

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	DATE FILED: June 25, 2019
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	▲ COURT USE ONLY ▲
	Case Number: 17CR343
ORDER REGARDING MOTIONS TO SUPPRESS WARRANTLESS SEARCHES/FRUITS OF ILLEGAL SEARCHES D-82 AND D-83	

The defendant is charged with murder in the second degree and child abuse resulting in death in relation to the death of the defendant's thirteen-year-old son, Dylan.

The defense has filed two motions to suppress warrantless searches. D-82 is entitled "Motion to Suppress Fruits of Illegal Search – Search of Mark Redwine's House." D-83 is entitled "Motion to Suppress Evidence Seized by the Whatcom County Sheriff's Department from Mark Redwine's Truck During a Warrantless Search Not Cleansed by Mr. Redwine's Puported (sic) Consent to Permit the Search." ¹

The Court heard evidence concerning both searches during the motions hearings that were held during the week of December 4, 2018. The prosecution called witnesses for both motions. D-82 challenges Investigator Patterson's quick search of the defendant's house on the day Dylan was reported missing to see if Dylan was somewhere

¹ The search complained of in the motion was actually made by officers of the Bellingham Washington Police Department, not the Whatcom County Sheriff's Office.

in the house. During his testimony, Investigator Patterson testified that the defendant seemed calm, understood what was happening around him and did not appear to be intoxicated. The defendant consented to Investigator Patterson's request to look about the defendant's house for Dylan. Investigator Patterson did not observe anything that he considered to be of evidentiary value and he did not seize any items.

The defense did not present any evidence to contradict Investigator Patterson's testimony, nor have they identified any "fruits" that were discovered or obtained due to Investigator Patterson's brief search.

D-83 concerns the search of the defendant's work tractor-trailer from which he was arrested in the State of Washington pursuant to the arrest warrant issued upon the La Plata County Grand Jury's indictment. Officer Craig Johnson of the Bellingham Police Department testified at the motions hearings the week of December 4, 2018, that he was one of the officers involved in the arrest of the defendant from his work truck.

After the defendant was arrested, it was Officer Johnson's duty to determine what was to be done with the truck and the defendant's property within the truck. The defendant, after being arrested and prior to his contact with Officer Johnson, specifically wanted to retrieve his cell phone. Upon Officer Johnson's contact with the defendant, Officer Johnson read the defendant his *Miranda* rights and the defendant requested to obtain the assistance of an attorney. Officer Johnson subsequently told the defendant that he did not want to ask him any questions of an investigatory nature regarding the alleged crime but simply wanted the defendant's assistance to determine to whom he should release the defendant's work truck and whether the defendant had any items within the truck that he wished to be taken with the defendant to the jail instead of leaving those

items in the truck. Officer Johnson had already been informed by Investigator Goldbright that the La Plata County Sheriff's Office did not believe that there was anything of evidentiary value within the truck. Therefore, Officer Johnson simply asked the defendant what should be done with the truck and if there was anything within the truck that the defendant wished to be kept with his personal property. The defendant told Officer Johnson that he could enter the cab of the truck.

Because Officer Johnson was concerned that he may observe something within the truck of evidentiary value, Officer Johnson filled out a consent to search form prior to entering the truck. Upon presenting the defendant with the consent to search form, Officer Johnson told the defendant that he could refuse to consent to Officer Johnson entering the truck, that he could limit the search of the truck, and that he could withdraw his consent to search at any time. Officer Johnson testified that the defendant appeared to understand his rights and signed the consent to search form which was admitted into evidence as Exhibit 1 to D-83 at the hearing.

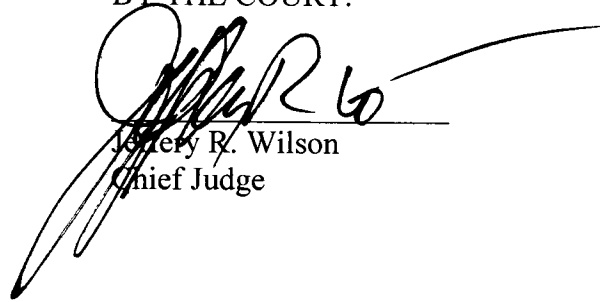
Upon initially searching the truck, Officer Johnson observed some items of value that the defendant had not requested he retrieve and was unable to find other items that the defendant requested be taken with him to the jail. Officer Johnson then again spoke to the defendant and the defendant told Officer Johnson where to look for the items Officer Johnson was initially unable to find. The defense did not present any evidence, other than cross-examination of Officer Johnson and a copy of the *Miranda* advisement, at the hearing to suppress the search of the work truck.

After considering all of the circumstances presented as to both searches, the Court finds by a preponderance of the evidence that as to both searches, the defendant

knowingly, intelligently, and voluntarily consented to each search. Both motions to suppress are denied. See *People v. Delage*, 418 P.3d 1178, (Colo. 2018).

DONE this 25th day of June, 2019.

BY THE COURT:



Jeffrey R. Wilson
Chief Judge