

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

DOCKET NO.: 15-0008

(Lower Tribunal: Circuit Court of Mineral County, West Virginia;
The Honorable Judge Lynn A. Nelson; Civil Action No.: 14-C-137)

PRISTINE PRE-OWNED AUTO, INC.,
A West Virginia Corporation,

PETITIONER,

v.

JAMES W. COURRIER, JR.,
Prosecuting Attorney for Mineral County,
West Virginia,

and

TROOPER M.L. TRAVELPIECE, individually and
in his official capacity as a West Virginia State Trooper,

RESPONDENTS.

RESPONDENT'S BRIEF

James W. Courier, Jr.
Prosecuting Attorney for Mineral County
WV State Bar No. 6300
P.O. Drawer 458
Keyser, WV 26726
304-788-0300
mincoprosatty@yahoo.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
SUMMARY OF ARGUMENT	4
STATEMENT REGARDING ORAL ARGUMENT	5
ARGUMENT	5
I. THE LOWER COURT WAS CORRECT IN DENYING THE WRIT OF MANDAMUS.	5
II. THE LOWER COURT PROPERLY FOUND THAT THE SEARCH WARRANT WAS VALID AND THAT THE SUBSEQUENT SEARCH AND SEIZURE WAS REASONABLE.	7
III. THE EXCLUSIONARY RULE DOES NOT APPLY IN THE PRESENT CASE.	15
CONCLUSION	15
CERTIFICATE OF SERVICE	17

TABLE OF AUTHORITIES

West Virginia Cases

<i>State v. Bates</i> , 181 W.Va. 36, 40, 41, 380 S.E.2d 203 (1989)	12
<i>State ex rel. Smith v. Mingo Co. Commission</i> , 228 W.Va. 474, 477, 721 S.E.2d 44 (2011)	5, 6
<i>State v. Henderson</i> , 103 W.Va. 361, 137 S.E. 749 (1926)	14
<i>State v. Lilly</i> , 194 W.Va. 595, 601, 461 S.E.2d 101, 107 (1995)	10
<i>State v. Tadder</i> , 173 W.Va. 187, 313 S.E.2d 667 (1984)	14
<i>State v. White</i> , 280 S.E.2d 114 (W.Va. 1981)	7
<i>State v. Wood</i> , 177 W.Va. 352, 354, 352 S.E.2d 103, 105 (1986)	10

West Virginia Court Rules

West Virginia Rules of Criminal Procedure, Rule 19	5
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United States Supreme Court and Lower Federal Courts

<i>Franks v. Delaware</i> , 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)	10
<i>Rawlings v. Kentucky</i> , 448 U.S. 98, 100 S.Ct. 2556, 65 L.Ed.2d 633 (1980)	14
<i>U.S. v. Hodges</i> , 705 F.2d 106, 108 (4 th Cir. 1983)	11
<i>U.S. v. Oloyede</i> , 982 F.2d 133 (4 th Cir. 1992)	13
<i>U.S. v. Ozar</i> , 50 F.3d 1440, 1445 (8 th Cir. 1995)	10
<i>U.S. v. Ventresca</i> , 380 U.S. 102, 109, 85 S.Ct. 741, 746, 13 L.Ed.2d 684 (1965)	11

Scholarly Treatises

Franklin D. Cleckley, <i>Handbook on West Virginia Criminal Procedure</i> , I-354 (Second Edition, 1993)	7, 11
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STATEMENT OF THE CASE

Respondent James W. Courier, Jr. is the duly elected Prosecuting Attorney for Mineral County, West Virginia; Respondent M.L. Travelpiece is a West Virginia State Trooper assigned to the Keyser Detachment of the West Virginia State Police in Mineral County; Petitioner Pristine Pre-Owned Auto, Inc. (hereafter "Pristine") is a used car dealership and repair shop located in Keyser. At the time of the filing of the underlying mandamus action, Pristine was licensed to operate through the West Virginia Division of Motor Vehicles (hereafter DMV), but was under investigation for acts of non-compliance, including with one of the vehicles at issue in the search warrant in this case. Pristine's suit for mandamus seeking the return of items taken pursuant to a search warrant issued by Mineral County Magistrate Sue Roby was denied after hearing by Circuit Court Judge Lynn A. Nelson. (Amended Appendix of Record, Order, Pages 1-8).

