

Docket No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ROBERTO GRIEGO JIMENEZ,
PETITIONER,

-V-

THE STATE OF TEXAS,
RESPONDENT.

On petition for writ of certiorari from the
Texas Court of Criminal Appeals

APPENDIX TO
PETITION FOR WRIT OF CERTIORARI
VOL. 1 OF 2

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APPENDIX A –

Texas Court of Criminal Appeals' Order Denying Petition for Discretionary Review

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5/26/2021

JIMENEZ, ROBERTO GRIEGO Tr. Ct. No. 1546794

On this day, the Appellant's petition for discretionary review has been refused.

Deana Williamson, Clerk

COA No. 14-19-00009-CR
PD-0184-21

MIKE DEGEURIN

FOREMAN, DEGEURIN & DEGEURIN

300 MAIN ST FL 3

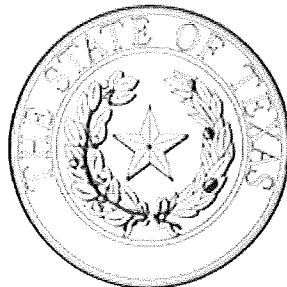
HOUSTON, TX 77002-1851

* DELIVERED VIA E-MAIL *

APPENDIX B –

Texas 14th Court of Appeals Memorandum Opinion

Affirmed and Memorandum Opinion filed July 21, 2020.



In The
Fourteenth Court of Appeals

NO. 14-19-00009-CR

ROBERTO GRIEGO JIMENEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 174th District Court
Harris County, Texas
Trial Court Cause No. 1546794**

MEMORANDUM OPINION

Appellant Roberto Griego Jimenez was indicted for possession of between four and 200 grams of methamphetamine. *See Tex. Health & Safety Code Ann. § 481.112.* Appellant pleaded guilty after the trial court denied his motion to suppress evidence found as a result of a search of his home. In two issues appellant argues the trial court erred in failing to suppress the evidence. We affirm.

BACKGROUND

Appellant was arrested after a search of his house produced methamphetamine. In an affidavit attached to the search warrant executed to search appellant's house Officer Jason Curry averred that on April 4, 2017, he was contacted by a sergeant employed by the Harris County Constable's Office. The sergeant told Curry that he conducted a traffic stop on April 1, 2017 where he recovered 15 Xanax pills. The suspect told the sergeant that he bought the pills from a man going by the name of "Rabbit" who lived at 11026 Sageview Drive in Houston.

On April 5, 2017, four days later, Curry conducted surveillance on the home at 11026 Sageview. A car parked in front of the home was registered to appellant. Curry knew appellant from previous interactions with him. During the surveillance Curry saw a man leave the house, and drive away. Curry saw the driver of that car commit a traffic violation. Another officer conducted a traffic stop and found the driver possessed 1.75 grams of methamphetamine. Curry identified the driver as Michael Tornatore. Tornatore told Curry he was willing to give a written statement that he bought methamphetamine on four different occasions from a man he knew as "Rabbit." Curry showed Tornatore a picture of appellant and Tornatore confirmed appellant was the man he knew as "Rabbit." Tornatore told Curry that he bought the 1.75 grams of methamphetamine from appellant and Tornatore observed approximately one ounce of methamphetamine in the house at 11026 Sageview.

Curry checked the records of the Texas Crime Information Center and found that appellant had been convicted three times of possessing controlled substances in 2011 and 2012. An earlier search at 11026 Sageview produced heroin, which led to one of the convictions in 2012. Curry requested a search warrant based on his belief that narcotics were being sold from 11026 Sageview Drive.

Appellant filed a motion to suppress the evidence recovered as a result of the search warrant. Appellant alleged the affidavit for the search warrant did not provide probable cause because the information in the affidavit was stale and did not provide credible information to show that drugs would be in the home. Appellant also alleged that the affidavit omitted the information about Tornatore's deal with the police officers that Tornatore would not be charged with a crime if he gave a statement that he bought the drugs from appellant. Appellant argued that this deliberate omission materially affected the magistrate's finding of probable cause.

At the hearing on appellant's motion to suppress Curry admitted he made a deal with Tornatore for Tornatore's information. Tornatore agreed to tell Curry where he bought the methamphetamine in exchange for no prosecution on the possession offense. Curry sought permission from the Harris County District Attorney's Office to not charge Tornatore with possession of the methamphetamine. Curry testified that he omitted the no prosecution deal from the affidavit.

Following the suppression hearing the trial court signed detailed findings of fact and conclusions of law including the following pertinent fact findings:

- On April 1st, 2017, Affiant (Sgt. Jason Curry) received information from an unnamed Pct. 8 Constable who received information from and [sic] unnamed informant that contained specific information that identified a specific location where illegal drugs were being sold.
- The unnamed informant said that illegal drugs were being sold at 11026 Sageview Dr., Houston, Harris County, Texas, and the informant identified the name of the male selling drugs there as "Rabbit";
- This was an unverified tip, from an unidentified source who's reliability and veracity were unknown to the magistrate;
- However, the Affiant investigated this information by going to the above stated location on April 5th 2017, and conducting a

surveillance;

- On that same date, Affiant checked the plates of a car parked in the driveway at 11026 Sageview and found that the car was registered to the defendant;
- Affiant saw a male get into another car and drive away from the location;
- Affiant had another officer stop the vehicle for a traffic violation, i.e. failing to signal prior to a left turn;
- The other officer, Arellano, obtained probable cause to search the vehicle and found 1.76 g of methamphetamine;
- The driver of the vehicle was identified as Michael Tornatore;
- **The Affiant omitted information from the search warrant affidavit.**
- **The omitted information was as follows: Affiant spoke with an Assistant District Attorney, and in exchange for not charging Tornatore with possession of methamphetamine (meth), Tornatore agreed to give a statement that he purchased meth on four different occasions from “Rabbit”, and on the same day of his traffic stop (on April 5th, 2017) he had purchased 1.75 grams of meth for \$50.00 from “Rabbit”, and that he also observed 1oz of methamphetamine in Rabbit’s residence on that same day.**
- Tornatore identified the defendant, “Robert Jimenez” as the man he knows as “Rabbit” when presented with a photo of the defendant.
- The Magistrate was unaware of Tornatore’s agreement with the State at the time he/she reviewed the affidavit and signed the warrant.
- The Magistrate did not have the opportunity to determine if Tornatore had a motive to lie in order to get a deal from the State to not file charges against him because this information was omitted from the search warrant affidavit. (emphasis in original).

