2 MR. DAILEY: I want to correct the Court.
3 It's K-2. But each time that K-12 was said, did you
4 mean K-2?

5 THE COURT: I did. I apologize.

6 MR. DAILEY: I have some notes in the
7 margins. But I can tender that to the Court.

8 THE COURT: Any objection?

9 MR. MUAWAD: No, it would be the week of June
10 of 2012 is the first alleged buy with the CI.

11 THE COURT: I see July 16. Is that what
12 you're referencing? You said June.

13 MR. MUAWAD: It could be July. My apology.

14 THE COURT: Yes. The affidavit says as
15 follows. "Pre-arranged location, the confidential
16 informant, the confidential informant was searched
17 with negative results. The confidential informant
18 gave writer the two packets of K-2 which he/she stated
19 was purchased from David Dabish with Shelby Township
20 buy funds."

21 Now, the preceding paragraph indicates that
22 the officer observed two additional sales of K-2 at
23 the Citgo gas station by David Dabish of the K-2. Now
24 I know they weren't tested, but the representation is
25 that this is what they were purchasing, and that's the

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1 common sense interpretation. If it was a
2 representation that he was in fact selling a
3 controlled substance or even an imitation controlled
4 substance, I think that they should have been tested,
5 but I don't think it defeats the purpose of the
6 warrant in that it was -- whether it was K-2 or
7 imitation K-2 really doesn't affect probable cause, or
8 had it merely said represented he was selling K-2
9 which one was tested negative and the other tested not
10 tested wouldn't affect the probable cause issue for
11 conducting the search to either find imitation K-2 or
12 the K-2, and because of that and his other connections
13 with the other parties and the establishments from
14 which drug transactions were taking place, it does
15 appear that under these circumstances there was a
16 sufficient basis, probable cause, that certain
17 evidence of criminal activity would be located at that
18 specified place, that being his residence.

19 Therefore, I do not find by a preponderance
20 of the evidence that there was a deficiency that would
21 warrant the suppression of the materials found as a
22 result of the search.

23 MR. MUAWAD: Judge, I apologize. I need to
24 try to keep the record clear and I'm doing that
25 because I think there was a little misunderstanding

1 when we were last here. I know you made your ruling
2 on Woodstock and I know you made your a ruling on
3 Citgo, and it was based upon the fact that Jeff
4 Dabish, my client's brother had some type of
5 affiliation, ownership, management with Woodstock and
6 Citgo and therefore the staleness provision would not
7 apply because he was doing the majority of the CI
8 buys.

9 I want to point out to the Court and I don't
10 know if it's makes any difference or not is that he
11 has no ownership, management, he has nothing to do
12 with Citgo or Woodstock to tie him in, and I think my
13 argument in the supplemental brief is that if an
14 employee goes out there and is doing hand to hand, the
15 owner doesn't know anything about it, has no control
16 over it, I don't think you can tie in the owner to it,
17 but I still think there is a stale warrant because the
18 Woodstock hand to hand was done in July. The warrant
19 wasn't effectuated until October 30, and the other
20 hand to hands were never done at Woodstock. They
21 should have probably gone into Woodstock at that time.

22 I just want to make the record clear, if
23 that's still your ruling, that's still your ruling,
24 but I have to clear the record on Jeff Dabish's part
25 in this whole thing.

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THE COURT: What are you clearing?

MR. MUAWAD: You had ruled last week when I argued for staleness on the Woodstock. The Woodstock tobacco search warrant was effectuated on October 30 of 2012. The Woodstock hand to hand buy, which yielded marijuana, was in the end of I believe July of 2012.

THE COURT: And they were sold by --

MR. MUAWAD: Jeff Dabish.

THE COURT: And what is Jeff's involvement?

MR. MUAWAD: He has no involvement.

THE COURT: Pardon?

MR. MUAWAD: He has none, no involvement with the stores.

THE COURT: He was at the location.

MR. MUAWAD: He was at the location. That's exactly what it says. But as far as tieing in Jeff Dabish, I think you were saying that --

THE COURT: No, what we did is tie in David to the location.

MR. MUAWAD: I misunderstand you.

THE COURT: David's ownership interest.

MR. MUAWAD: David Dabish owns Woodstock, David's mother owns the Citgo, not the --

THE COURT: But he still had an interest in

1 both.

2 MR. MUAWAD: Just Woodstock, Judge.

3 THE COURT: No, that's not my understanding.
4 My understanding was he either worked there as an
5 employee or he was part owner, but he was -- let me
6 ask. Does it reference his relationship to Citgo?
7 You took it back.

8 MR. MUAWAD: There is a paragraph that talks
9 about it.

10 MR. DAILEY: There is a paragraph, unless you
11 want to just look at it, and I can hand it to you.

12 THE COURT: Yeah.

13 Well, unfortunately it's not clear. What it
14 does say, "the Citgo gas station and Woodstock Tobacco
15 are both owned by the Dabish family, according to
16 Shelby Township records." It doesn't distinguish or
17 indicate. It simply says the Dabish family.

18 It's not the best written search warrant,
19 Mr. Dailey. But, again, I think that is still -- does
20 not indicate that material essential to the probable
21 cause was knowingly, recklessly included.

22 What it suggests to the Court is that without
23 identifying what interest each had, that the
24 involvement of those taking place in the alleged sales
25 had an interest in the locations, and I think that is

1 adequate for purposes of a search warrant, and I'm
2 denying your motion.

3 MR. MUAWAD: For a housekeeping matter then,
4 Judge, trial is next Tuesday, and I don't -- I don't
5 know if I'm going to be ready because I don't have the
6 lab results of what -- I mean Mr. Dailey just showed
7 me some of the results today. I don't know if his
8 officer has anymore. I'm not really blaming anybody,
9 it's not my style, you know that. I just don't know
10 if I'm going to come here next Tuesday and say I need
11 more time or not. That's where I'm at. I talked to
12 Mr. Elliot about it, I talked to Mr. Dailey about it.
13 I've got an expert that's got to look at some stuff.

14 THE COURT: What are we missing?

15 MR. DAILEY: The case, Judge, as you know is
16 -- it's an old case. That being said, I think part of
17 the problem is it's an old case. I know Counsel is
18 not the original attorney and maybe not even the
19 second attorney on the file. He's the third or fourth
20 attorney representing Mr. Dabish. And I'm speaking
21 about Mr. Muawad representing David Dabish.

22 That being said, Judge, whatever discovery he
23 needs to have, you probably saw sitting up here going
24 through my file. I took every piece of paper out of
25 my file today that I have. I certainly have lab

1 reports in my file. Counsel says he doesn't have
2 them. I believe him that he doesn't have them.
3 Probably one, two, three attorneys ago have it, Judge.
4 THE COURT: Let me ask, did we ever get lab
5 reports for the K-2?
6 MR. DAILEY: You're talking about the stuff
7 they recovered from the search warrant?
8 THE COURT: No, from the sales.
9 MR. DAILEY: I did not -- we have two -- no,
10 actually we have one. We have three lab reports. I
11 know we're just talking now and you're inquiring about
12 the search warrant affidavits because you ruled. We
13 have three results of that. At this point they're not
14 charged criminally with that activity. They are
15 charged criminally with the evidence that was
16 recovered as a result of executing the search warrant.
17 THE COURT: So the charge is limited to
18 intent to deliver K-2.
19 MR. DAILEY: Yes, you're correct, or
20 possession.
21 MR. MUAWAD: Possession with the intent to
22 deliver.
23 THE COURT: And you asked for separate
24 trials.
25 MR. MUAWAD: We have.

1 THE COURT: Are we ready to proceed with the
2 co-defendant's?

3 MR. DAILEY: That's probably a question for
4 counsel.

5 MR. KRAMER: I'm in the same position as
6 counsel here. I don't have the records.

7 THE COURT: Your records would be different
8 from those --

9 MR. DAILEY: I think he's talking about the
10 lab report. Mr. Kramer is at least the second, if not
11 the third or fourth attorney representing co-defendant
12 Mr. Dabish. So I don't know what previous counsel
13 have turned over or what they had.