The 2005 Ford Freestyle at issue was wrecked while it was owned by Benson and Marcella Kelley, and Progressive Insurance paid off the remaining lien on the vehicle, with the title then supposed to be given to Progressive Insurance. However, Pristine did not return the title to Progressive, but instead kept the title, repaired the vehicle, and then re-sold it to Shelly Jackson and Eric Dorman. Despite claims from Pristine, the Kelleys deny ever trading this wrecked vehicle in to Pristine or in any other way conveying title back to Pristine. (Amended Appendix of Record, Affidavit for Search Warrant, Page 26).

The bill of sale conveying this same 2005 Ford Freestyle to Shelly Jackson and Eric Dorman was completed on March 19, 2014, but Ms. Jackson and Mr. Dorman had already paid \$1,500.00 as a down-payment two days prior, and will say that they were not informed that the car had a salvage or reconstruction history. The deal to purchase the

vehicle was consummated with the “non-refundable” down-payment without any disclosure of the car’s history, and the buyers did not see the small print on the bill of sale two days later that indicated “reconstructed title salvage history.” (Amended Appendix of Record, Bill of Sale, Page 34).

Pristine prepared a repossession order on this vehicle on September 5, 2014, alleging that Ms. Jackson and Mr. Dorman failed to pay required payments on a secondary lien on the vehicle under a vehicle service agreement (allegedly entered in July, 2014), and had an agent repossess the car on September 8, 2014. (Amended Appendix of Record, Repossession Document, Page 39; Voluntary Lien, Page 37; Affidavit for Search Warrant, Page 26). While Pristine does have a copy of a letter noticing the default and advising of the right to cure, it failed to properly account that Ms. Jackson made two payments within the cure period on August 19 and August 29, but instead had the vehicle repossessed anyway. (Amended Appendix of Record, Affidavit for Search Warrant, Page 26).

Moreover, at the time of this repossession order and the subsequent repossession, Pristine had not properly placed a secondary lien on the vehicle to allow this repossession to occur, with the DMV title showing that the secondary lien was placed on the Ford Freestyle on September 12, 2014, nearly two months after the service agreement and voluntary lien were created on July 25, 2014. (Amended Appendix of Record, DMV Certificate of Title, Page 40; Transcript, Page 46, Lines 3-7, Page 47, Lines 1-13). In addition, a title on this vehicle from July 31, 2014 had Pristine listed only as a first lien holder, and did not mention the secondary service lien that was created on July 25. It is also significant to note that the DMV titles for the vehicle from both July 31, 2014 and

September 12, 2014, with the paper work being completed by Pristine, did not indicate that the car had a reconstructed or salvage history.

In addition to the potential false pretenses involved with this vehicle, Trooper Travelpiece also had complaints from other customers of Pristine that indicated a pattern of failing to disclose reconstructed/salvage title history of vehicles being sold by Pristine. (Amended Appendix, Affidavit for Search Warrant, Page 27; Transcript, Page 47, Lines 14-26). The information was presented under oath to Magistrate Sue Roby, who properly issued a search warrant for the Pristine property. (Amended Appendix, Search Warrant, Pages 21-31).

The valid search warrant was then properly executed on the Pristine premises, with the areas searched being ones included within the property description in the affidavit and search warrant. The items requested in the affidavit for search warrant were specifically tied to the alleged criminal activity and were the type of records likely to be found on the premises to be searched. While some additional items were taken in the search, this was inadvertent and unavoidable because of the volume of items, the fact that the records were scattered throughout various boxes and file cabinets on the property, and because the chief operating officer of Pristine, Fernando Smith, would not assist the officers when requested to point out where the items would be located. (Transcript of Hearing, Page 33, Lines 15-16; Page 34, Line 24-Page 35, Lines 1-24; Page 48, Lines 8-24, Page 49, Lines 1-3). In addition, once the items were removed from the property and were more thoroughly searched, unnecessary items were returned to Pristine, and, now that the investigation has been concluded, the State Police have offered to arrange for the

return of the remaining items, yet Pristine is refusing to accept the items without a more detailed inventory.