The trial court further determined that the search warrant affidavit presented the magistrate with the following information:

- Tornatore said he purchased meth from “Rabbit” on four different occasions.
- “Rabbit” had been previously identified in an unverified tip to law enforcement as a person selling drugs at 11026 Sageview Drive.
- Affiant had identified one of the cars parked at 11026 Sageview on April 5th, 2017 as registered to the defendant, Roberto Jimenez.
- Affiant had previous interactions with Roberto Jimenez (“Rabbit”)
- Roberto Jimenez (“Rabbit”) had been previously handled by law enforcement when Friendswood Narcotics Unit executed a search warrant at 11026 Sageview Drive and found the Defendant in possession of heroin.
- Roberto Jimenez (“Rabbit”) had been convicted three times for possession of a controlled substance.
- Affiant showed a picture of Roberto Jimenez to Tornatore and Tornatore identified the person in the picture as the male he knows as “Rabbit”.
- The methamphetamine found in Tornatore’s car was bought by Tornatore from “Rabbit” on the same day that Tornatore was stopped by police, and that there was still some methamphetamine inside “Rabbit’s” residence at 11026 Sageview on that same day.

In applying the law to the facts of the case the trial court determined that the magistrate had probable cause to justify issuance of the search warrant to seize illegal drugs at 11026 Sageview Drive. The trial court found that Tornatore’s information was corroborated by (1) the April 1, 2017 information from the unidentified informant that a man named “Rabbit” was selling drugs out of 11026 Sageview; and (2) Curry’s surveillance of the residence showing Tornatore leaving the residence and Tornatore’s possession of methamphetamine when the other officer conducted a traffic stop. The trial court further found that the magistrate could have found

Tornatore's information credible because Tornatore identified a picture of appellant as the man he knew as "Rabbit" and appellant had three prior convictions for possession of a controlled substance, one of which was a result of a search warrant executed at the same residence. (CR 90-91)

Applying the *Franks*¹ analysis to Curry's omission from the affidavit the trial court determined that Curry intentionally omitted the agreement from the affidavit. The trial court, however, found the omitted information did not materially affect the magistrate's finding of probable cause. The omitted information did not by itself "aide in proving the nonexistence of probable cause." The trial court determined that the "fact that Tornatore got a deal to have the State forego filing charges against him if he told police from where he got the drugs that were found in his car, does not, in and of itself, aide the magistrate in finding that there would not be illegal drugs in the defendant's home on April 5th." The trial court recognized that the omitted information may have caused the magistrate to question Tornatore's credibility but that omission does not "in and of itself establish as a fact that Tornatore was not credible such that the magistrate could not find probable cause."

Following the trial court's denial of appellant's motion to suppress he pleaded guilty to the offense of possession of a controlled substance. In two issues appellant challenges the trial court's ruling on his motion to suppress.

ANALYSIS

I. Standard of review

When reviewing a trial court's ruling on a motion to suppress, we generally apply a bifurcated standard of review, giving almost total deference to the trial court's determinations of fact and reviewing *de novo* the trial court's application of

¹ *Franks v. Delaware*, 438 U.S. 154 (1978).

the law. *State v. McLain*, 337 S.W.3d 268, 271 (Tex. Crim. App. 2011). However, where the motion to suppress is based upon a magistrate’s decision to issue a warrant, there are no credibility determinations to which we must defer because the trial court is constrained to the four corners of the affidavit. *Id.*

In *Franks v. Delaware*, the Supreme Court of the United States held that if there is an affirmative misrepresentation in the warrant affidavit and the misrepresentation is material and necessary to establishing probable cause, then the warrant is invalid under the Fourth Amendment. 438 U.S. 154, 155–56 (1978); *see also Aguirre v. State*, 490 S.W.3d 102, 109 (Tex. App.—Houston [14th Dist.] 2016, no pet.). The presumption of validity regarding the magistrate’s probable cause determination may be overcome if the defendant can show the presence of false statements in the search warrant affidavit that were either made deliberately or with reckless disregard for truth. *Franks*, 438 U.S. at 171. Such statements must be purged from the affidavit, and it is then up to the reviewing judge to determine whether probable cause exists absent the excised statements. *Id.* at 171–72.

When portions of a search warrant affidavit have been excised and a reviewing court re-examines the balance of the affidavit, the reviewing court should no longer give deference to the magistrate’s initial probable cause determination—and should therefore abandon the usual “substantial basis” analysis—because the reviewing court is now examining a new, different affidavit. *Hyland v. State*, 574 S.W.3d 904, 911 (Tex. Crim. App. 2019). The question for the reviewing court becomes the same as it would be for a magistrate conducting an initial review of a search warrant affidavit: Whether the remaining statements in the affidavit establish probable cause. In resolving that question, “reviewing courts are still required to read the purged affidavit in accordance with *Illinois v. Gates*[,]” and must therefore undertake a totality-of-the-circumstances approach. *State v. Le*, 463 S.W.3d 872, 877 (Tex.

Crim. App. 2015).

This court has extended the analysis in *Franks* to material omissions from an affidavit in addition to material misstatements. *Melton v. State*, 750 S.W.2d 281, 284 (Tex. App.—Houston [14th Dist.] 1988, no pet.) (“Such omissions are treated essentially the same as claims of material misstatements.”); *see also Islas v. State*, 562 S.W.3d 191, 196–97 (Tex. App.—Houston [14th Dist.] 2018, pet. denied).² If the defendant carries the burden to show the omission was intentional, the reviewing court then reviews the affidavit with the true statement added and must determine whether probable cause for the warrant still exists. *Islas*, 562 S.W.3d at 197.

In this case the trial court found the omission was intentional but not material. No one has challenged the trial court’s finding that the omission was intentional; therefore, we will address the materiality of the omission under the above-described standards.

II. The trial court did not err in finding the magistrate had sufficient information from the search warrant affidavit to find probable cause that drugs would be found in the residence.