14 I have tried to provide discovery on-going to
15 all attorneys who come in and out of this case as this
16 case has pended. This case was in District Court, it
17 was before Judge Mark Switalski, then it was in
18 District Court and then before Judge Mark and now it's
19 in front of your Honor.

20 I don't have a problem adjourning it so they
21 are prepared to proceed.

22 THE COURT: We have to. If we don't have the
23 lab reports --

24 MR. DAILEY: I have them, but they don't have
25 them, and they want to go over them and potentially

1 discuss with experts.

2 MR. KRAMER: Use the same experts.

3 MR. MUAWAD: So the record is clear, the two
4 boys, two of my client's sons did plead guilty for K-2
5 that was in their bedroom. I need to see the match up
6 what K-2 they tested, does it have to do with the two
7 boys or even the other co-defendant which was another
8 brother of my client that Joe Arnone represented. He
9 pled guilty.

10 So, I have to match up and see who's doing
11 what and which results go to what. That's where it's
12 at, and I can then call the prosecutor and see where
13 we're at.

14 MR. DAILEY: I don't have a problem.

15 MR. MUAWAD: I know you have to move the case
16 but it would behoove myself --

17 THE COURT: Go back to Jeanne and find a
18 trial date convenient to everybody. I don't know how
19 long it's going to take. The problem is it takes a
20 long time to get trials, as you just saw.

21 MR. DAILEY: Are you separating the trials?
22 Have you ruled on that?

23 THE COURT: I was going to separate them if
24 one would go forward, but why would I separate them if
25 they are both going to be prepared to go at the same

1 time? There's really no prejudice associated with
2 this.

3 MR. MUAWAD: The other thing, and this is my
4 client's request, and we talked about it over the
5 weekend, my client asks me, and we discussed if you
6 ruled against me on the motion, he wanted to know if
7 you would stay the case and allow him to take it up.
8 I have to ask because that's my job.

9 THE COURT: You should file and ask for a
10 stay with the Court of Appeals.

11 MR. DAILEY: We're going to discuss it.

12 THE COURT: You're entitled to an
13 interlocutory appeal on something like this, and I
14 think it's pretty much an automatic stay.

15 MR. MUAWAD: For prosecutor. I don't think
16 for defense. I don't know what we're going to do. I
17 just wanted to ask.

18 MR. DAILEY: It wouldn't be dispositive at
19 this point for the defense.

20 MR. MUAWAD: I don't know if we're going to
21 do that. I have to discuss it with them.

22 THE COURT: It would be dispositive if I
23 suppress it.

24 MR. DAILEY: For the prosecutor it would be,
25 suppress my evidence, but he's saying it wouldn't be

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an automatic.

MR. MUAWAD: I'll discuss that, Judge, and look at the court rules.

THE COURT: We'll see where we go.

MR. KRAMER: If we get a trial date --

MR. MUAWAD: Let's see in the back.

THE COURT: Go see Ms. Pare and get a trial date.

(Proceedings concluded at 3:29 p.m.)

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CERTIFICATION

STATE OF MICHIGAN)
COUNTY OF MACOMB) SS

I, Mary T. Nader-Cimini, Official Court Reporter of the Sixteenth Judicial Circuit, State of Michigan, do hereby certify that the foregoing pages comprise a full, true and correct transcript taken in the matter of The People versus David Adel Dabish, Case Number 13-1880-FH, on May 11, 2015.

/s/ Mary T. Nader-Cimini, CSR-2643
Official Court Reporter

Date: _____
Mount Clemens, Michigan

SEARCH WARRANT AND AFFIDAVIT

State of Michigan)
) SS
County of Macomb)

12- 38445

TO: The Sheriff or any Peace Officer of said county:

Det. Troy J. Titchenell, having subscribed and sworn to an affidavit for a Search Warrant, and I having under oath examined, am satisfied that probable cause exists:

THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you search the following described place:

The business Woodstock Tobacco is located at 46699 Van Dyke, Shelby Twp., Macomb County, Michigan. The business is a single story and is located in the Utica Heights Plaza. The business is located on the west side of Van Dyke the south 21 mile rd. The front door of the business faces east and the numbers "46699" are posted above it. The building is brown brick and the front is mostly glass with a multi colored "Woodstock Tobacco" sign posted near the roof. Woodstock Tobacco is the 6th business from the south end of the building Also to be searched any and all persons, storage buildings and garages associated with 46699 Van Dyke, Shelby Twp., Macomb County, Michigan, and all persons, and/or vehicles located at the business or to any persons, at the residence during the execution of the search warrant.

and to seize, secure, tabulate and make return according to law, the following property and things:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to Marijuana and Synthetic Marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or used of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds.

D.

The following facts are sworn to by the Affiant in support of the issuance of this warrant:

Affiant has been employed as a Police Officer since 1989.

Affiant has been employed by the Shelby Township Police Department as a Police Officer since 1995.

Affiant is currently assigned to Shelby Townships Narcotics Bureau to investigate the illegal trafficking of controlled substances.

Affiant has 9 years narcotics experience and has been involved in over 1500 investigations dealing with illegal trafficking of controlled substances.

It is affiant's experience that persons involved in the trafficking of controlled substances are often in possession of currency and/or negotiable instruments from prior drug transactions.

It is affiant's experience that persons involved in the illegal trafficking of controlled substances often store additional quantities of the controlled substances within their residence and storage facilities.

It is affiant's experience that scales, packaging, containers, records, computers, computer equipment, books, accounts and telephone records are often used by persons involved in the trafficking of illegal controlled substances. Records, bills and photographs are often found establishing ownership and/or residency.

It is affiant's experience that firearms are very often used by persons involved in the trafficking of illegal controlled substances for their protection, and/or the protection of their controlled substances and/or proceeds.

It is affiant's experience that persons involved in the trafficking of controlled substances often keep additional quantities of the controlled substances, packaging materials, and scales in vehicles registered to them and use these vehicles to facilitate the purchase and/or sale of illegal controlled substances.

During the past 9 months Shelby Twp narcotics unit has received at least 100 tips that the owners of Citgo at 46555 Van dyke and Woodstock Tobacco at 46699 Van dyke are selling synthetic marijuana/k2. Affiant has personally received several tips from detectives throughout Macomb County in reference to Citgo and Woodstock selling synthetic marijuana/ K2.

02

Affiant has been contacted by D/Lt. Eric Old from the COMET task force stating he has received numerous tips about Citgo/Woodstock selling K2.

During the week of 7-9-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. buy funds to make the purchase. ci was then followed directly to 46555 van dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walked out getting back into his/her vehicle. D/Sgt Schmittler observed David Dabish w/m 12-28-72 exit the Citgo gas station walk over to ci's vehicle and give ci k-2 and ci then gave Dabish the Shelby Twp buy funds. D/Sgt Schmittler observed David Dabish make additional k2 transactions in the Citgo lot.

CI then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria K2 which he/she stated was purchased from David Dabish with the Shelby Twp buy funds

During the week of 7-16-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van Dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. Buy funds to make the purchase. Ci was then followed directly to 46555 Van Dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walk out getting back into his/her vehicle. D/Sgt Schmittler observed Audrick Dabish w/m 8-11-94 exit the Citgo gas station walk over to ci's vehicle and give ci k-2. The ci then gave Audrick Dabish the Shelby Twp buy funds.

CI drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria k2 which he/she stated was purchased from Audrick Dabish with the Shelby Twp buy funds

During the week of 7-23-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of marijuana from Dabish " Jeff" Dabish at the Woodstock tobacco shop located at 46699 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Affiant gave ci prerecorded Shelby twp. Buy funds to make the purchase. CI was then followed directly to 46699 van dyke.

Det Heisler observed as ci walked into the Woodstock tobacco shop and exit a short time later. CI walked out getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave Affiant marijuana which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

Affiant field tested the marijuana using Nark II test kit 5 obtaining positive results.

During the week of 9-25-12 affiant was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from Dabish "Jeff" Dabish in Sterling Heights.

Affiant and agents from DEA met with ci at a prearranged location. Affiant searched the ci and the ci's vehicle with negative results. Affiant gave the ci prerecorded DEA buy funds to make the purchase. Ci was then followed directly to the Knights Inn at 7887 17 mile in Sterling Heights.