Finally, the property taken has never been in the possession of or under the control of Respondent Prosecuting Attorney James W. Courier, Jr.

SUMMARY OF ARGUMENT

A writ of Mandamus is not the proper remedy in this matter against either Respondent, but most particularly against Respondent James W. Courier, Jr. who at no point had custody or control over any of the seized items. The Respondent did not have a duty to mandate that the State Police return seized items that were taken as part of a search warrant authorized by a Mineral County Magistrate. Because this search and seizure was approved by a neutral and detached Magistrate, the Respondent would normally wait on the investigation to be completed, bring appropriate charges to the grand jury, and then present the search and seizure issue to the Circuit Judge as part of a suppression hearing. There was no legal duty on the part of the Respondent to do what Pristine seeks to mandate, and there is another adequate remedy within the criminal proceedings that would not necessitate mandamus.

Moreover, the issue at the heart of the mandamus is the return of seized items. The State Police have concluded the investigation, have secured a 58-count indictment against each of the two principal officers of Pristine, Fernando Smith and Jamie Crabtree, and have informed Pristine that the business can have its property back. Thus far, Pristine has not cooperated with the State Police to affect the return of the seized items.

In addition, the search warrant issued by Magistrate Roby to permit the search and seizure of Pristine property was valid, as the property at issue clearly was to be found in

the jurisdictional territory of Mineral County, sufficient facts were presented under oath to indicate the probability that illegal activities were being performed by Pristine and that the items sought would provide proof of that activity, and the place to be searched and the items to be seized were stated with particularity.

STATEMENT REGARDING ORAL ARGUMENT

While the Respondent feels that oral argument is not necessary and that a decision could be sufficiently reached based on the submitted briefs, if the Court grants oral argument, the Respondent has no objection to proceeding under Rule 19 of the Rules of Appellate Procedure as requested by the Petitioner in its brief.

ARGUMENT

I. THE LOWER COURT WAS CORRECT IN DENYING THE WRIT OF MANDAMUS.

The Circuit Court of Mineral County, the Honorable Judge Lynn A. Nelson, correctly denied Pristine's Petition for Writ of Mandamus based on the criteria outlined in *State of West Virginia ex rel. Smith v. Mingo County Commission*, 228 W.Va. 474, at 477, 721 S.E. 2d 44 (2011). The first requirement for a writ of mandamus to issue is that the petitioner has a "clear right... to the relief sought." *Id.* While the Respondent agrees that Pristine has a property right in the items seized, the Respondent does not concede that Pristine has a "clear right" to have the property back while the police are investigating criminal activity and with the property being properly taken as a result of a lawful search warrant.

The second requirement is that there is "a legal duty on the part of the respondent to do the thing the petitioner seeks to compel." *Id.* In this case, there is no legal duty for the Respondent to return property to Pristine. The Respondent James W. Courier, Jr. is

the duly elected Prosecuting Attorney for Mineral County; he is not a member of the State Police; he did not make the complaint for search warrant; and he did not seize any property from Pristine, nor did he at any time have control over said property. The lower Court could not mandate that the Respondent return property which he never possessed nor controlled. Moreover, the State Police have no duty to return property that is being searched pursuant to a lawfully issued and executed search warrant as part of a complicated and prolonged investigation.

The Respondent James W. Courier, Jr. remained detached from the investigation and waited for law enforcement to complete its search of the documents and to finish the on-going investigation before considering the information for possible charging through the grand jury. While the Respondent certainly understands the heightened role and duties of prosecutors in our criminal justice system, the Respondent has not violated that role or those duties by allowing the State Police to continue an investigation of documents obtained from Pristine through a lawfully issued and executed search warrant. The Respondent has certainly not acted “irresponsibly” as alleged in Pristine’s brief.

Thirdly, for mandamus to issue there must be no other adequate remedy available. *Id.* Now that the two principal officers of Pristine, Fernando Smith and Jamie Crabtree, have each been indicted on 58 counts of false pretense and conspiracy as a result of the investigation at issue, they can challenge the search and seizure process through the criminal cases in Circuit Court. Moreover, the State Police have attempted to make arrangements to return the items that Pristine is demanding but Mr. Fernando Smith will not cooperate in this, and is insisting that the police prepare a more complete inventory than what has already been done before he will accept the property. At this point, Mr.