Appellant raised two issues on appeal: one asserting violation of the United States Constitution and another asserting violation of the Texas Constitution. In

² The Fifth Circuit as well as other federal courts and State courts of appeal have also held that material omissions are to be treated essentially like material misstatements. *See United States v. Martin*, 615 F.2d 318, 328 (5th Cir. 1980); accord *United States v. House*, 604 F.2d 1135, 1141 & n. 9 (8th Cir. 1979); *United States v. Collins*, 549 F.2d 557, 561 (8th Cir. 1977); *Darby v. State*, 145 S.W.3d 714, 722 (Tex. App.—Fort Worth 2004, pet. ref’d); *Blake v. State*, 125 S.W.3d 717, 723–24 (Tex. App.—Houston [1st Dist.] 2003, no pet.); *Bosquez v. State*, 792 S.W.2d 550, 551 (Tex. App.—El Paso 1990, pet. ref’d); *Heitman v. State*, 789 S.W.2d 607, 610–11 (Tex. App.—Dallas 1990, pet. ref’d). The Court of Criminal Appeals has declined to address this issue, but at least once has assumed, but not decided, that *Franks* applies to omissions of fact within a probable cause affidavit. *See Renteria v. State*, 206 S.W.3d 689, 704 (Tex. Crim. App. 2006) (assuming application of *Franks* to omissions and concluding that even if the information omitted from the affidavit was included, sufficient probable cause existed to issue the search warrant).

arguing his second issue premised on a violation of the Texas Constitution appellant incorporates his arguments from the section asserting violation of the United States Constitution. Because appellant has not argued that the Texas Constitution provides greater protection than the United States Constitution, we will not address his second issue separately. *See Arnold v. State*, 873 S.W.2d 27, 33 (Tex.Crim.App.1993) (an appellant claiming relief under both the federal and state constitutions must analyze, argue or provide authority to establish that his protection under the Texas Constitution exceeds or differs from that provided to him by the Federal Constitution.).

The core of the Fourth Amendment's warrant clause and its Texas equivalent is that a magistrate may not issue a search warrant without first finding probable cause that a particular item will be found in a particular location. *State v. Elrod*, 538 S.W.3d 551, 556 (Tex. Crim. App. 2017). Probable cause exists when the facts and circumstances shown in the four corners of the affidavit would warrant a person of reasonable caution in the belief that the items to be seized were in the stated place. *Lopez v. State*, 535 S.W.2d 643, 647 (Tex. Crim. App. 1976). Therefore, although the magistrate's determination of probable cause must be based on the facts contained within the four corners of the affidavit, the magistrate may use logic and common sense to make inferences based on those facts. *Elrod*, 538 S.W.3d at 556.

The totality of the circumstances in the four corners of the affidavit in this case shows that there was a fair probability that evidence of drugs would be found in the residence when the warrant issued. The magistrate received information that Tornatore, a named informant, told the affiant that a man named "Rabbit" sold him drugs at the residence in question. The affidavit also noted that another person, four days earlier, had illegally purchased Xanax from a man named "Rabbit" at the same location. The unidentified informant corroborated Tornatore's information that illicit

drugs were being sold at this location by “Rabbit.” The magistrate was also provided with information that the affiant saw Tornatore leave the residence and found Tornatore in possession of methamphetamine after leaving the residence. The magistrate’s assessment of Tornatore’s credibility could be based on these facts in the affidavit, which provided sufficient probable cause. The magistrate had a basis to find probable cause because he or she could choose to believe Tornatore despite his no prosecution deal with the police and District Attorney’s office.

Appellant argues the opinion in *State v. Duarte*, 389 S.W.3d 349 (Tex. Crim. App. 2012), supports his position that the omission of Tornatore’s deal from the affidavit rendered the affidavit insufficient to support a finding of probable cause. Appellant urges that the court’s decision in *Duarte* requires this court to reverse the trial court’s decision because the court in *Duarte* contemplated an informant similar to Tornatore. Appellant described Tornatore as “a first-time informant/snitch from the criminal milieu” making a trade to avoid a felony charge.

In contrast to this case, the Court of Criminal Appeals, in *Duarte*, addressed the issue of whether a tip by a first-time confidential informant of unknown reliability, standing virtually alone, provided a sufficient basis for a magistrate’s probable cause determination. *Id.* at 355.

The affidavit at issue in *Duarte* recited that the affiant “receive[d] information from a credible individual who is currently facing pending criminal charges and provided the information with the expectation that his/her cooperation with law enforcement would, if proven valid, be called to the attention of authorities, for the possible dismissal of charges, or a favorable plea bargain sentence.” *Id.* at 352. The affiant in *Duarte* represented that the confidential informant was familiar with cocaine; had told the affiant that he/she had observed Duarte in possession of cocaine within the past 24 hours at a certain address; and the affiant had confirmed that

Duarte did in fact live at that same address. *Id.*

The trial court in *Duarte* granted the motion to suppress on the basis that the affidavit in support of the search warrant did not contain sufficient information to support the magistrate’s finding of probable cause. *Id.* at 353. The court noted that probable cause exists if the information given by the informant “is corroborated, is a statement against penal interest, is consistent with information provided by other informants, is a detailed first-hand observation, or is coupled with an accurate prediction of the subject’s future behavior.” *Id.* at 356. In *Duarte*, the court emphasized that the informant’s tip “contained no particular level of detail regarding appellee’s premises or his criminal activity.” *Id.* at 359.

Here, the magistrate had significantly more information than the magistrate in *Duarte*. Significantly, in this case Tornatore was not a confidential informant. While an unidentified informant corroborated Tornatore’s information, the magistrate had more than just a confidential informant’s statement to assess probable cause. Information obtained from a named informant is “inherently reliable.” *State v. Ford*, 537 S.W.3d 19, 26 (Tex. Crim. App. 2017) (“citizen informants who identify themselves ‘are considered inherently reliable’”); *see Taflinger v. State*, 414 S.W.3d 881, 885 (Tex. App.—Houston [1st Dist.] 2013, no pet.) (“When a citizen-informant provides self-identifying information that makes himself accountable for the intervention, the degree of reliability of a tip significantly improves.”). In this case, the magistrate was able to assess Tornatore’s reliability with the details he provided, including first-hand observation, information corroborated by another informant, and detail about appellant’s premises and criminal liability.

The detailed statement given by Tornatore, a named informant and witness to the ongoing criminal activity, showed that he had personal and direct knowledge of the matters he asserted. The magistrate, therefore, correctly determined that the facts

that Tornatore gave established a “fair probability” that evidence of a particular crime would likely be found in 11026 Sageview Drive. *See Elrod*, 538 S.W.3d at 560. Appellant met his burden to show that the affidavit should have included the information about Tornatore’s deal of no prosecution in exchange for information. However, when the improperly omitted information is included in the affidavit, the magistrate still had sufficient information to corroborate Tornatore’s statement and determine probable cause. *See Islas*, 562 S.W.3d at 197 (“If the defendant carries that burden, then the false statement is removed from the affidavit . . . and the reviewing court must determine whether probable cause for the warrant still exists.”). We hold the trial court did not abuse its discretion in denying the motion to suppress and overrule appellant’s issues on appeal.