TFO Debottis observed as ci walked into room 246 then walked out a short time later getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer k2 which he/she stated was purchased from Dabish "Jeff" Dabish with the DEA buy funds.

TFO Debottis advised affiant after ci left he observed Dabish "Jeff" Dabish and Audrick Dabish exit room 246 both looking up and down the parking lot. There was a gray Cadillac CTS MI- CGA-7888 in front of room 246 that affiant has seen Dabish Dabish in frequently.

During the week of 10-08-12 writer was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the Dabish "Jeff" Dabish in the area of 18 mile and Dequindre.

Writer met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. CI was then followed directly to 18 mile and Dequindre where Det R. Heisler observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle.

Dabish "Jeff" Dabish exited ci's vehicle in less than a minute returning to his Cadillac then exiting the area. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 4 different

brands of k2/potpourri which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

The k2/synthetic marijuana was sent to the MSP crime lab and tested positive for AM-2201 and MAM 2201 which are both schedule 1 narcotics.

Affiant was contacted over the past 48 hours by confidential informant #411 (herein after referred to as ci). Ci stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. Ci stated he/she could make the buy from the Dabish Dabish in the area of Mound and M59.

Affiant met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. CI was then followed directly to mound and M59 where Agent Joyner observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle. Dabish Dabish exited ci's vehicle in less than a minute returning to his Cadillac before exiting the area.

The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer several different brands of k2/potpourri which he/she stated was purchased from Dabish Dabish with the Shelby Twp buy funds. Writer transported the k2 back to Shelby Twp PD where it was logged into property.

DEA agents and Shelby Twp narcotics unit surveilled Dabish directly to the Dabish family owned Citgo gas station at 46655 van dyke. Dabish was observed walking into the gas station and opening the cash register. Dabish placed money made from the illegal K2 sale into the cash register. Dabish exited Citgo put gas in his Cadillac and was then surveilled throughout the West Bloomfield area before returning to his residence at 5444 Paul Louis in West Bloomfield.

Affiant ran Dabish Jeffrey-Adel Dabish 8-8-77 through lein and it shows an address of 5444 Paul Louis Ln. in West Bloomfield. Dabish was charged in 1998 by Farmington Hills with a Felony Traffic offense. Dabish pled guilty to Fleeing and Eluding 3rd, Possession of Marijuana and operating-no license/multiple licenses.

Dabish was charged in 1998 by MSP- CID with Felony controlled substance. Dabish was found guilty of Attempt - Misdemeanor Controlled Substances (Cocaine, Heroin or another narcotic less than 25 grams.

Dabish was charged in 2002 by Sterling Heights with Dangerous Drugs. Dabish pled guilty to Poss. of Drug Paraphernalia.

Dabish was charged in 2002 by White Lake Twp 4 counts of Felony Forgery and counterfeiting. Dabish pled guilty to Felony Uttering and Publishing and was sentenced to 34 months to 28 years in State Prison.

D5

Dabish was charged in 2004 by Utica Police with Felony Larceny. Dabish pled guilty to Misdemeanor false Pretenses-\$200-\$1000.

Dabish was charged in 2010 in Walled Lake with Larceny. Dabish Pled guilty to Larceny \$200-\$1000.

Affiant ran David Edel Dabish 12-28-72 through Lein and it shows David's address as 2200 Edgestone in Sterling Heights. David was charged in 1994 in Farmington Hills with a Felony Weapons charge. David Pled guilty to Felony Weapons-Carrying Concealed.

David Dabish was charged in 1996 by MSP-TET with Felony Tax/ Revenue. David pled guilty to Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2004 by MSP SECID with Misdemeanor Gambling. David was Found Guilty of Misdemeanor Gambling- Disassociated Person Trespassing.

David Dabish was charged in 2006 by Shelby Twp Police with Assault excluding sexual and Public peace violations. David pled guilty to Assault and Public Peace was dismissed.

David Dabish was charged in 2010 by MSP SECID with 6 counts of Felony Tax/Revenue. David pled guilty to Attempt-Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2012 by Sterling Heights PD with 1 count Public Peace and 1 count Obstructing Police. David Pled guilty to Disorderly Person.

Audrick David Dabish 08-11-94 has made a delivery of K2 to CI. Audrick works at Woodstock Tobacco and Citgo gas station and is the Son of David Dabish. Affiant arrested Audrick in 2012 for Disorderly Conduct and Minor in possession of tobacco.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family according to Shelby Twp records. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

Based on the above facts and Affiants experience it is Affiants belief that additional quantities of illegal controlled substances and other evidence associated with illegal drug trafficking will be located at 46699 Van Dyke, Shelby Twp., Macomb County Michigan, therefore this request to search is being made.

This is an ongoing covert investigation and the safety of persons involved and/or integrity may be harmed if the affidavit is made public at this time. Therefore, Affiant requests this affidavit remains suppressed for a minimum of fifty-six days or until so ordered by the court.

Further Affiant sayeth not.

Reviewed on _____ by

Prosecuting Official

Affiant

Jimmy Hill

Subscribed and sworn to before
me on 10/30/12

D. P. Dow 33044
Judge/Magistrate

5:50 p.m.

SEARCH WARRANT

State of Michigan)
) SS
County of Macomb)

12-38445.

Detective Troy J. Titchenell, Affiant has sworn to the attached affidavit regarding the following:

The person, place or thing to be searched is described as and located at:

The business Woodstock Tobacco is located at 46699 Van Dyke, Shelby Twp., Macomb County, Michigan. The business is a single story and is located in the Utica Heights Plaza. The business is located on the west side of Van Dyke the south 21 mile rd. The front door of the business faces east and the numbers "46699" are posted above it. The building is brown brick and the front is mostly glass with a multi colored "Woodstock Tobacco" sign posted near the roof. Woodstock Tobacco is the 6th business from the south end of the building. Also to be searched any and all persons, storage buildings and garages associated with 46699 Van Dyke, Shelby Twp., Macomb County, Michigan, and all persons, and/or vehicles located at the business or to any persons, at the residence during the execution of the search warrant.

The PROPERTY to be searched for and seized, if found, is specifically described as:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to Marijuana or Synthetic Marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or used of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds.

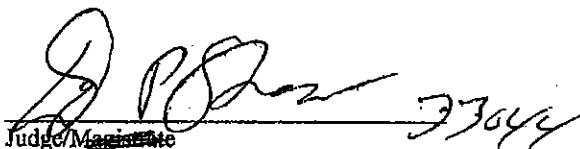
IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: I have found that probable cause exists and you are commanded to make the search and seize the described property.

Issued: _____

Date and time

10/30/12 5:50 p.m.

Judge/Magistrate

 27044

SEARCH WARRANT AND AFFIDAVIT

State of Michigan)
)SS
County of Macomb)

12-38445

TO: The Sheriff or any Peace Officer of said county:

Detective Troy J. Titchenell, having subscribed and sworn to an affidavit for a Search Warrant, and I having under oath examined, am satisfied that probable cause exists:

THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you search the following described place:

The business Citgo/Quik Mart located at 46555 Van Dyke, Shelby Township Macomb County, Michigan. The business is a single story. The business is located on the west side of Van Dyke south of 21 mile rd. The building is red white and blue with the front glass door facing east. The driveway and gas pumps are on the east side of the business and the numbers "46555" are affixed on the front of the business. Also to be searched any and all persons, storage buildings and garages associated with 46555 Van Dyke, Shelby Township, Macomb County, Michigan, and all persons, and/or vehicles located at the business or to any persons, at the residence during the execution of the search warrant.

and to seize, secure, tabulate and make return according to law, the following property and things:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to synthetic marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or use of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds. Vehicles, tools, firearms, computers, computer equipment, computer hardware and/or software, and any other equipment found to be stolen or suspected of being stolen property.

The following facts are sworn to by the Affiant in support of the issuance of this warrant:

Affiant has been employed as a Police Officer since 1989.

Affiant has been employed by the Shelby Township Police Department as a Police Officer since 1995.

Affiant is currently assigned to Shelby Townships Detective Bureau to investigate the illegal trafficking/use of controlled substances and other crimes

Affiant has been involved in over 1500 investigations and has over 9 year experience investigating the illegal trafficking of controlled substances.