Smith and Pristine certainly have another adequate remedy, which is to cooperate with the police to affect the return of the requested items.

II. THE LOWER COURT PROPERLY FOUND THAT THE SEARCH WARRANT WAS VALID AND THAT THE SUBSEQUENT SEARCH AND SEIZURE WAS REASONABLE.

As noted by Professor Franklin D. Cleckley in the 2nd Edition of his *Handbook on West Virginia Criminal Procedure*, there are three conditions for a search warrant to be valid:

- (1) jurisdictional control over the person or property to be searched; (2) showing of probable cause where a right of privacy exists and the probable cause must be established under oath. *State v. White*, 280 S.E.2d 114 (W.Va. 1981); and
- (3) the warrant to search must indicate with particularity the place to be searched and the items to be seized during the search. Cleckley, I-354 (1993).

In examining these factors for a valid search warrant, Pristine has agreed that the Mineral County Magistrate Court has jurisdiction over the Pristine business premises located on South Mineral Street in Keyser, Mineral County, West Virginia, thus meeting requirement number one. Requirement number two is that probable cause be established under oath, which was accomplished by Trooper Travelpiece swearing to a written affidavit for search warrant before Magistrate Sue Roby. While Pristine contends that Trooper Travelpiece failed to provide exculpatory information in the affidavit for search warrant, a more thorough examination of the facts will eliminate this allegation.

The 2005 Ford Freestyle at issue was wrecked while it was owned by Benson and Marcella Kelley, and Progressive Insurance paid off the remaining lien on the vehicle, with the title then to be sent to Progressive Insurance. However, Pristine did not return the title to Progressive, but instead kept the title, repaired the vehicle, and then re-sold it to Shelly Jackson and Eric Dorman. Despite claims from Pristine, the Kelleys deny ever

trading this wrecked vehicle in to Pristine or in any other way conveying title back to Pristine, which further supports Trooper Travelpiece's contention in his affidavit that Pristine did not have the legal standing to sell that vehicle to anyone else nor to repossess it.

Next, the bill of sale transferring this Ford Freestyle to Shelly Jackson and Eric Dorman was completed on March 19, 2014, but Ms. Jackson and Mr. Dorman had already paid \$1,500.00 as a down-payment two days prior and an "Automobile Inspection Form" did not reveal any negative title history, and the two will say that they were not informed in any way that the car had a salvage or reconstruction history. The deal to purchase the vehicle was consummated with the "non-refundable" down-payment without any disclosure of the car's history, and the buyers did not see the small print on the bill of sale two days later that indicated "reconstructed title salvage history." A notice in small print within a standardized contract of sale that was thrust before the buyers to sign two days after they had already agreed to buy the car, as evidenced by the \$1,500.00 "non-refundable" down payment, does not demonstrate proper notice to the buyers. Therefore, the bill of sale was not exculpatory at all because the buyers did not see the small print saying that the vehicle had a salvage history and at no time were they told by Pristine of the vehicle's history. In this regard, it should be noted that on the date the bill of sale was signed, it did not have this small print circled to bring attention to it—the small print was circled by Pristine or its attorney to make this stand out to the Court when the document was prepared for presentment as an exhibit.

Also, there was no need for Trooper Travelpiece to show Magistrate Roby the primary and secondary liens on the Freestyle's title or the service agreement documents.

Pristine prepared a repossession order on this vehicle on September 5, 2014, alleging that Ms. Jackson and Mr. Dorman failed to pay required payments on a secondary lien on the vehicle under a vehicle service agreement, and had an agent repossess the car on September 8, 2014. Despite receiving two payments from Ms. Jackson within the cure period on August 19 and August 29, Pristine still had the vehicle “repossessed.” Moreover, at the time of this repossession order and the subsequent repossession, Pristine had not properly placed a secondary lien on the vehicle to allow this repossession to occur, with the DMV title showing that the secondary lien was placed on the Ford Freestyle title on September 12, 2014, nearly two months after the service agreement and voluntary lien were created on July 25, 2014, and four days after the Pristine repossessed the vehicle.