CONCLUSION

Having overruled appellant’s issues, we affirm the trial court’s judgment.

/s/ Jerry Zimmerer
Justice

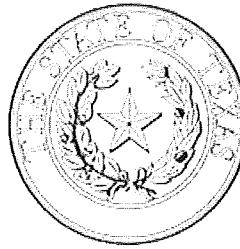
Panel consists of Justices Jewell, Bourliot, and Zimmerer (Bourliot, J. dissenting opinion to follow).

Do Not Publish — Tex. R. App. P. 47.2(b).

APPENDIX C –
Order Denying Motion for En Banc Reconsideration

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MÉG" POISSANT
RANDY WILSON



Chief Justice
TRACY CHRISTOPHER

Clerk
CHRISTOPHER A. PRINE
PHONE 713-274-2800

Fourteenth Court of Appeals

301 Fannin, Suite 245
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Thursday, February 11, 2021

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* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-19-00009-CR
Trial Court Case Number: 1546794

Style: Roberto Griego Jimenez v. The State of Texas

Please be advised that on this date the court **DENIED APPELLANT'S** motion for rehearing en banc in the above cause. Justices Bourliot, Spain, Hassan and Poissant would grant en banc reconsideration.

Panel Consists of Chief Justice Christopher and Justices Wise, Jewell, Bourliot, Zimmerer, Spain, Hassan, Poissant, and Wilson

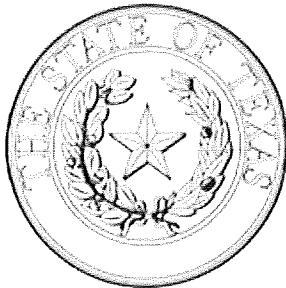
Sincerely,

/s/ Christopher A. Prine, Clerk

CC:

APPENDIX D –
Dissent from Denial of Motion for En Banc Reconsideration

Dissenting Opinion from Denial of En Banc Reconsideration filed February 11, 2021.



In The
Fourteenth Court of Appeals

NO. 14-19-00009-CR

ROBERTO GRIEGO JIMENEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 174th District Court
Harris County, Texas
Trial Court Cause No. 1546794**

**DISSENTING OPINION FROM DENIAL OF
EN BANC RECONSIDERATION**

I respectfully dissent from this court's denial of reconsideration en banc because:

1. the informant at issue:
 - (a) was a first-time informant;
 - (b) had secured a non-prosecution deal; and

- (c) had a material and relevant criminal history (including (i) a conviction for fraudulent use/possession of identification that was less than 10 years old;¹ (ii) a conviction for possession of controlled substances; and (iii) two convictions for crimes of moral turpitude);
- 2. the officer's affidavit omitted the foregoing facts about the informant;
- 3. said omissions are functionally treated as material misstatements under this court's precedents; and
- 4. the panel majority threatens the uniformity of this court's decisions with respect to (a) the fundamental constitutional right to remain free from unreasonable searches and (b) our analyses under *Franks*.

See generally Tex. R. App. P. 41.2(c).

The officer who signed the search warrant affidavit failed to inform the magistrate judge that he was using a first-time informant with a relevant criminal history and a non-prosecution deal. These omissions are to be treated the same as material misstatements for purposes of our *Franks* analysis. *Islas v. State*, 562 S.W.3d 191, 196 (Tex. App.—Houston [14th Dist.] 2018, pet. ref'd); *see also Melton v. State*, 750 S.W.2d 281, 284 (Tex. App.—Houston [14th Dist.] 1988, no pet.) (“Such omissions are treated essentially the same as claims of material misstatements.”) (citing *Brooks v. State*, 642 S.W.2d 791, 796-97 (Tex. Crim. App. [Panel Op.] 1982); *United States v. Martin*, 615 F.2d 318, 328 (5th Cir. 1980); and *United States v. Park*, 531 F.2d 754, 758-59 (5th Cir. 1976)). The omissions at issue were material to the officer's presentation of probable cause; therefore, the warrant was invalid. *Compare Islas*, 562 S.W.3d at 196-97 (citing *Aguirre v. State*, 490 S.W.3d 102, 109 (Tex. App.—Houston [14th Dist.] 2016, no pet.)) *with*

¹ No known Texas court has addressed whether this particular crime is one of moral turpitude. *But see In re G.M.P.*, 909 S.W.2d 198, 208 (Tex. App.—Houston [14th Dist.] 1995, no writ) (“Crimes involving moral turpitude are those that involve dishonesty, *fraud*, deceit, misrepresentation, or deliberate violence.”) (emphases added and removed) (citing *Duncan v. Bd. of Disciplinary Appeals*, 898 S.W.2d 759, 761 (Tex. 1995)).

Franks v. Delaware, 438 U.S. 154, 155-56 (1978) (“[W]here the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant’s request. In the event that at that hearing the allegation of perjury or reckless disregard is established by the defendant by a preponderance of the evidence, and, with the affidavit’s false material set to one side, the affidavit’s remaining content is insufficient to establish probable cause, the search warrant must be voided and the fruits of the search excluded to the same extent as if probable cause was lacking on the face of the affidavit.”).

It should not take binding precedent to convince the majority of this en banc court that the officer’s omissions herein were unavoidably material. *See State v. Duarte*, 389 S.W.3d 349, 355-56 (Tex. Crim. App. 2012) (“[T]he weight given to the informant’s hope for lenient treatment on his own pending charges in return for his ‘tip’ is *inappropriate* as that is the very characteristic that sets the citizen-informer apart from the informant ‘from the criminal milieu.’”) (emphases added); *see also id.* at 356 (“The citizen-informer is presumed to speak with the voice of honesty and accuracy. The criminal snitch who is making a *quid pro quo* trade does not enjoy any such presumption; his motive is entirely self-serving.”); *id.* at 358 (“[T]ips from anonymous or first-time confidential informants of unknown reliability *must* be coupled with facts from which an inference may be drawn that the informant is credible or that his information is reliable.”) (emphasis added). *Cf. Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971) (“Without disrespect to the state law enforcement agent here involved, the whole point of the basic rule so well expressed by Mr. Justice Jackson is that prosecutors and policemen simply cannot be asked to maintain the requisite neutrality with regard to their own

investigations—the ‘competitive enterprise’ that must rightly engage their single-minded attention.”). But for the officer’s material omissions, the magistrate judge would have known his duty as a front-line guardian of Fourth Amendment protections required additional analyses the officer’s material omissions precluded him from conducting. While the subtleties and contours of such analyses assuredly depend upon case-specific facts, no known authority suggests officers are authorized to short-circuit mandatory and impartial analyses concerning reasonableness under the Fourth Amendment via material omissions in search warrant affidavits. This *en banc* court’s refusal to rectify the panel majority’s error contravenes controlling authority and effectively authorizes material omissions in search warrant affidavits, even when the information comes from a first-time informant with a non-prosecution deal and undisclosed relevant convictions. Our Constitution guarantees more.

