

which time said weekly payments shall be made pursuant to the Order of Court for the support of the defendant on April 17, 1969. The respondent shall be required to maintain the fullest medical insurance available through his place of

business branch of this Court shall be taken from the respondent as of January 1, 1969. Order.

HARTMIRE, C.P. Franklin County

*Standard Test - Underlying Circumstances
to be Seized are at Place to be Searched -
Informant is Reliable - Time of Probable
Seizure on Merits - Circumstantial Evidence -*

A search warrant is based on information from an informant which sets forth the underlying circumstances from which the items to be seized are at the place to be

The warrant must also set forth a basis on which the informant involved was reliable and credible.

The defendant told the informant he had just purchased the deer and placed them on his premises, and the

6. In addition to the evidence of the drag trails, and the defendant's statement to the informant, the game protector in this case observed three deer parts in the defendant's refrigerator, and a deer hide in his house, and the defendant displayed a freshly killed deer head to the game protector, without a hide attached to it; accordingly the Commonwealth's burden of proof was met.

John F. Nelson, Esq., Attorney for the Commonwealth

Blake E. Martin, Esq., Public Defender, Attorney for the Defendant

OPINION

EPPINGER, P.J., April 18, 1979:

Paul F. Hartmire, defendant, was charged with possession of antlerless deer in closed season and was convicted at a hearing by the court. Prior to the hearing he asked to have the evidence seized by the game protectors suppressed, as being an unlawful search and seizure.

The suppression hearing was held by Judge Keller of this court and the evidence established that Game Protector Frank Clark received a report from a reliable informant that the defendant had shot two doe during buck season and the informant had observed him drag them out of the premises. In making the order refusing to suppress the evidence, the court inadvertently stated that the deer were reported shot on December 19, 1977. The correct date was prior to December 5, 1977, the date before the search warrant was issued.

Clark was also told that the informant had observed two

First, the affidavit must set forth the information from which the informer concludes that the defendant is at the place to be searched. This information must provide a basis on which the issuer of the warrant can form an informant involved is reliable and accurate. See *v. Burch*, 248 Pa. Super. 8, 12, 338 A.2d 318, 321 (1976); *Commonwealth v. Hagen*, 240 Pa. Super. 377, 381 A.2d 318, 321 (1976).

Secondly, the tests were satisfied and there was no violation of the warrant. The affidavit set forth the information which the informer concluded that the defendant resides at the address of the defendant's residence. Thirdly, the defendant told the informer that he had the gun, the defendant told the informer that he had the gun, and drug them out and placed them in the car. The informant then observed two such vehicles at the premises. Secondly, the affidavit set forth the information which the issuer could conclude that the defendant is credible — namely, the affiant stated that the defendant also confirmed the credibility of the informant. The affiant also confirmed the credibility of the two drag trials himself. The affiant has the authority "be able to determine the credibility of the informant" and the affidavit that the [affiant] has "some information" that the source of the "tip" was reliable. See *Hagen*, supra, 240 Pa. Super. at 377, 381 A.2d 318, 321 (1976); *U.S. v. Hagen*, 378 U.S. 108 (1964). This is the case.

Fourthly, the issuance of a search warrant must be based on probable cause. The information on which the warrant is issued. The information on which the warrant is issued must not be stale. The information on which the warrant is issued. In this case, the criminal information was filed on December 5, 1977, and the warrant was issued on December 6, 1977. Thus, the information is not stale here; the warrant was properly issued.

himself exhibited the head of the button buck to the game protector. There was no hide attached to the head but the game protector opined that the head was that of a recently killed deer.

We believe the evidence was sufficient to convict the defendant. The test of the sufficiency of evidence is whether, viewing the evidence in the light most favorable to the defendant, the trier of facts could reasonably have found all elements of the crime had been established beyond a reasonable doubt. This burden may be sustained by the Commonwealth by wholly circumstantial evidence, though it cannot rest solely on mere suspicion or conjecture. See *Commonwealth v. Eckert*, 368 A.2d 794 (1976).

This opinion is filed in support of the guilty verdict and judgment of sentence from which the defendant has appealed.