It is affiant's experience that persons involved in the trafficking/use of controlled substances are often in possession of currency and/or negotiable instruments from prior drug transactions.

It is affiant's experience that persons involved in the illegal trafficking/use of controlled substances often store additional quantities of the controlled substances within their residence and storage facilities.

It is affiant's experience that scales, packaging, containers, records, computers, computer equipment, books, accounts and telephone records are often used by persons involved in the trafficking/use of illegal controlled substances. Records, bills and photographs are often found establishing ownership and/or residency.

It is affiant's experience that firearms are very often used by persons involved in the trafficking/use of illegal controlled substances for their protection, and/or the protection of their controlled substances and/or proceeds.

It is affiant's experience that persons involved in the trafficking/use of controlled substances often keep additional quantities of the controlled substances, packaging materials, and scales in vehicles registered to them and use these vehicles to facilitate the purchase and/or sale of illegal controlled substances.

It is affiant's experience that persons involved in the trafficking/use of controlled substances are often also involved in other criminal activity including but not limited to thefts, larcenies and possession of stolen property.

During the past 9 months Shelby Twp narcotics unit has received at least 100 tips that the owners of Citgo at 46555 Van dyke and Woodstock Tobacco at 46699 Van dyke are selling synthetic marijuana/k2. Affiant has personally received several tips from detectives throughout Macomb County in reference to Citgo and Woodstock selling synthetic marijuana/ K2.

Affiant has been contacted by D/Lt. Eric Old from the COMET task force stating he has received numerous tips about Citgo/Woodstock selling K2.

During the week of 7-9-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. buy funds to make the purchase. ci was then followed directly to 46555 van dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walked out getting back into his/her vehicle. D/Sgt Schmittler observed David Dabish w/m 12-28-72 exit the Citgo gas station walk over to ci's vehicle and give ci k-2 and ci then gave Dabish the Shelby Twp buy funds. D/Sgt Schmittler observed David Dabish make additional k2 transactions in the Citgo lot.

CI then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria K2 which he/she stated was purchased from David Dabish with the Shelby Twp buy funds

During the week of 7-16-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the clerk at the Citgo gas station located at 46555 Van Dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Writer gave ci prerecorded Shelby twp. Buy funds to make the purchase. Ci was then followed directly to 46555 Van Dyke.

D/Sgt Schmittler observed as ci walked into the Citgo gas then walk out getting back into his/her vehicle. D/Sgt Schmittler observed Audrick Dabish w/m 8-11-94 exit the Citgo gas station walk over to ci's vehicle and give ci k-2. The ci then gave Audrick Dabish the Shelby Twp buy funds.

CI drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 2 packets of hysteria k2 which he/she stated was purchased from Audrick Dabish with the Shelby Twp buy funds

During the week of 7-23-12 affiant was contacted by confidential informant #411 (hereinafter referred to as ci). CI stated that he/she could arrange a purchase of marijuana from Dabish " Jeff" Dabish at the Woodstock tobacco shop located at 46699 Van dyke in Shelby twp.

Affiant met with ci at a prearranged location and searched the ci and ci's vehicle with negative results. Affiant gave ci prerecorded Shelby twp. Buy funds to make the purchase. CI was then followed directly to 46699 van dyke.

Det Heisler observed as ci walked into the Woodstock tobacco shop and exit a short time later. CI walked out getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave Affiant marijuana which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

Affiant field tested the marijuana using Nark II test kit 5 obtaining positive results.

During the week of 9-25-12 affiant was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from Dabish "Jeff" Dabish in Sterling Heights.

Affiant and agents from DEA met with ci at a prearranged location. Affiant searched the ci and the ci's vehicle with negative results. Affiant gave the ci prerecorded DEA buy funds to make the purchase. Ci was then followed directly to the Knights Inn at 7887 17 mile in Sterling Heights.

TFO Debottis observed as ci walked into room 246 then walked out a short time later getting back into his/her vehicle. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer k2 which he/she stated was purchased from Dabish "Jeff" Dabish with the DEA buy funds.

TFO Debottis advised affiant after ci left he observed Dabish "Jeff" Dabish and Audrick Dabish exit room 246 both looking up and down the parking lot. There was a gray Cadillac CTS MI- CGA-7888 in front of room 246 that affiant has seen Dabish Dabish in frequently.

During the week of 10-08-12 writer was contacted by confidential informant #411 (herein after referred to as ci). CI stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. CI stated he/she could make the buy from the Dabish "Jeff" Dabish in the area of 18 mile and Dequindre.

Writer met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. CI was then followed directly to 18 mile and Dequindre where Det R. Heisler observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle.

Dabish "Jeff" Dabish exited ci's vehicle in less than a minute returning to his Cadillac then exiting the area. The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. CI gave writer 4 different

brands of k2/potpourri which he/she stated was purchased from Dabish "Jeff" Dabish with the Shelby Twp buy funds.

The k2/synthetic marijuana was sent to the MSP crime lab and tested positive for AM-2201 and MAM 2201 which are both schedule 1 narcotics.

Affiant was contacted over the past 48 hours by confidential informant #411 (herein after referred to as ci). Ci stated that he/she could arrange a purchase of the illegal synthetic marijuana called k-2. Ci stated he/she could make the buy from the Dabish Dabish in the area of Mound and M59.

Affiant met with ci at a prearranged location and searched the ci and the ci's vehicle with negative results. Writer gave the ci prerecorded Shelby Twp buy funds to make the purchase. Ci was then followed directly to mound and M59 where Agent Joyner observed Dabish Dabish get out of his Cadillac CTS MI-CGA-7888 and enter ci's vehicle. Dabish Dabish exited ci's vehicle in less than a minute returning to his Cadillac before exiting the area.

The ci then drove directly back to the prearranged location where ci and ci's vehicle were searched again with negative results. Ci gave writer several different brands of k2/potpourri which he/she stated was purchased from Dabish Dabish with the Shelby Twp buy funds. Writer transported the k2 back to Shelby Twp PD where it was logged into property.

DEA agents and Shelby Twp narcotics unit surveilled Dabish directly to the Dabish family owned Citgo gas station at 46655 van dyke. Dabish was observed walking into the gas station and opening the cash register. Dabish placed money made from the illegal K2 sale into the cash register. Dabish exited Citgo put gas in his Cadillac and was then surveilled throughout the West Bloomfield area before returning to his residence at 5444 Paul Louis in West Bloomfield.

Affiant ran Dabish Jeffrey-Adel Dabish 8-8-77 through lein and it shows an address of 5444 Paul Louis Ln. in West Bloomfield. Dabish was charged in 1998 by Farmington Hills with a Felony Traffic offense. Dabish pled guilty to Fleeing and Eluding 3rd, Possession of Marijuana and operating-no license/multiple licenses.

Dabish was charged in 1998 by MSP- CID with Felony controlled substance. Dabish was found guilty of Attempt - Misdemeanor Controlled Substances (Cocaine, Heroin or another narcotic less than 25 grams).

Dabish was charged in 2002 by Sterling Heights with Dangerous Drugs. Dabish pled guilty to Poss. of Drug Paraphernalia.

Dabish was charged in 2002 by White Lake Twp 4 counts of Felony Forgery and counterfeiting. Dabish pled guilty to Felony Uttering and Publishing and was sentenced to 34 months to 28 years in State Prison.

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Dabish was charged in 2010 in Walled Lake with Larceny. Dabish Pled guilty to Larceny \$200-\$1000.

Affiant ran David Edel Dabish 12-28-72 through Lein and it shows David's address as 2200 Edgestone in Sterling Heights. David was charged in 1994 in Farmington Hills with a Felony Weapons charge. David Pled guilty to Felony Weapons-Carrying Concealed.

David Dabish was charged in 1996 by MSP-TET with Felony Tax/ Revenue. David pled guilty to Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2004 by MSP SECID with Misdemeanor Gambling. David was Found Guilty of Misdemeanor Gambling- Disassociated Person Trespassing.

David Dabish was charged in 2006 by Shelby Twp Police with Assault excluding sexual and Public peace violations. David pled guilty to Assault and Public Peace was dismissed.