Based on the foregoing constitutional considerations, binding authorities, and this court’s own decisions, I respectfully dissent from the denial of reconsideration *en banc* because the panel majority threatens the uniformity of said decisions while creating the extraordinary circumstance of an intermediate court of appeals refusing to conduct basic Fourth Amendment analyses under binding precedents.

/s/ Meagan Hassan
Justice

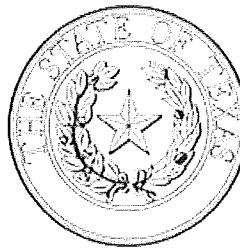
En Banc Panel consists of Chief Justice Christopher and Justices Wise, Jewell, Bourliot, Zimmerer, Spain, Hassan, Poissant, and Wilson. (Hassan, J., dissenting, joined by Justices Bourliot and Spain).

Publish — Tex. R. App. P. 47.2(b).

APPENDIX E –
Order Denying Motion for Rehearing

Justices

TRACY CHRISTOPHER
KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT



Chief Justice

KEM THOMPSON FROST

Clerk

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Fourteenth Court of Appeals

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Thursday, October 1, 2020

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RE: Court of Appeals Number: 14-19-00009-CR
Trial Court Case Number: 1546794

Style: Roberto Griego Jimenez v. The State of Texas

Please be advised that on this date the Court **DENIED APPELLANT'S** motion for rehearing in the above cause.

Panel Consists Of Justices Jewell, Bourliot and Zimmerer

Sincerely,

/s/ Christopher A. Prine, Clerk

cc:

APPENDIX F –
Trial Court's Findings of Fact and Conclusions of Law

FILED

Chris Daniel
District Clerk

P16

OCT 04 2018

Time: _____
By _____
Deputy

CAUSE NUMBER 1546794, 1546795

THE STATE OF TEXAS

IN THE DISTRICT COURT FOR

v.

§ THE 174th JUDICIAL DISTRICT

ROBERTO GRIEGO JIMENEZ

§ HARRIS COUNTY, TEXAS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court, having considered the evidence admitted at the hearing on the motion to suppress, the credibility of the witnesses who testified, and the law that governs the case, makes the following findings of fact and conclusions of law contained herein.

I. Procedural History

1. The Court finds that on July 9, 2018, the Defendant filed a "First Amended Motion to Suppress" asserting that the affidavit for the search warrant does not provide probable cause for the search because the information is stale, and does not provide credible information to show that the drugs would be present at the defendant's home. In addition, the Defendant asserts that the Affiant of the search warrant affidavit made a material omission in his affidavit by failing to tell the magistrate that the informer, Tornatore, agreed to tell Affiant that the Defendant was in possession of illegal narcotics in exchange for the State not filing drug charges against Tornatore for the drugs found in his car on a traffic stop.
2. The Court finds that on August 16, 2018, the Court held a motion to suppress

evidence hearing in the above-styled-case.

3. The Court finds that on August 16, 2018, in addition to the above-mentioned assertions, the Defendant asserted that the Affiant omitted from his affidavit that Tornatore was directed by Affiant to call the defendant in hopes of getting the Defendant to sell him more drugs.
4. The Court finds that at the hearing on August 16, 2018, both sides rested and closed their case and the Defendant asked to submit a brief in support of his argument.

II. Factual Findings

The Court makes the following findings:

1. The court incorporates the facts of the search warrant affidavit into its findings of facts;
2. The court finds that the magistrate could have made reasonable inferences from the facts pertained in the four-corners of the search warrant affidavit as contained in this Court's findings of facts;
3. On April 1st, 2017, Affiant (Sgt. Jason Curry) received information from an unnamed Pct. 8 Constable who received information from an unnamed informant that contained **specific information** that identified a **specific location** where illegal drugs were being sold.
4. The unnamed informant said that illegal drugs were being sold at 11026 Sageview Dr., Houston, Harris County, Texas, and the informant identified the name of the male selling drugs there as "Rabbit";
5. This was an unverified tip, from an unidentified source who's reliability and veracity were unknown to the magistrate;
6. However, the Affiant investigated this information by going to the above stated location on April 5th 2017, and conducting a surveillance;

7. On that same date, Affiant checked the plates of a car parked in the driveway at 11026 Sageview and found that the car was registered to the defendant;
8. Affiant saw a male get into another car and drive away from the location;
9. Affiant had another officer stop the vehicle for a traffic violation, i.e. failing to signal prior to a left turn;
10. The other officer, Arellano, obtained probable cause to search the vehicle and found 1.76 g of methamphetamine;
11. The driver of the vehicle was identified as Michael Tornatore;
12. **The Affiant omitted information from the search warrant affidavit.**
13. **The omitted information was as follows: *Affiant spoke with an Assistant District Attorney, and in exchange for not charging Tornatore with possession of methamphetamine (meth), Tornatore agreed to give a statement that he purchased meth on four different occasions from "Rabbit", and on the same day of his traffic stop (on April 5th, 2017) he had purchased 1.75 grams of meth for \$50.00 from "Rabbit", and that he also observed 1 oz of methamphetamine in Rabbit's residence on that same day.***
14. Tornatore identified the defendant, "Robert Jimenez" as the man he knows as "Rabbit" when presented with a photo of the defendant.
15. The Magistrate was unaware of Tornatore's agreement with the State at the time he/she reviewed the affidavit and signed the warrant.
16. The Magistrate did not have the opportunity to determine if Tornatore had a motive to lie in order to get a deal from the State to not file charges against him because this information was omitted from the search warrant affidavit.
17. The Magistrate was presented with information in the Search Warrant Affidavit (herein referred to as "SWA") that Tornatore said he purchased meth from "Rabbit" on four different occasions.
18. The Magistrate was presented with information in the SWA that "Rabbit" had been PREVIOUSLY identified in an unverified tip to law enforcement as a person selling drugs at 11026 Sageview Drive, Houston, Harris County, Tx.

