To Be Argued By:
JONATHAN MANLEY
Time Requested: 10 Minutes

COURT OF APPEALS
STATE OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, APL-2019-00084

Appellant, A.D. Case No. 2016-9876

v.

TYRONE GORDON, Suffolk County Ind. No. 1964-15

Respondent.

BRIEF OF RESPONDENT

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PRELIMINARY STATEMENT

The People Appeal from a Decision and Order of the Supreme Court, Suffolk County (Cohen, J.), dated June 23, 2016, by which evidence supporting counts five through nine of Indictment 1964-15 was suppressed. After suppressing the evidence, the same court, on August 16, 2016, severed counts one through four of the Indictment from those counts that's were based on the suppressed evidence.

The Appellate Division affirmed the trial court's suppression order on February 6, 2019. This Court granted leave to appeal on April 22, 2019. There are no co-defendants.

QUESTION PRESENTED

Did the warrant in this case provide probable cause to search the "entire premises" or only the residence? Regardless of whether the area to be searched was limited to the residence or the "entire premises", was law enforcement required to specifically delineate in the warrant the areas to be searched and provide particularized probable cause for each area?

In this case, the search warrant application did not provide probable cause to search any area other than the residence. The search warrant did not mention the vehicles let alone provide particularized probable cause for their search. Since law enforcement is required to provide specific probable cause for each area to be searched, the search of the vehicles on the property was outside the scope of the search warrant.

STATEMENT OF FACTS

On August 28, 2015, a Supreme Court Justice signed a search warrant to search [redacted]. In the application for the search warrant, Detective Breuer alleges that an individual identified as Tyrone Gordon was involved in two undercover sales of narcotics on August 13, 2015 and August 25, 2015. Detective Breuer alleges, "on both occasions, Tyrone Gordon agreed to meet at [redacted] for the purpose of selling heroin. Also on both occasions Tyrone Gordon came out of the residence at [redacted], approached the car that the undercover police officer was driving and sold a quantity of light brown powder to the undercover for U.S. currency." Detective Breuer also alleges that the Suffolk County Police conducted surveillance on August 25, 2015 and August 26, 2015. During that time period, a black male repeatedly exited the residence, approached a vehicle, then returned to the residence. Mr. Gordon was not identified as that individual in Detective Breuer's application. There were no other allegations in the warrant application. There were no allegations that any vehicle was owned, operated or possessed by Tyrone Gordon. There were no allegations that any vehicle was being used by Tyrone Gordon in the commission of any illegal activity.

There were no allegations that a vehicle in the fenced rear section of [redacted] was being utilized in any illegal manner.

Detective Breuer applied for a search warrant to search Tyrone Gordon's person as well as:

> "the entire premises located at [redacted] is a 1 story ranch style house with a yellow siding and a gray colored roof. There is an attached carport on the east side of the house. The numbers [redacted] are on the siding to the right of the front door. There is a cement driveway on the east side of the house. There is a cement walkway that leads to the front door. There is a white storm door and a white colored interior door. There is a chain link fence across the front of the yard. There is a mailbox outside of the chain link fence with a statue next to it. The house faces south and I located between Gray Ave. and Wilson Ave. The premises is occupied by a Tyrone Gordon DOB 10/1/1985 other persons yet unknown."

The warrant was granted on August 28, 2015. On September 4, 2015, police executed the search warrant on the residence of [redacted] and multiple vehicles at the location. The search of the interior of the residence revealed a loaded pistol and another individual, not Mr. Gordon, was charged with that piece of contraband. Mr. Gordon was not charged with any contraband seized inside of the residence.

One vehicle searched was a light colored Nissan Maxima, New York Registration GWA8752 (herein after referred to as "Nissan"). This vehicle

was located in the driveway of [redacted], parked behind a GMC truck. A photograph was attached to Defendant's Motion as Exhibit 'B'. The search of this vehicle allegedly resulted in the seizure of a quantity of heroin, cocaine and drug paraphernalia seized from an area inside of the vehicle. Mr. Gordon was charged with Criminal Possession of a Controlled Substance associated with this seizure.

The second vehicle searched was a dark colored 2000 Chevy sedan (herein after referred to as "Chevy"). This vehicle was non-functional, stationary and was located in the backyard of [redacted], New York, behind two fences. Only one fence, in the front of the home, was mentioned in the search warrant application. The search warrant application did not mention the second fence, the backyard or anything in that area. A photograph was attached to Defendant Motion as Exhibit C. The search of this vehicle allegedly resulted in the seizure of a loaded handgun that was seized from the engine block of the vehicle under the hood. Mr. Gordon was charged with Criminal Possession of a Weapon associated with this seizure.