David Dabish was charged in 2010 by MSP SECID with 6 counts of Felony Tax/Revenue. David pled guilty to Attempt-Felony Tobacco Products Tax Act Violation.

David Dabish was charged in 2012 by Sterling Heights PD with 1 count Public Peace and 1 count Obstructing Police. David Pled guilty to Disorderly Person.

Audrick David Dabish 08-11-94 has made a delivery of K2 to CI. Audrick works at Woodstock Tobacco and Citgo gas station and is the Son of David Dabish. Affiant arrested Audrick in 2012 for Disorderly Conduct and Minor in possession of tobacco.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family according to Shelby Twp records. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

The Citgo gas station and Woodstock Tobacco are both owned by the Dabish Family. Shelby Twp Narcotics Unit has bought marijuana and Synthetic marijuana from members of the Dabish family from both businesses and other locations. Affiant believes this proves that the Dabish family is part of an illegal ongoing enterprise.

Based on the above facts and Affiants experience it is Affiants belief that additional quantities of Synthetic Marijuana may be located at 46555 Van Dyke, Shelby Twp, Macomb County Michigan, therefore this request to search is being made.

This is an ongoing covert investigation and the safety of persons involved and/or integrity may be harmed if the affidavit is made public at this time. Therefore, Affiant requests this affidavit remains suppressed for a minimum of fifty-six days or until so ordered by the court.

Further Affiant sayeth not.

Reviewed on _____ by

Prosecuting Official

Affiant

[Signature]

Subscribed and sworn to before
me on 10/30/12

[Signature] 33044
Judge/Magistrate

5:50 p.m

SEARCH WARRANT

State of Michigan)
) SS
County of Macomb)

12-38445

Detective Troy J. Titchenell, Affiant has sworn to the attached affidavit regarding the following:

1. The person, place or thing to be searched is described as and located at:

The business Citgo/Quik Mart located at 46555 Van dyke, Shelby Township, Macomb County, Michigan. The business is a single story. The business is located on the west side of Van Dyke south of 21 mile rd. The building is red, white and blue with the front glass door facing east. The driveway and gas pumps are on the east side of the business and the numbers "46555 " are affixed on the front of the business. Also to be searched any and all persons, storage buildings and garages associated with 46555 Van Dyke, Shelby Township, Macomb County, Michigan, and all persons, and/or vehicles located at the business or to any persons, at the residence during the execution of the search warrant.

The PROPERTY to be searched for and seized, if found, is specifically described as:

Substance suspected of being in violation of the Michigan Public Health Code, Specifically, but not limited to marijuana. All records, computers, computer equipment, books, ledgers, scales, packaging and containers suspected of being used to facilitate the trafficking and/or use of controlled substances. All records, computers, videotapes, phone records and materials used to show residency. Assets derived from the sale of illegal narcotics. All currency, property, or goods believed to have been gained through the sale and/or use of illegal controlled substances. All weapons commonly used to protect controlled substances and /or drug proceeds. Vehicles, tools, firearms, computers, computer equipment, computer hardware and/or software, and any other equipment found to be stolen or suspected of being stolen property.

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: I have found that probable cause exists and you are commanded to make the search and seize the described property.

Issued:

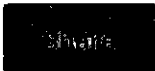
Date and time

10/30/02 5:50 p.m

Judge/Magistrate



Dabish Paperwork.pdf



2012012840 DH

STATE OF MICHIGAN 41A1 JUDICIAL DISTRICT 16TH JUDICIAL CIRCUIT		COMPLAINT FELONY		CASE NO.: 12-01 DISTRICT: CIRCUIT:	
District Court ORI: MI500085J 51660 Van Dyke, Shelby Township, MI 48316 586-739-7326			Circuit Court ORI: MI500015J 40 N. Main, Mount Clemens, MI 48043 586-		
THE PEOPLE OF THE STATE OF MICHIGAN		Defendant's name and address V DAVID ADEL DABISH W / M 2200 EDGESTONE STERLING HEIGHTS, MI 48314			Victim or corr
Co-defendant(s) AUDRICK DABISH, DABISH JEFFERY-ADEL DABISH, DEDRICK DAVID DABISH, DERICK VINCENT DABISH, DAVID ADEL DABISH, FAIZE ADEL DABISH					Complaining DET. R. HI
Date: On or at 10/31/2012					
City/Twp./Village SHELBY TWP	County in Michigan Macomb	Defendant TCN	Defendant CTN 50-12012840-01	Defendant SID 1781881W	
Police agency report no. 50SHTP 12-38445	Charge See below	DLN Type:	Vehicle Type	Defendant DLN D 120 135 03	

Witnesses
DET. R. HEISLER OIC
STATE OF MICHIGAN, COUNTY OF MACOMB
APA WILLIAN

The complaining witness says that on the date and at the location described, the defendant, cont

COUNT 1: CONTROLLED SUBSTANCE - DELIVERY/MANUFACTURE (SCHEDULES 1, 2 AND MARIHUANA)
did possess with intent to deliver the controlled substance ^{W/INTENT} MAM 2201 and/or JWH-210 and/or JW 1248 and/or JWH-073; contrary to MCL 333.7401(2)(b)(ii). [333.74012B-A]
FELONY: 7 Years and/or \$10,000.00; Unless sentenced to more than 1 year in prison, the court license sanctions pursuant to MCL 333.7408a.

COUNT 2: CONTROLLED SUBSTANCE - POSSESSION/ANALOGUES
did knowingly or intentionally possess the controlled substance Hydrocodone; contrary to MCL 33 [333.74032B-A]
FELONY: 2 Years and/or \$2,000.00. Unless sentenced to more than 1 year in prison, the court s license sanctions pursuant to MCL 333.7408a.

COUNT 3: CONTROLLED SUBSTANCE - MAINTAINING A DRUG HOUSE
did knowingly or intentionally keep or maintain a store and/or dwelling, that was used for the keepi controlled substances in violation of article 7 of the public health code, being MCL 333.7101 et sec 333.7405(1)(d) and MCL 333.7406. [333.7405D]
HIGH COURT MISDEMEANOR: 2 Years and/or \$25,000.00. Unless sentenced to more than 1 y court shall impose license sanctions pursuant to MCL 333.7408a.
Upon conviction of a felony or an attempted felony court shall order law enforcement to collect DN. profiling samples.

Let OXW

The complaining witness asks that defendant be apprehended and dealt with according to law.

F

Case Type: FH-NONCAPITAL FELONIES
 File Date: 05/01/2013
 Next Event: 07/28/2015

Case Status: Reopen (RO)
 Case Judge: SERVITTO, JR, EDWARD A

All Information | Docket | Party | Event | Charge | Disposition

Docket Information

Date	Description	Docket Text	Amount
05/01/2013	DISTRICT COURT BINDOVER	DISTRICT COURT BINDOVER	
05/01/2013	ABSTRACT REPORTING REQUIRED	ABSTRACT REPORTING REQUIRED	
05/01/2013	PERSONAL BOND FURN BY DEFT AMT: \$	PERSONAL BOND FURN BY DEFT AMT: \$10,000.00	
05/03/2013	ARRAIGNMENT/CONFERENCE SCHEDULED	ARRAIGNMENT/CONFERENCE SCHEDULED Event: ARRAIGNMENT/CONFERENCE Date: 05/13/2013 Time: 1:30 pm Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR Result: ARRAIGNMENT WAIVED	
05/03/2013	RANDOM JUDGE ASSIGNMENT OVERRIDE DUE TO CO-DEFT ASSIGNED TO JUDGE IN FILE NO #	RANDOM JUDGE ASSIGNMENT OVERRIDE DUE TO CO-DEFT AUDRICK DABISH ASSIGNED TO JUDGE MARK S. SWITALSKI IN FILE NO 13-1600-FH	
05/03/2013	LEIN SEARCH COMPLETED TO FIND TCN NUMBER	LEIN SEARCH COMPLETED TO FIND TCN NUMBER	
05/09/2013	INFORMATION	INFORMATION	
05/09/2013	LIST OF KNOWN WITNESSES	LIST OF KNOWN WITNESSES	
05/13/2013	ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO,	ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO, P/TRIAL SET FOR 5/30/2013 AT 8:30AM, ON BOND -SGD/MSS The following event: ARRAIGNMENT/CONFERENCE scheduled for 05/13/2013 at 1:30 pm has been resulted as follows: Result: ARRAIGNMENT WAIVED Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR HELD ON THE RECORD COURT REPORTER: RUSSELL, REBECCA Certificate #: CSR-4105	
05/13/2013	PRETRIAL CONFERENCE SCHEDULED	PRETRIAL CONFERENCE SCHEDULED The following event: ARRAIGNMENT/CONFERENCE scheduled for 05/13/2013 at 1:30 pm has been rescheduled as follows: Event: PRETRIAL CONFERENCE Date: 05/30/2013 Time: 8:30 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR Result: ADJOURNED-DEFENSE COUNSEL REQUEST	
05/30/2013	ADJOURNED - DEFENSE REQUEST	ADJOURNED - ORDER OF ADJOURNMENT OF PRETRIAL, ADJ TO 6/20/13 AT 8:30AM, FOR CONTD PLEA NEGOTIATIONS, BOND CONTD -SGD The following event: PRETRIAL CONFERENCE scheduled for 05/30/2013 at 8:30 am has been resulted as follows: Result: ADJOURNED-DEFENSE COUNSEL REQUEST Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD	