19. The magistrate was presented with information in the SWA that Affiant had identified one of the cars parked at 11026 Sageview on April 5th, 2017 as registered to the defendant, Roberto Jimenez.
20. The Magistrate was presented with information in the SWA that the Affiant had previous interactions with Roberto Jimenez ("Rabbit")
21. The Magistrate was presented with information in the SWA that Roberto Jimenez ("Rabbit") had been previously handled by law enforcement when Friendswood Narcotics Unit executed a search warrant at 11026 Sageview Drive and found the Defendant in possession of heroin.
22. The Magistrate was presented with information in the SWA that Roberto Jimenez ("Rabbit") had been convicted three times for possession of a controlled substance.
23. The Magistrate was presented with information in the SWA that Affiant showed a picture of Roberto Jimenez to Tornatore and Tornatore identified the person in the picture as the male he knows as "Rabbit".
24. The Magistrate was presented with information in the SWA that the methamphetamine found in Tornatore's car was bought by Tornatore from "Rabbit" on the same day that Tornatore was stopped by police, and that there was still some methamphetamine inside "Rabbit's" residence at 11026 Sageview on that same day.

III. The Law

1. A magistrate can make reasonable inferences from the facts contained in the four corners of the sworn search warrant affidavit.
2. The fact-finder may draw a reasonable inference from the evidence. See, *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *Villa v. State*, 514 S.W.3d 227, 232 (Tex. Crim. App. 2017). ("*This standard requires the appellate court to defer to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.*"")

3. A magistrate shall not issue a search warrant without first finding probable cause that a particular item will be found in a particular location. USCA Const.Amend.4
4. Probable cause exists, as would justify issuance of a search warrant, when, under the **totality of the circumstances**, there is a **fair probability** that contraband or evidence of a crime will be found at the specified location. USCA.Const.Amend4.
5. When the trial court is determining probable cause to support the issuance of a search warrant there are **NO credibility determinations**, and the trial court is constrained to the four corners of the affidavit. See 337 S.W3d 268 (Tex.Crim.App 2011)
6. In *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), the US Supreme Court recognized that if an affirmative misrepresentation is knowingly included in a probable cause affidavit and is material and necessary to establishing the probable cause, *the warrant is rendered invalid under the 4th Amendment*. While the Texas Court of Criminal Appeals has not recognized that a *Franks* analysis pertains to omissions as well as false statements, **some federal courts have so held**. See *United States v. Martin* 615 F.2d 318, 328 (5th Cir.1980), *Massey v. State*, 933 S.W.2d 141, Court Crim App. Tex, (1996) mentioning *Franks* citing *United States v. Martin*, 615 F.2d 318, 328 (5th Cir.1980)(recognizing that *allegations of material omissions to be treated essentially like claims of material misstatements*) – a *Franks*-like analysis.
7. The Texas Court of Criminal Appeals has not yet recognized that a *Franks* analysis pertains to omissions as well as false statements. See *Massey*, 933 S.W.2d at 146; *Brooks v. State*, 642 S.W.2d 791, 796–97 (Tex.Crim.App. [Panel Op.] 1982). However, the Fifth Circuit, along with other Texas Courts of Appeals, has concluded that allegations of **material omissions** are to be treated essentially the same as claims of **material misstatements**. See *United States v. Martin*, 615 F.2d 318, 328 (5th Cir.1980);

8. The question is whether there were intentional and material omissions of fact in the warrant affidavit, i.e, *whether the omissions were made intentionally or with reckless disregard for the accuracy of the affidavit*. See, *Melton v. State*, 750 S.W.2d 281, 284 (Tex.App.-Houston [14th Dist.] 1988, no pet.); *Heitman v. State*, 789 S.W.2d 607, 610–11 (Tex.App.-Dallas 1990, pet. ref'd).
9. In an omissions argument, the Defendant has the burden of proving by a preponderance of the evidence:
 - i. that a material omission was in fact made,
 - ii. that it was made intentionally, or with reckless disregard for the accuracy of the affidavit.

If the defendant carries this burden, then, the reviewing court has to determine if the omitted information had been included in the affidavit, the affidavit would still establish probable cause.

10. Probable cause to support the issuance of a search warrant exists where the facts submitted to the magistrate are sufficient to justify a conclusion that the object of the search is probably on the premises to be searched at the time the warrant is issued. *Cassias v. State*, 719 S.W.2d 585, 587 (Tex.Crim.App.1986).
11. To justify the issuance of a search warrant, the affidavit submitted in support must set forth facts sufficient to establish probable cause that (1) a specific offense has been committed, (2) that specifically described property or items to be searched for and seized constitute evidence of the offense, and (3) that the property or items constituting such evidence are located at the particular place to be searched. Tex.Code Crim. Proc. Ann. art. 18.01(c) (Vernon Supp.2004).

- 12.Whether the facts mentioned in the affidavit are adequate to establish probable cause depends on the totality of the circumstances. *Ramos v. State*, 934 S.W.2d 358, 362–63 (Tex.Crim.App.1996).
13. **Statements made during a motion to suppress hearing do not factor into the probable cause determination; rather, we examine only the four corners of the affidavit to determine whether probable cause exists.** *Massey v. State*, 933 S.W.2d 141, 148 (Tex.Crim.App.1996); *Wilson v. State*, 98 S.W.3d 265, 270-71 (Tex.App.-Houston [1st Dist.] 2002, pet. ref'd).
14. Reasonable inferences may be drawn from the affidavit, and the affidavit must be interpreted in a common sense and realistic manner. *Wilson*, 98 S.W.3d at 271.
15. The task of a magistrate in issuing a search warrant is to make a practical, common-sense decision whether, given all the circumstances set forth in the warrant's supporting affidavit, including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. *Gates*, 462 U.S. at 238, 103 S.Ct. at 2332.
16. **The duty of a reviewing court is simply to determine whether, considering the totality of the circumstances, the magistrate had a substantial basis for concluding that probable cause existed to support the issuance of the warrant when viewing the affidavit. *Id.***
17. Granting great deference to the issuing magistrate's determination, we will sustain the issuance of the warrant if the magistrate had a substantial basis for concluding that a search would uncover evidence of wrongdoing. *Gates*, 462 U.S. at 236, 103 S.Ct. 2317; see *Swearingen*, 143 S.W.3d at 811.
18. *"If in a particular case it may not be easy to determine whether an affidavit demonstrates the existence of probable cause, the resolution of such*

doubtful or marginal cases should be largely determined by the preference to be accorded warrants.” *State v. Walker*, 140 S.W.3d 761, 765 (Tex.App.-Houston [14th Dist.] 2004, no pet.).