In addition, a title on this vehicle from July 31, 2014 had Pristine listed only as a first lien holder, and did not mention the secondary service lien that was created on July 25. It is also significant to note that the DMV titles for the vehicle from both July 31, 2014 and September 12, 2014, with the paper work being completed by Pristine, did not indicate that the car had a reconstructed or salvage history. It is apparent from the actions of Pristine that the company was deliberately attempting to hide the reconstructed/salvage title history from DMV by not placing this history on the titles for this vehicle. If Pristine was being transparent about the reconstructed/salvage title history, it would not have processed titles through DM V on two occasions without providing this information to DMV. It is further easy to conclude that Pristine was also hiding this information from its customers, hoping to make more money by selling them vehicles at a much higher price than they are worth because of the non-disclosed salvage history.

Therefore, despite the allegations of Pristine that Trooper Travelpiece provided “false information” to the Magistrate, the Trooper’s affidavit had more than enough credible evidence to support the search and seizure and did not need these other documents, which only served to confuse the issues. In *State v. Lilly*, 194 W.Va. 595, 601, 461 S.E.2d 101,107 (1995), citing *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), *State v. Wood*, 177 W.Va. 352, 354, 352 S.E. 2d 103, 105 (1986), and *U.S. v. Ozar*, 50 F.3d 1440, 1445 (8th Cir. 1995), this Court explained that to successfully challenge a search warrant based upon the officer’s omission of information, there must be a showing that the information was intentionally omitted or was omitted in reckless disregard for whether the omission rendered the affidavit misleading, and the omission must be “clearly critical to the finding of probable cause.” Not presenting the bill of sale and September 12, 2014 title, or any other document in the present case, was not an intentional act by Trooper Travelpiece to mislead the Magistrate, and in no way made the affidavit misleading, nor was the omission in any way critical to the finding of probable cause. To the contrary, these documents do not support a different conclusion other than probable cause to show Pristine was not being truthful with its customers and was not properly processing its vehicles and their titles.

In addition to the potential false pretenses involved with the Freestyle, Trooper Travelpiece also had complaints from other customers of Pristine that indicated a pattern of failing to disclose reconstructed/salvage title history of vehicles being sold by Pristine, which tended to support the statement by Ms. Jackson and Mr. Dorman that they were not informed of the vehicle’s history prior to making the deal to purchase the car. This information was presented to Magistrate Sue Roby, who then properly issued a search

warrant for the Pristine business premises. Our 4th Circuit Court noted in *U.S. v. Hodges*, 705 F.2d 106, 108 (4th Cir. 1983), citing *U.S. v. Ventresca*, 380 U.S. 102, 109, 85 S.Ct. 741, 746, 13 L.Ed. 2d 684 (1965), that the “determination of probable cause by a neutral and detached magistrate is entitled to substantial deference.” Magistrate Roby’s finding of probable cause and subsequent issuance of the search warrant in this case should be given such deference.

Next, requirement number three for a valid search warrant is that the warrant must specify with particularity the place to be searched and the items to be seized. *Handbook on West Virginia Criminal Procedure*, I-354. The affidavit and warrant certainly did that in this case, as it was clear that the Pristine Pre-Owned Auto, Inc. premises on South Mineral Street in Keyser was the subject of the search. The affidavit and search warrant also particularly included what property was to be seized in “Attachment B”:

- any and all financial documentation for Pristine Pre-Owned Auto Sales and Pristine Full Service Auto
- any and all records of vehicles sold through Pristine Pre-Owned Auto Sales, including bill of sales, warranties, and contracts
- any and all repossession paperwork
- any and all vehicle titles
- any and all information for vehicles on the lot
- and and all paperwork documenting maintenance to reconstruct a vehicle
- any and all computers, including laptop and desktop styles, software and the hard drive data contained within said computers
- any and all electronic devices capable of storing invoices, packaging lists, receipts, ledgers, orders or evidence of false pretenses, including but not limited to compact discs, thumb drives, external hard drives, PDA’s, any and all USB connected media storage devices (Amended Appendix of Record, Affidavit for Search Warrant, Page 25).