FLOOR

05/30/2013 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 05/30/2013 at 8:30 am has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 06/20/2013 Time: 8:30 am
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: ADJOURNED-OTHER REASONS

06/13/2013 DOCUMENT FILED:

STATE OF MI DEPT OF STATE POLICE FORENSIC SCIENCE DIVISION LABRATORY REPORT DTD 6-4-13 R/F IN FILE

06/20/2013 ADJOURNED - OTHER REASONS

ADJOURNED - ORDER OF ADJOURNMENT OF PRETRIAL, PT ADJ TO 7/31/13 AT 8:30AM, FOR PLEA NEGOTIATIONS, DEFT ON BOND -SGD

The following event: PRETRIAL CONFERENCE scheduled for 06/20/2013 at 8:30 am has been resulted as follows:

Result: ADJOURNED-OTHER REASONS
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

06/20/2013 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 06/20/2013 at 8:30 am has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 07/31/2013 Time: 8:30 am
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

07/31/2013 HELD:

HELD: PRETRIAL IS ADJ TO 9-4-13 8:30AM - SGD/MSS
The following event: PRETRIAL CONFERENCE scheduled for 07/31/2013 at 8:30 am has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

07/31/2013 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 07/31/2013 at 8:30 am has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 09/04/2013 Time: 8:30 am
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

09/04/2013 HELD:

HELD: ORDER OF ADJOURNMENT OF PRETRIAL, ADJ PT 9/11/13 AT 8:30AM, DEFT ON BOND -SGD
The following event: PRETRIAL CONFERENCE scheduled for 09/04/2013 at 8:30 am has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

HELD ON THE RECORD
COURT REPORTER: RUSSELL, REBECCA
Certificate #: CSR-4105

09/04/2013 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 09/04/2013 at 8:30 am has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 09/11/2013 Time: 8:30 am

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

09/11/2013 HELD:

HELD: ORDER OF PRETRIAL, TRIAL DATE SET FOR 11/13/13 AT 8:30AM, DEFT ON BOND -SGD
The following event: PRETRIAL CONFERENCE scheduled for 09/11/2013 at 8:30 am has been resulted as follows:

Result: HELD-CRIMINAL

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

09/11/2013 TRIAL SCHEDULED

TRIAL SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 09/11/2013 at 8:30 am has been rescheduled as follows:

Event: TRIAL

Date: 11/13/2013 Time: 8:30 am

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: ADJOURNED-BY COURT

11/12/2013 ORDER SIGNED:

ORD ADJ TRIAL FROM 11/12/2013 TO 1/7/2014 AT 8:30AM - SGD/MSS

11/12/2013 ADJOURNED-BY COURT

ADJOURNED-BY COURT

The following event: TRIAL scheduled for 11/13/2013 at 8:30 am has been resulted as follows:

Result: ADJOURNED-BY COURT

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

11/12/2013 TRIAL SCHEDULED

TRIAL SCHEDULED

The following event: TRIAL scheduled for 11/13/2013 at 8:30 am has been rescheduled as follows:

Event: TRIAL

Date: 01/07/2014 Time: 8:30 am

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD: NOT PLACED ON RECORD

01/07/2014 HELD: NOT PLACED ON RECORD,

HELD: NOT PLACED ON RECORD, MTN SET FOR 1/16/2014 AT 1:30PM, TRIAL SET FOR 1/22/2014 AT 8:30AM, ON BOND -SGD/MSS
The following event: TRIAL scheduled for 01/07/2014 at 8:30 am has been resulted as follows:

Result: HELD: NOT PLACED ON RECORD

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

01/07/2014 MISCELLANEOUS MOTION HEARING SCHEDULED

MISCELLANEOUS MOTION HEARING SCHEDULED

The following event: TRIAL scheduled for 01/07/2014 at 8:30 am has been rescheduled as follows:

Event: MISCELLANEOUS MOTION HEARING

Date: 01/16/2014 Time: 1:30 pm

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: NOT HELD - ORDER ENTERED

01/07/2014 TRIAL SCHEDULED

TRIAL SCHEDULED

Event: TRIAL

Date: 01/22/2014 Time: 8:30 am

Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: SCHEDULED EVENT CANCELLED

01/16/2014 NOT HELD - ORDER ENTERED ORDER OF MOTION: CASE IS RESET FOR PRETRIAL ON 2/4/14 AT 8:30AM, NO MOTION NEEDED ON THIS CASE, DEFT ON BOND - SGD
The following event: MISCELLANEOUS MOTION HEARING scheduled for 01/16/2014 at 1:30 pm has been resulted as follows:

Result: NOT HELD - ORDER ENTERED
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

01/16/2014 SCHEDULED EVENT CANCELLED

SCHEDULED EVENT CANCELLED
The following event: TRIAL scheduled for 01/22/2014 at 8:30 am has been resulted as follows:

Result: SCHEDULED EVENT CANCELLED
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

01/16/2014 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED
Event: PRETRIAL CONFERENCE
Date: 02/04/2014 Time: 10:00 am
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD: NOT PLACED ON RECORD

02/04/2014 HELD: NOT PLACED ON RECORD,

HELD: NOT PLACED ON RECORD, ADJ TO 2/18/2014 AT 2PM, ON BOND -SGD/MSS
The following event: PRETRIAL CONFERENCE scheduled for 02/04/2014 at 10:00 am has been resulted as follows:

Result: HELD: NOT PLACED ON RECORD
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

02/04/2014 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED
The following event: PRETRIAL CONFERENCE scheduled for 02/04/2014 at 10:00 am has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 02/18/2014 Time: 2:00 pm
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

02/18/2014 HELD:

HELD: PRE TRIAL ADJOURNED TO 3-13-2014 AT 10AM -SGD
The following event: PRETRIAL CONFERENCE scheduled for 02/18/2014 at 2:00 pm has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

02/18/2014 PRETRIAL CONFERENCE SCHEDULED

PRETRIAL CONFERENCE SCHEDULED
The following event: PRETRIAL CONFERENCE scheduled for 02/18/2014 at 2:00 pm has been rescheduled as follows:

Event: PRETRIAL CONFERENCE
Date: 03/13/2014 Time: 10:00 am
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

03/13/2014 HELD:

HELD: ORDER OF PRETRIAL, MATTER IS SET FOR A STATUS CONFERENCE ON 3/26/14 AT 1:30PM, DEFT ON BOND -SGD
The following event: PRETRIAL CONFERENCE scheduled for 03/13/2014 at 10:00 am has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

03/13/2014 STATUS CONFERENCE SCHEDULED

STATUS CONFERENCE SCHEDULED
The following event: PRETRIAL CONFERENCE scheduled for

03/13/2014 at 10:00 am has been rescheduled as follows:

Event: STATUS CONFERENCE
Date: 03/26/2014 Time: 1:30 pm
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

03/26/2014 HELD:

HELD: ORDER OF STATUS CONFERENCE, PRETRIAL SET FOR 4/17/14 AT 1:30PM, TO DISCUSSION RE: FINES/COSTS, DEFT ON BOND -SGD
The following event: STATUS CONFERENCE scheduled for 03/26/2014 at 1:30 pm has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

03/26/2014 STATUS CONFERENCE SCHEDULED

STATUS CONFERENCE SCHEDULED

The following event: STATUS CONFERENCE scheduled for 03/26/2014 at 1:30 pm has been rescheduled as follows:

Event: STATUS CONFERENCE
Date: 04/17/2014 Time: 1:30 pm
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

Result: HELD-CRIMINAL

04/17/2014 ORDER SIGNED:

ORDER OF REMAND TO DISTRICT COURT FOR PRELIMINARY EXAMINATION, IT IS ORD THIS CRT ORDERS ON ITS OWN MTN, THESE MATTERS BE REMANDED TO THE 41-A DIST CRT, SHELBY TWP, TO CONDUCT A PRELIM EXAM -SIGNED

04/17/2014 HELD:

HELD: CASE BEING REMANDED TO DIST CRT, SEE ORDER DTD 4/17/14.
The following event: STATUS CONFERENCE scheduled for 04/17/2014 at 1:30 pm has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR

05/01/2014 ORDER SIGNED:

SUBSTITUTION OF ATTORNEY/CONSENT & ORDER, OBO OF DEFT -SIGNED
NEW: ELIAS MUAWAD P41632
OLD: HAROLD S. FRIED P13711

07/01/2014 ENTRY:

REMANDED TO 41A DISTRICT COURT - SHELBY TOWNSHIP, JUDGE SHEPHERD -- ONE FILE, CERTIFIED COPY OF ORDER OF REMAND TO DIST CT FOR PRELIM EXAM DATED 4-17-14, COPY OF REGISTER OF ACTIONS, AND BOND IS SET AT \$10,000 PERSONAL (COPY OF PERS BOND NOT PROVIDED WITH BINDOVER) (FILE ROOM IS CURRENTLY TRYING TO LOCATE HEARING DISPOS DATED 02-14-4 AND 01-07-14 ADJOURNING A PRETRIAL AND ADJOURNING A TRIAL RESPECTIVELY) THIS FILE WAS SENT IN THE SAME ENVELOPE AS 13-1881-FH AND 14-723-FH

07/01/2014 CERT MAIL RECEIPT

CERT/MAIL RECEIPT R/F IN FILE

07/01/2014 DOCUMENT FILED:

COPY OF REMAND FORM R/F

07/03/2014 CERT MAIL RETURN RECEIPT

CERT/MAIL RECEIPT RETURNED R/F IN FILE

07/03/2014 ACKNOWLEDGEMENT BY DISTRICT COURT OF RECEIPT OF FILE

ACKNOWLEDGEMENT BY DISTRICT COURT OF RECEIPT OF FILE - FROM 41A D/C

07/07/2014 CERT MAIL RETURN RECEIPT

CERT/MAIL RECEIPT (ORIGINAL SIGNED GREEN CARD) RETURNED R/F IN FILE

11/05/2014 RETURNED FROM LOWER COURT

RETURNED FROM 41A1 - SHELBY TOWNSHIP DISTRICT COURT - ONE COMPLETE FILE & BOND SET AT \$10,000 CONT/FURN (HEARING DISPOS DATED 02-14-2014 ADJOURNING PRETRIAL & 01-07-2014 ADJOURNING TRIAL STILL MISSING)

11/10/2014 ARRAIGNMENT/CONFERENCE

ARRAIGNMENT/CONFERENCE SCHEDULED

	SCHEDULED	<p>Event: ARRAIGNMENT/CONFERENCE Date: 11/17/2014 Time: 1:30 pm Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p> <p>Result: ARRAIGNMENT WAIVED</p>
11/14/2014	LIST OF KNOWN WITNESSES	LIST OF KNOWN WITNESSES
11/14/2014	INFORMATION	INFORMATION
11/17/2014	ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO,	<p>ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO, MATTER SET FOR PRETRIAL ON 12/9/14 AT 8:30AM, DEFT ON BOND -SIGNED The following event: ARRAIGNMENT/CONFERENCE scheduled for 11/17/2014 at 1:30 pm has been resulted as follows:</p> <p>Result: ARRAIGNMENT WAIVED Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p>
11/17/2014	PRETRIAL CONFERENCE SCHEDULED	<p>PRETRIAL CONFERENCE SCHEDULED</p> <p>The following event: ARRAIGNMENT/CONFERENCE scheduled for 11/17/2014 at 1:30 pm has been rescheduled as follows:</p> <p>Event: PRETRIAL CONFERENCE Date: 12/09/2014 Time: 8:30 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p> <p>Result: HELD-CRIMINAL</p>
12/09/2014	HELD:	<p>HELD: ORDER OF ADJOURNMENT OF PRETRIAL, PRETRIAL ADJ TO 1/20/15 AT 8:30AM, FOR PLEA NEGOTIATIONS, DEFT ON BOND -SGD The following event: PRETRIAL CONFERENCE scheduled for 12/09/2014 at 8:30 am has been resulted as follows:</p> <p>Result: HELD-CRIMINAL Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p>
12/09/2014	PRETRIAL CONFERENCE SCHEDULED	<p>PRETRIAL CONFERENCE SCHEDULED</p> <p>The following event: PRETRIAL CONFERENCE scheduled for 12/09/2014 at 8:30 am has been rescheduled as follows:</p> <p>Event: PRETRIAL CONFERENCE Date: 01/20/2015 Time: 8:30 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p> <p>Result: ADJOURNED-DEFENSE COUNSEL REQUEST</p>
01/20/2015	ADJOURNED - DEFENSE REQUEST	<p>ADJOURNED - ORDER OF ADJOURNMENT OF PRETRIAL, ADJ PT TO 2/24/15 AT 8:30AM, TO FILE MTN & WAITING FOR CO-DEFT TO BE BOUND OVER, TRIAL DATE 4/1/15 AT 9:00AM, DEFT ON BOND -SGD The following event: PRETRIAL CONFERENCE scheduled for 01/20/2015 at 8:30 am has been resulted as follows:</p> <p>Result: ADJOURNED-DEFENSE COUNSEL REQUEST Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p> <p>HELD ON THE RECORD COURT REPORTER: BRION COURY CSR #0038</p>
01/20/2015	PRETRIAL CONFERENCE SCHEDULED	<p>PRETRIAL CONFERENCE SCHEDULED</p> <p>The following event: PRETRIAL CONFERENCE scheduled for 01/20/2015 at 8:30 am has been rescheduled as follows:</p> <p>Event: PRETRIAL CONFERENCE Date: 02/24/2015 Time: 8:30 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR</p>