19. We interpret affidavits for arrest or search warrants in a common-sense and realistic manner. *Gibbs v. State*, 819 S.W.2d 821, 830 (Tex.Crim.App.1991). The magistrate who reviews an affidavit may draw inferences from the facts contained in it. *Id.*
20. The test is whether a reasonable reading by the magistrate would lead to the conclusion that the affidavit provided a “*substantial basis for the issuance of the warrant; thus, the magistrate’s sole concern should be ‘probability’.*”
21. Probable cause exists when, under the *totality of the circumstances*, there is a “fair probability” that contraband or evidence of a crime will be found at the specified location. It is a “flexible and nondemanding” standard. *Rodriguez v. State* 232 S.W.3d 55, 60 (Tex. Crim. App 2007).
22. The Supreme Court has repeatedly reminded reviewing courts that they should “not invalidate the warrant by interpreting the affidavit in a hypertechnical, rather than a commonsense, manner.” *Id.* at 60.
23. Thus, in close cases we give great deference to a magistrate’s determination of probable cause to encourage police officers to use the warrant process rather than making a warrantless search and later attempting to justify their actions by invoking some exception to the warrant requirement. *Id. citing Illinois v. Gates*, 462 U.S. 213, 236, 103 S.Ct. 2317, 76 L.Ed.,2d 527 (1983); *See also, Ornelas v. United States*, 517 U.S. 690, 699, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996)

24. Because of the potential unreliability of statements given by anonymous informants, the United States Supreme Court developed the *Aguilar-Spinelli* analysis, which required a two-pronged test: 1) the informant obtained the relevant information in a reliable manner, and 2) the informant was reliable.

25. In response to "hypertechnical" interpretations of the *Aguilar-Spinelli* analysis, the United States Supreme Court subsequently *relaxed the rigid standards* in the *Aguilar-Spinelli* analysis to allow consideration of the totality of the circumstances. *See Illinois v. Gates*, 462 U.S. 213, 230, 103 SW Ct. 2317, 76 L.Ed.2d 527 (1983). Because the focus of inquiry is whether the statements are sufficiently reliable for a finding of probable cause, a deficiency in one of the two factors of *reliability of the informant* may not be fatal if the totality of the circumstances *indicates reliability*. *Id.*

26. However, the totality of the circumstances includes the (1) "veracity," (2) "reliability," and (3) the "basis of knowledge" of the informant and the informant's information. "[A]n informant's 'veracity,' 'reliability,' and 'basis of knowledge' are all highly relevant in determining the value of his report." *Id.*

IV. Defense Argument:

A. The Defendant argues that the Affiant failed to mention in his search warrant affidavit the following:

(1) That when Tornatore was stopped for a traffic violation, Tornatore made a deal with the police officer to tell him where and who he bought the meth from in exchange for charges not being filed against him by the district attorney's office for the offense of Possession of a Controlled Substance;

(2) That Officer Curry had Tornatore place a phone call to the Defendant in an attempt to get the Defendant to sell him more drugs but that the Defendant refused his request at that time.

B. Furthermore to support his motion to suppress, the Defendant argues the following grounds:

- (1) that the information provided to the magistrate that drugs were being sold out of the house on 11026 Sageview on April 1st, 2017 was too stale to use as the basis for believing drugs would still be present at the house on April 5th, 2017;
- (2) that the information that was received concerning drugs being sold out of the house at 11026 Sageview on April 5th, 2017 was stale to use as the basis for believing drugs were in the house on April 5th because the search warrant was executed hours later from when the warrant was signed; and
- (3) that Tornatore was not credible because his statement that drugs were at the Defendant's house was contingent upon the State not filing charges against him.

V. Application of the Law to the Facts

A. Reliability, Veracity and Basis of Knowledge.

In the case at hand, the magistrate had probable cause to justify the issuance of the search warrant to seize illegal drugs at 11026 Sageview, Houston, Harris County, Texas.

Probable cause to support the issuance of a search warrant exists where the facts submitted to the magistrate are sufficient to justify a conclusion that the object of the search is probably on the premises to be searched at the time the warrant is issued. *Cassias v. State*, 719 S.W.2d 585, 587 (Tex.Crim.App.1986).

The magistrate could have determined based on the totality of the circumstances that Tornatore was a credible and reliable informant, with a basis of knowledge that the Defendant was in possession of methamphetamine on August 5, 2017 at 11026 Sageview.

In the four corners of the search warrant affidavit that was presented on April 5th, 2017, the Magistrate was given information by the Affiant, stating that Tornatore said that a man named "Rabbit" had sold him drugs out of the house at 11026 Sageview. The magistrate was also presented with information in the search warrant affidavit that on April 1st, 2017, an unidentified person told a different officer, other than the Affiant, that he had purchased Xanax from a male named "Rabbit" residing at 11026 Sageview.

As such, the magistrate could have determined that the April 1st information from the unidentified informant corroborated Tornatore's allegation that a male named "Rabbit" was indeed selling drugs out of the residence at 11026 Sageview which would support Tornatore's credibility even if it were to be called into question.

In addition, the Magistrate was provided with information in the search warrant affidavit, that on April 5, 2017, the Affiant conducted surveillance of the Sageview residence and had actually seen Tornatore come out of the house where Tornatore said he purchased methamphetamine immediately before he was stopped by officers which corroborates Tornatore's allegation that he purchased meth out of the house on Sageview. As such, the magistrate could have determined that Tornatore was credible.

The magistrate was provided with information in the four corners of the search warrant affidavit that Tornatore was shown a picture of the defendant, Roberto Jimenez, and Tornatore identified the person in the picture as "Rabbit". This identification of the defendant by Tornatore as the person he knew as "Rabbit" supports probable cause for the Magistrate to believe that defendant is the person who sold Xanax to the unidentified informer and methamphetamine to Tornatore from the house at 11026 Sageview.

Finally, the magistrate could have believed Tornatore was credible, and reliable when he told the officer that the defendant was in possession of one ounce of meth. The magistrate's belief in Tornatore's credibility and reliability

could be based on the fact that the magistrate was presented with allegations in the SWA that the defendant already had three convictions for possession of a controlled substance, and that on one previous occasion a search warrant was executed at the defendant's residence at 11026 Sageview Drive where officers found the defendant in possession of heroin.