Defendant filed an Omnibus Motion on April 19, 2016 claiming that the evidence seized from the vehicles was seized in violation of the search warrant. The People responded on May 9, 2016, arguing that the warrant allowed for a search of any items located on the premises, that the vehicles

were within the curtilage of the residence and therefore, within the scope of the warrant. On June 23, 2016, the lower court granted the motion seeking to suppress evidence obtained from the 2000 Chevy and from the Nissan Maxima. The court held,

> "the Court of Appeals has stated 'it is clear that a warrant to search a building does not include authority to search vehicles at the premises.' People v. Sciacca, 45 NY2d 122, 128. This does appear to be the minority view. See e.g. U.S. v. Johnson, 640 F.3d 843; State v. Gosch, 157 Idaho 803; Comm. V. Signorine, 404 Mass 400. Furthermore, the Third Department held that a search warrant for a garage did include a vehicle therein. People v. Powers, 173 AD2d 886. However, until clarified or overruled, the Court of Appeals holding in Sciacca requires that a search of a vehicle should be separately delineated with particularized probable cause. See People v. Dumper, 28 NY2d 296. Furthermore, United States v. Kyles, 40 F.3d 519, 526 (2d Cir. 1994); cited by the People indicates that allows paces to be search if "the places in which the officers have probable cause to believe that fruits of a crime would be found in the vehicle, then the People's position is valid. However, a review of the affidavit for the warrant does not establish that the vehicles had any involvement with the crime nor is there any specific statements made about the vehicles. "Probable cause must be shown in each instance." People v. Rainey, 14 NY2d 35, 27.

The court also held,

> "alternatively, as to the 2000 Chevy, the Second Department recently held that "the search of the shed [in the backyard] exceeded the scope of that warrant, which authorized the search of the defendant's residence and yard only. People v. Velez, __ AD3d __, 2016 NY Slip Op 03027 [2nd Dept. April 20, 2016].

> It would appear that an unregistered vehicle in the backyard was a storage place, as a shed, sufficient to require a particularized warrant."

The People subsequently withdrew Counts Five through Nine based on the court's decision. The People filed their Appeal to the Appellate Division, Second Department on November 18, 2016. On February 6, 2019, the Appellate Division affirmed, reasoning,

> "During the search of the premises, police officers also searched two vehicles located on the property and seized evidence from the vehicles. Since the search warrant did not particularize that a search of the vehicles was permitted (see CPL 690.15; *People v. Sciacca*, 45 NY2d 122, 126-127; *People v. Dumper*, 28 NY2d 296, 299; *People v. Velez*, 138 AD3d 1041), and since probable cause to search those vehicles had not been established in the application for the search warrant (*see People v. Hansen*, 38 NY2d 17), we agree with the court's determination to grant suppression of the evidence seized from the vehicles."

The People then sought leave to appeal to the Court of Appeals.

ARGUMENT

THE HEARING COURT DECISION SHOULD BE AFFIRMED BECAUSE THE SEARCH WARRANT DID NOT PARTICULARIZE THE SEARCH OF THE VEHICLES AND DID NOT CONTAIN PROBABLE CAUSE TO SEARCH ANY AREA OTHER THAN THE RESIDENCE.

The People claim that the issue before the Court is narrow; "does the phrase "entire premises" in a search warrant designate all searchable areas within the curtilage or is it the equivalent of residence, house, dwelling, or some other limiting designation" (People's Brief P.10). That is not the only issue for the Court to consider. The first issue the Court must determine before contemplating the issue presented by the People is whether the warrant application presented probable cause to search the "entire premises". The People indicate in their brief, "there is no dispute that the police had probable cause to conduct a search" (People's Brief P.10). This is true, but begs the question; probable cause to search where?

The People have taken the position that the term "entire premises" encompasses a greater search parameter than a building/ residence. The first determination the Court must make is whether the search warrant application contained probable cause to search the "entire premises" or whether the search warrant application only contained probable cause to search the

residence. The application in this case fails to allege probable cause for such a broad sweeping search. If the search warrant only provided probable cause to search the residence, the search of the vehicles would not have been permitted. The People concede this in their brief, "had the warrant permitted a search of the "house" at [redacted] certainly a search of the vehicles would not have been permitted." (People's Brief P.11) A review of the search warrant affidavit results in a clear conclusion also noted by the initial hearing court; that there is no probable cause to search the vehicles or any area other than the residence and that the search warrant that was issued was not supported by probable cause and was overbroad.