All of these particular items are specific types of documents or storage devices that would contain the information that pertains directly to the alleged crimes of false pretenses or grand larceny involving failing to disclose title history and improper repossessions. The search warrant should not be declared a “general warrant” simply because the amount of property taken was so large. The type of fraud and false pretenses alleged in this business necessarily required the searching of voluminous documents and files. There was no better way to investigate the fraudulent business practices without searching the documents contained in “Attachment B.”

Trooper Travelpiece did try to minimize the taking of unnecessary property, such as certain file cabinets or boxes, by asking Mr. Fernando Smith, the chief operating officer of the company, to assist with the search and seizure by showing the officers where the requested property would be found. However, Mr. Smith refused to assist, thus necessitating the removal of some items contained in file cabinets or boxes that were not needed under the warrant, but which could not be determined at the scene in a reasonable amount of time without the assistance of Pristine personnel. Once items were identified as being unnecessary or outside the scope of the warrant, arrangements were made with Pristine or its counsel to return those items.

Moreover, Pristine’s assertion that this was a general warrant simply because the affidavit used the language “any and all” is not founded either. Each time “any and all” was used it was tied to a specific area of records that was necessary to investigate the alleged criminal activity at Pristine and was supported by the information placed in the narrative of the affidavit for search warrant. This Court in *State v. Bates*, 181 W.Va. 36, 40, 41, 380 S.E. 2d 203 (1989), found that the language “ a gun; blood; evidence or signs

of a struggle; and any and all further evidence which may therein be found” was not too vague and contained meaningful restrictions on the scope of police’s search. It was clear from the warrant in the instant case that Trooper Travelpiece was seeking specific categories of records, admittedly large numbers of records, which were all necessary to the investigation and which related to the specific allegations of fraud, false pretenses, and grand larceny that was alleged in the affidavit.

It is also appropriate to say that this case is like that in *U.S. v. Oloyede*, 982 F.2d 133 (4th Cir. 1992), in which the Fourth Circuit held that the seizure of all business records is appropriate where there is probable cause that the business is “permeated with fraud.” Here, in addition to the primary complaint from Shelly Jackson and Eric Dorman, the affidavit noted multiple other similar complaints, thus showing that Pristine was probably engaged in a regular practice of selling vehicles without disclosing a salvage or reconstructed history and without properly titling its vehicles with DMV. Having multiple complaints of the same fraudulent business practice indicates the probability of Pristine’s business being “permeated with fraud,” and therefore all of the requested records were necessary to thoroughly investigate this fraud.

Addressing another assertion of Pristine, its argument that the police searched areas and seized items from places that were not specifically listed in the warrant is clearly incorrect. Trooper Travelpiece indicated in his affidavit that Pristine Pre-Owned Auto Sales was the business location to be searched, and the location was more specifically described as:

474 S. Mineral Street, Keyser, West Virginia, further described as a two story structure, with the lower half being brick, and the top half with wide siding, also to include a detached two story structure with the lower half being brick and top

half being white siding, and two brown in color wooden sheds. (Amended Appendix of Record, Affidavit for Search Warrant, Page 23).

The areas searched by the police were all within the description above. Although there were two apartments on the top floor of the main structure, 474 ½ S. Mineral Street, Apartments 1 and 2, these were both under the control of Pristine and were being used to house some of the business records requested under the search warrant. The officers saw no need to request a separate search warrant because these apartments, while they were found to have separate numbers, were still part of the description in the affidavit and search warrant.

Furthermore, if Pristine contends that these apartments were unconnected to the business and were being rented to others as private residences, then Pristine loses its right to claim a privacy interest in the apartments. It is well settled that a defendant does not have standing to object to the taking and introduction of evidence that came from an improper search on someone else's property. See *State v. Henderson*, 103 W.Va. 361, 137 S.E. 749 (1926); *State v. Tadder*, 173 W.Va. 187, 313 S.E.2d 667 (1984); *Rawlings v. Kentucky*, 448 U.S. 98, 100 S.Ct. 2556, 65 L.Ed.2d 633 (1980). Consequently, if there was a finding that the search is unreasonable as to these apartments, then the only remedy would be to exclude the evidence against the tenants, not against Pristine who lacks standing to object to a violation of someone else's rights.

