

IN THE DISTRICT COURT OF TETON COUNTY, WYOMING
NINTH JUDICIAL DISTRICT

THE STATE OF WYOMING,)	
Plaintiff,)	Criminal Action No. 2703
)	
Vs.)	MOTION TO SUPPRESS
)	EVIDENCE FROM
CASEY HARDISON,)	August 6, 2018
Defendant.)	

COMES NOW Defendant, Casey Hardison, by and through his counsel, Bailey Lazzari and Elisabeth Trefonas of the Wyoming Public Defenders' Office, and respectfully moves the Court for an Order prohibiting the presentation at trial of all evidence obtained from events occurring on August 6, 2018. In support of this Motion, Defendant states as follows:

FACTS

1. Mr. Hardison is charged by way of an Amended Criminal Information, filed on September 24, 2020, with three (3) counts of Delivery of a Controlled Substance, in violation of Wyoming Statute section 35-7-1031(a)(ii), and two (2) counts of Aggravated Assault and Battery, in violation of Wyoming Statute section 6-2-502(a)(ii). This Motion concerns Counts 3, 4, and 5, alleging that Mr. Hardison delivered marijuana and attempted to cause bodily injury to another with a deadly weapon from events that transpired on August 6, 2018.

2. On June 12, 2018, Special Agent Mike Carlson submitted to the Teton County Circuit Court an Affidavit for Arrest Warrant for the arrest of Mr. Hardison on allegations concerning Counts 1 and 2. That arrest warrant was issued by Judge Radda on June 14, 2018.
3. With the issued warrant in hand, Special Agent Mike Carlson, Special Agent Hansen, and additional law enforcement, came into contact with Mr. Hardison at approximately 7:30pm on August 6, 2018. They did not execute the warrant.
4. At approximately 9:07pm, Special Agent Hansen, acting in an undercover capacity, is alleged to have exchanged cash for marijuana from Mr. Hardison. Thereafter, law enforcement moved in to affect an arrest of Mr. Hardison for the exchange and for the active arrest warrant.
5. The State asserts that Mr. Hardison responded by driving away and steering his vehicle in a manner that required law enforcement to jump out of the way. Mr. Hardison was not detained on August 6, 2018.
6. Mr. Hardison asserts that because law enforcement failed to execute the arrest warrant when issued in June and, specifically at 7:30pm on August 6, 2018, that any evidence obtained thereafter must be suppressed.

ARGUMENT

7. The Wyoming Rules of Criminal Procedure require that “if it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is

probable cause to believe that an offense has been committed and that the defendant has committed it,” for any felony offense, the Court “shall issue a warrant.” Wyo. R. Crim. P. 4(a) (Lexis 2020). The “warrant *shall be executed* by a sheriff or by some other officer authorized by law.” *Id.* at (c)(1)(emphasis added). Furthermore, the “warrant *shall be executed* by the arrest of the defendant.” *Id.* at (3).

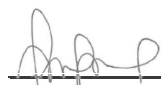
8. The remedy for a violation of Rule 4 is the exclusion of evidence illegally obtained. *See Roberts v. State*, 711 P.2d 1131, 1135 (Wyo. 1985). While “every violation of the rule” does not warrant exclusion, a “method for deterring future violations would be to exclude any evidence which had been obtained in violation of the rule.” *Murray v. State*, 844 P.2d 240, 245 (Wyo. 1993).
9. In *Auclair v. State*, the Wyoming Supreme Court held that there “are no constitutional requirements dictating that an arrest warrant be executed at the earliest possible opportunity.” *Auclair v. State*, 660 P.2d 1156, 1161-63 (Wyo. 1983). However, that decision is distinguishable because the Court there reviewed a claimed violation of the defendant’s Sixth Amendment right to counsel where an arrest warrant was issued several days before defendant’s arrest and where law enforcement continued to investigate the same allegation contained in the affidavit to secure the warrant. *See id.*
10. Mr. Hardison asserts that law enforcement in this case violated Rule 4, having a warrant issued for 53 days and then failing to execute the warrant at 7:30pm on August 6, 2018.

Law enforcement violated the command in Rule 4 to execute the warrant by arresting Mr. Hardison at that time.

11. Therefore, any evidence obtained after 7:30pm on August 6, 2018, should be excluded and suppressed.

WHEREFORE, Defendant respectfully requests that the Court suppress and prohibit the admission of the August 6, 2018, and grant any further relief that the Court deems just and proper.

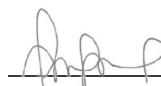
DATED the 11th day of November, 2020.



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CERTIFICATE OF SERVICE

THIS IS to certify that a true and correct copy of the foregoing was faxed to the Teton County and Prosecuting Attorney's Office at 180 South King Street, P.O. Box 4068, Jackson, WY 83001 on this 11th day of November, 2020.



Elisabeth M.W. Trefonas, SBN 6-4168