Based on the foregoing, the magistrate could have believed Tornatore was credible and reliable with a basis of knowledge when he told law enforcement that he saw meth at the Defendant's house on Sageview.

Finally, the totality of the circumstances establish that the Magistrate had a basis to believe Tornatore's information to law enforcement was credible, relevant and reliable.

VI. Applying *Franks* Analysis to Omissions:

Affiant, Sgt. Jason Curry, testified in the motion to suppress hearing that he intentionally omitted the information that an agreement was made with Tornatore in exchange for his statement or cooperation.

Sgt. Curry testified that after speaking with the district attorney's office (DAO), they agreed not to file charges against Tornatore if Tornatore told them from whom and where he bought the meth.

The Court believes the Defendant proved by a preponderance that this omission was intentionally made by the Affiant.

However, the Court does not find that the omitted information materially affects a finding of probable cause by the magistrate. The omitted information by itself does not aide in proving the nonexistence of probable cause. As such, it is not material. The fact that Tornatore got a deal to have the State forego filing charges against him if he told police from where he got the drugs that were found in his car, does not, in and of itself, aide the magistrate in finding that there would not be illegal drugs in the defendant's home on April 5th.

On the other hand, had the magistrate known about this omission, the magistrate may have questioned the credibility of Tornatore, but it does not in and of itself establish as a fact that Tornatore was not credible such that the

magistrate could not find probable cause to believe that illegal drugs would be in the house at 11026 Sageview.

Moreover, the law will not allow a reviewing court to make credibility determinations; and as such, the Court will not do so in this case.

Hypothetically, if the omitted information was that Tornatore said he never bought any drugs from the defendant and he did not see any illegal drugs in the Defendant's house at Sageview on April 5th, 2017, then such omission would be a material omission that would result in a finding that probable cause was lacking.

However, as the case stands, based on the four corners of the affidavit, the magistrate could still find probable cause with the omitted information in the affidavit because the magistrate could choose to believe Tornatore despite his deal with the police and the District Attorney's Office.

The foregoing contention is based on the fact that Tornatore's allegations were corroborated with additional information in the search warrant affidavit such as, the police officer surveillance, the unverified tip, the identification of the defendant, and the defendant's criminal history and previous illegal activity at 11026 Sageview.

In conclusion, the omission, in the case at hand, is not a material omission that would affect the determination of probable cause.

Furthermore, the Court finds that there was no credible evidence during the motion to suppress hearing to establish that Sgt. Jason Curry was involved with having Tornatore make a phone call to the defendant in hopes of getting him to agree to sell Tornatore more drugs.

Therefore, the court finds the Defendant has failed to prove by a preponderance of the evidence that, in fact, a second material omission was made by the Affiant allegedly leaving out information of Tornatore placing a phone call to the defendant.

VII. Staleness Issue

In the case at hand, the Court finds that the warrant was not stale.

To establish probable cause to issue a warrant, the information contained in a warrant's accompanying affidavit must not be stale; the facts contained in the affidavit must have occurred recently enough to allow the magistrate to conclude that probable cause exists at the time that the warrant is requested and ultimately issued. See, *Kennedy v. State*, 338 S.W.3d 84, 93 (Tex. App. –Austin 2011) (*citing Guerra v. State*, 860 S.W.2d 609, 611-12 (Tex.App.-Corpus Christi 1993 pet ref'd.); see also *McKissick v. State*, 209 S.W.3d 205, at 214 (*explaining that when determining whether information in an affidavit is stale, courts should examine "the time elapsing between the occurrence of the events set out in the affidavit and the time the search warrant was issued"*). If so much time has passed that it is unreasonable to presume that the sought items are still located at the suspected place, the information in an affidavit is stale. *Id.*; *Guerra*, 860 S.W. 2d at 611. Moreover, to determine if the information in the affidavit is stale and does not support a finding of probable cause to issue a warrant, consideration should be given to the type of property to be seized and the probability that the property may have been relocated. See *Kennedy*, 338 S.W.3d at 93.

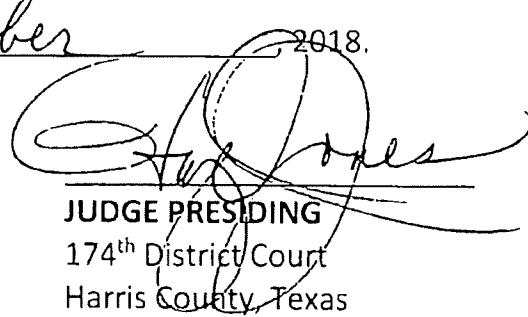
In the case at hand, Officer Curry developed the information establishing probable cause on April 5th, 2017, and on that same day Curry presented a search warrant affidavit to the magistrate. The magistrate signed the search warrant, and law enforcement officers executed it at 11026 Sageview, Houston, Harris County, Texas, approximately an hour and twenty minutes after its issuance on that same day. Therefore, the court does not find that the search warrant was stale.

VIII. CONCLUSION

In conclusion, the magistrate had a substantial basis for concluding that probable cause existed to support the issuance of the warrant when viewing the affidavit. The warrant was supported by probable cause; and as such, the defendant's constitutional and/or statutory rights were not violated.

The Defendant's Motion to Suppress is DENIED.

Signed this 4th day of October, 2018.



JUDGE PRESIDING
174th District Court
Harris County, Texas

Defendant gave Notice of Appeal: 12-21-18

CAUSE NUMBER 1546794, 1546795

THE STATE OF TEXAS

v.

ROBERTO GRIEGO JIMENEZ

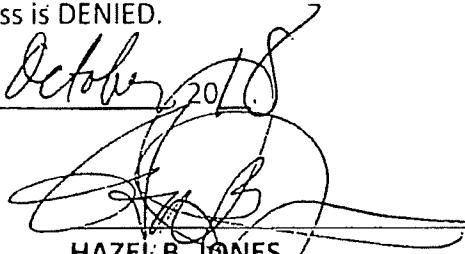
§ IN THE DISTRICT COURT FOR
§
§ THE 174th JUDICIAL DISTRICT
§
§ HARRIS COUNTY, TEXAS

ORDER

The Court hereby incorporates herein the attached findings of fact and conclusions of law in this cause.

The Defendant's Motion to Suppress is DENIED.

SIGNED this 4th day of October, 2011


HAZEL B. JONES
JUDGE PRESIDING
174th DISTRICT COURT
HARRIS COUNTY, TEXAS