Finally, Pristine's argument concerning a failure to obtain a separate search warrant to search cell phones and computers is unfounded and simply a red herring. The State Police are well aware of the ruling that a search warrant must be obtained to search the contents of cells phones and computers. The testimony from Trooper Travelpiece at the evidentiary hearing in this case did reveal that a separate search warrant had not been

obtained; however, he also testified that the phones and computers had not yet been searched and that, if they were going to be searched, a warrant would be obtained prior to doing so. The police were waiting for the availability of a technician to examine the devices and for a ruling from the Court to proceed because the prior order directed the police to do no further search warrants until the hearing on mandamus was concluded.

Consequently, because the search warrant was legally granted and the search and seizure properly executed, the mandamus action was properly dismissed.

III. THE EXCLUSIONARY RULE DOES NOT APPLY IN THE PRESENT CASE.

Because the property at issue was seized as a result of a lawful search warrant and a subsequent lawful search as outlined above, Pristine's argument to apply the "exclusionary rule" and the "fruit of the poisonous tree doctrine" are moot and must be denied.

CONCLUSION

Mandamus is not the proper remedy in this case. Respondent James W. Courier, Jr. has never had control over the property at issue and, therefore, cannot provide the remedy sought, which is the return of the property. Also, Pristine has other more appropriate remedies through a motion to suppress in the criminal proceedings or by simply cooperating with the State Police to affect a return of the items, which has been offered by the officers.

On the substance of the search and seizure, Trooper M.L. Travelpiece prepared a thorough affidavit for search warrant and was subsequently properly granted a search warrant for the Pristine property. Trooper Travelpiece did not improperly fail to provide complete information to Magistrate Roby, and it is clear from an accurate review of the

facts that the documents of which Pristine complains were not actually exculpatory and did not affect the finding of probable cause, and thus did not need to be provided to the Magistrate. There was certainly ample evidence alleged within the affidavit for search warrant to show probable cause that criminal activity was being conducted by Pristine involving failing to disclose reconstructed and salvage title history and improper vehicle repossessions, and there was credible evidence that the proof of such criminal activity would be contained within the property to be searched and seized under the warrant.

Despite the allegations of Pristine in its brief, Trooper Travelpiece did not say that he intended to “take everything on Pristine’s premises”—that was Attorney James Smith placing words in the Trooper’s mouth. The police intended to take the items that were granted under the warrant, albeit a voluminous amount because of the type of business records that are issue, and certainly did not intend to take more than what was granted by the Magistrate. If additional items were taken, it was only because Pristine’s chief operating officer, Fernando Smith, would not assist in showing the officers in what cabinets and boxes the requested items would be found. When the officers were able to identify items that were not intended as part of the search, attempts were made to return those items.

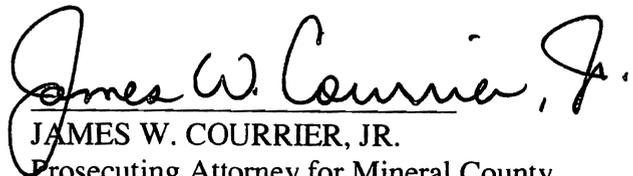
Wherefore, the Respondent respectfully requests that this Court deny the relief sought by Pristine and uphold the ruling of the Circuit Court of Mineral County.


JAMES W. COURRIER, JR.,
Respondent
Prosecuting Attorney for Mineral County
State Bar ID #6300
P.O. Drawer 458

Keyser, WV 26726
304-788-0300
304-788-0768 (facsimile)
mincoprosatty@yahoo.com (e-mail)

CERTIFICATE OF SERVICE

I, James W. Courier, Jr., do hereby certify that I served a copy of the foregoing Respondent's Brief by mailing a copy thereof, U.S. Mail postage prepaid, to the Petitioner's attorney, James E. Smith, II, at his address of P.O. Box 127, Keyser, WV 26726, and to Respondent M.L. Travelpiece's attorney, Virginia Grottendieck-Lanham, at her address of 725 Jefferson Road, South Charleston, WV 25309, and that the original and 10 copies were mailed to the West Virginia Supreme Court of Appeals at its address of State Capitol Building, Room E-317, 1900 Kanawha Blvd. East, Charleston, WV 25305, on this 11th day of June, 2015.


JAMES W. COURRIER, JR.
Prosecuting Attorney for Mineral County