01/20/2015 TRIAL SCHEDULED	TRIAL SCHEDULED Event: TRIAL Date: 04/01/2015 Time: 9:00 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR
02/07/2015 PRETRIAL CONFERENCE SCHEDULED	PRETRIAL CONFERENCE SCHEDULED Event: PRETRIAL CONFERENCE Date: 02/24/2015 Time: 8:30 am Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR Result: HELD-CRIMINAL
02/07/2015 TRIAL SCHEDULED	TRIAL SCHEDULED Event: TRIAL Date: 04/01/2015 Time: 9:00 am Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR Result: SCHEDULED EVENT CANCELLED
02/07/2015 CASELOAD TRANSFERRED	CASELOAD TRANSFERRED The judge was changed from SWITALSKI, MARK S to SERVITTO, EDWARD .
02/24/2015 HELD:	HELD: PRE TRIAL ADJOURNED TO 3-30-15 AT 1:30PM, TRIAL SET FOR 4/28/2015 AT 9AM, ANY MOTIONS MUST BE RECD BY 3/23/15, ON BOND - SGD The following event: PRETRIAL CONFERENCE scheduled for 02/24/2015 at 8:30 am has been resulted as follows: Result: HELD-CRIMINAL Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR HELD ON THE RECORD COURT REPORTER: CIMINI, MARY Certificate #: CSR-2643
02/24/2015 PRETRIAL CONFERENCE SCHEDULED	PRETRIAL CONFERENCE SCHEDULED The following event: PRETRIAL CONFERENCE scheduled for 02/24/2015 at 8:30 am has been rescheduled as follows: Event: PRETRIAL CONFERENCE Date: 03/30/2015 Time: 1:30 pm Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR Result: SCHEDULED EVENT CANCELLED
02/24/2015 TRIAL SCHEDULED	TRIAL SCHEDULED Event: TRIAL Date: 04/28/2015 Time: 9:00 am Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR Result: ADJOURNED-OTHER REASONS
03/23/2015 NOTICE OF HEARING	NOTICE OF HEARING
03/23/2015 MOTION:	MOTION: TO SUPPRESS, MTN IN LIMINE, MTN FOR SEPARATE TRIALS; PROOF OF SERVICE; EXH ATTACHED
03/24/2015 SCHEDULED EVENT CANCELLED	SCHEDULED EVENT CANCELLED The following event: PRETRIAL CONFERENCE scheduled for 03/30/2015 at 1:30 pm has been resulted as follows: Result: SCHEDULED EVENT CANCELLED Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR
03/24/2015 PRETRIAL CONFERENCE SCHEDULED	PRETRIAL CONFERENCE SCHEDULED Event: PRETRIAL CONFERENCE Date: 04/06/2015 Time: 1:30 pm Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR Result: HELD-CRIMINAL

Event: PRETRIAL CONFERENCE
Date: 05/04/2015 Time: 9:00 am
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

Result: HELD-CRIMINAL

04/13/2015 RE-NOTICE OF HEARING RE-NOTICE OF HEARING W/ PROOF OF SVC

04/15/2015 HEARING: MTN TO SUPPRESS SCHEDULED HEARING: MTN TO SUPPRESS SCHEDULED
Event: MTN TO SUPPRESS
Date: 05/04/2015 Time: 8:30 am
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

MUAWAD

Result: HELD-CRIMINAL

04/28/2015 BRIEF IN SUPPORT SUPPLEMENTAL BRIEF TO MOTION TO SUPPRESS MOTION IN LIMINE, MOTION FOR SEPARATE TRIALS AND PROOF OF SERVICE

05/04/2015 HELD: HELD: MTN TO SUPPRESS DENIED AS TO CITGO GAS STATION & WOODSTOCK; MTN U/A AS TO DEFTS RESIDENCE WITH HRG ADJ TO 5-11-15 @ 1:30PM
The following event: MTN TO SUPPRESS scheduled for 05/04/2015 at 8:30 am has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

HELD ON THE RECORD
COURT REPORTER: CIMINI, MARY
Certificate #: CSR-2643

05/04/2015 HEARING: MTN TO SUPPRESS SCHEDULED HEARING: MTN TO SUPPRESS SCHEDULED

The following event: MTN TO SUPPRESS scheduled for 05/04/2015 at 8:30 am has been rescheduled as follows:

Event: MTN TO SUPPRESS
Date: 05/11/2015 Time: 1:30 pm
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

MUAWAD

Result: HELD-CRIMINAL

05/04/2015 HELD - TO BE CONTINUED HELD - TO BE CONTINUED ON 5-11-15 @ 1:30
The following event: MTN TO SUPPRESS scheduled for 05/04/2015 at 9:00 am has been resulted as follows:

Result: HELD - TO BE CONTINUED
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

HELD ON THE RECORD
COURT REPORTER: CIMINI, MARY
Certificate #: CSR-2643

05/04/2015 HELD: HELD: RE-SET FOR 5-11-15 @ 1:30
The following event: PRETRIAL CONFERENCE scheduled for 05/04/2015 at 9:00 am has been resulted as follows:

Result: HELD-CRIMINAL
Judge: SERVITTO JR, EDWARD A Location: COURTROOM F - 3RD FLOOR

HELD ON THE RECORD
COURT REPORTER: CIMINI, MARY
Certificate #: CSR-2643

05/04/2015 PRETRIAL CONFERENCE SCHEDULED PRETRIAL CONFERENCE SCHEDULED

The following event: PRETRIAL CONFERENCE scheduled for 05/04/2015 at 9:00 am has been rescheduled as follows:

Case Type: FH-NONCAPITAL FELONIES
 File Date: 05/01/2013
 Next Event: 07/28/2015

Case Status: Reopen (RO)
 Case Judge: SERVITTO, JR, EDWARD A

All Information	Docket	Party	Event	Charge	Disposition
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Docket Information

Date	Description	Docket Text	Amount
05/01/2013	DISTRICT COURT BINDOVER	DISTRICT COURT BINDOVER	
05/01/2013	ABSTRACT REPORTING REQUIRED	ABSTRACT REPORTING REQUIRED	
05/01/2013	PERSONAL BOND FURN BY DEFT AMT: \$	PERSONAL BOND FURN BY DEFT AMT: \$10,000.00	
05/03/2013	ARRAIGNMENT/CONFERENCE SCHEDULED	ARRAIGNMENT/CONFERENCE SCHEDULED Event: ARRAIGNMENT/CONFERENCE Date: 05/13/2013 Time: 1:30 pm Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR Result: ARRAIGNMENT WAIVED	
05/03/2013	RANDOM JUDGE ASSIGNMENT OVERRIDE DUE TO CO-DEFT ASSIGNED TO JUDGE IN FILE NO #	RANDOM JUDGE ASSIGNMENT OVERRIDE DUE TO CO-DEFT AUDRICK DABISH ASSIGNED TO JUDGE MARK S. SWITALSKI IN FILE NO 13-1600-FH	
05/03/2013	LEIN SEARCH COMPLETED TO FIND TCN NUMBER	LEIN SEARCH COMPLETED TO FIND TCN NUMBER	
05/09/2013	INFORMATION	INFORMATION	
05/09/2013	LIST OF KNOWN WITNESSES	LIST OF KNOWN WITNESSES	
05/13/2013	ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO,	ARRAIGNMENT WAIVED: RDG WVD, STD MTE, DEFENSE ATTY PROVIDED WITH COPY OF INFO, P/TRIAL SET FOR 5/30/2013 AT 8:30AM, ON BOND -SGD/MSS The following event: ARRAIGNMENT/CONFERENCE scheduled for 05/13/2013 at 1:30 pm has been resulted as follows: Result: ARRAIGNMENT WAIVED Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR HELD ON THE RECORD COURT REPORTER: RUSSELL, REBECCA Certificate #: CSR-4105	
05/13/2013	PRETRIAL CONFERENCE SCHEDULED	PRETRIAL CONFERENCE SCHEDULED The following event: ARRAIGNMENT/CONFERENCE scheduled for 05/13/2013 at 1:30 pm has been rescheduled as follows: Event: PRETRIAL CONFERENCE Date: 05/30/2013 Time: 8:30 am Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD FLOOR Result: ADJOURNED-DEFENSE COUNSEL REQUEST	
05/30/2013	ADJOURNED - DEFENSE REQUEST	ADJOURNED - ORDER OF ADJOURNMENT OF PRETRIAL, ADJ TO 6/20/13 AT 8:30AM, FOR CONTD PLEA NEGOTIATIONS, BOND CONTD -SGD The following event: PRETRIAL CONFERENCE scheduled for 05/30/2013 at 8:30 am has been resulted as follows: Result: ADJOURNED-DEFENSE COUNSEL REQUEST Judge: SWITALSKI, MARK S Location: COURTROOM E - 3RD	

State of Michigan Plaintiff(s) Attorney: William Dailey P#

VS

David Dabish Defendant(s) Attorney: elias muawad P#

At a session of the Court, held on June 29, 2015

ORDER OF denial of Stay Motion
Title of Order

IT IS ORDERED:

That Defendant Dave Dabish Motion to Stay pending Appeal is denied.

EDWARD A. SERVITTO
CIRCUIT JUDGE

JUN 29 2015

A TRUE COPY
CARMELLA SABAUGH COUNTY CLERK

BY: *Carmella Sabaugh* Court Clerk

HON. EDWARD A. SERVITTO CIRCUIT JUDGE

Approved as to form and substance by:

Signature of attorney for plaintiff

Signature of attorney for defendant