In his affidavit in support of the search warrant, Detective Breuer alleges that Mr. Gordon exited the residence/ building, conducted two undercover sales, then re-entered the residence/ building. In addition, during surveillance of the residence, an unknown black male exited the residence to approach vehicles consistent with narcotics transactions (People's Appendix P. A-30). There were no allegations anywhere within Detective Breuer's search warrant affidavit that any other portion of the premises, including any portion of the yard or backyard was utilized in any illegal manner. There was no allegation that a vehicle was owned, operated or possessed by Mr. Gordon or was used in the commission of any crime. There was no

allegation that the unregistered, non-functioning vehicle in the backyard was owned, operated or possessed by Mr. Gordon or was used in the commission of any crime. As such, even if the court were to make the distinction that the People urge, the application does not support search of the entire property along with any structures or vehicles because the application fails to establish probable cause that any area other then the residence was used in the commission of a crime. The People take the position that there is a distinction between the terms residence/ building and "entire premises". There is, and the People have not cited any portion of the search warrant application that would support a search warrant for any portion of the property except the residence. The search warrant allowing for a search of the "entire premises" was overbroad and should be rejected in its entirety.

A. New York authority clearly establishes that vehicles are not within the scope of a search warrant to search the "premises".

Criminal Procedure Law §690.15 clearly distinguishes between a "place or premises" and a "vehicle". The People urge the court to determine that even though a vehicle is not mentioned in a warrant, if it is located on the property, it is subject to search. This position has definitively been rejected in New York State.

In *People v. Rainey*, 14 N.Y.2d 35 (1964), the court issued a search warrant "sufficient to establish the existence of probable cause for believing that the defendant Rainey was committing [crimes] at his residence...the affidavit described the residence. The search warrant commanded a 'search of said entire premises 529 Monroe Street in the City of Buffalo'. The defendant in that case controverted the warrant on the ground that it was constitutionally deficient for not 'particularly describing the place to be searched'. In that case, a search warrant was signed to search the "entire premises" of 529 Monroe Street, Buffalo; this is the exact language that was used in our case.

The "entire premises" consisted of a building with two separate residential apartments and a shed that was attached to the building accessible through one apartment, as well as outside. The target of the search warrant only occupied one of the residential apartments. An innocent third party occupied the second apartment. The police searched both apartments as well as the shed. Items of contraband were seized from the target's apartment and the shed. Nothing was seized from the innocent third party's apartment. Like our case, there was sufficient probable cause to search the area/ building occupied by the defendant. In the *Rainey* case, the warrant made no mention about the second apartment or the shed.

The Court could have ruled that searching the third party's apartment was harmless error since nothing was seized and the third party offered "no complaint" about the search, that any items seized from the defendant's apartment were legally seized since the warrant provided probable cause to search his particular residence or that the items seized from the shed were legally seized since the shed was attached to the building. In fact, the court suppressed all evidence seized from the defendant's apartment and from the shed. The court held, "the circumstance that...an innocent third party, does not complain because the police searched her apartment in her absence, under a patently defective warrant, furnishes no basis for holding that the search of the defendant's apartment and the seizure of the articles found therein may be sustained."

In the present case, the People's argue that, "the court held that the warrant did not particularly describe the place to be searched because the magistrate issuing the warrant was not told that the entire premises included two separate apartments." However, the *Rainey* holding was not that narrow. The court's holding was to avoid 'a blanket search'. The Court made clear a desire to protect innocent individuals and comply with "the State and Federal Constitutions provide that 'No warrants shall be issue, but upon probable cause,***and particularly describing the place to be searched,

and the person or things to be seized." This is an important distinction. The Court made clear a desire to protect innocent individuals. The People in their brief indicate, "there is, we believe, no dispute that the cars that were searched either belonged to or were possessed by defendant" (People's Brief P.10). That representation is true, but the issue is that there is absolutely no indication anywhere in the record that the police knew or had any reason to believe that the vehicles belonged to or were possessed by defendant. They are not mentioned in the search warrant application and there is no representation in either the People's Response to the trial court motion, People's Appellate Division brief or this brief that the police knew or believed these vehicles either belonged to or were possessed by Defendant at the time of the search. The People can take the position now that they know the vehicles belong to Defendant because Defendant filed an affidavit stating the fact surrounding the vehicles with his motion. The People have not established that police were aware these were Defendant's vehicles at the time of the search.

The People's position in their brief is that the "error [in *Rainey*] was not that the defendant's apartment was searched but that an innocent third party's apartment was also the subject to the search". This error is the reason why the Court suppressed the proceeds of the search of

Defendant's apartment along with the shed. The Court clearly felt that the failure to inform the issuing court with information that an innocent person resided in a separate apartment on the premises was substantial enough to warrant this substantial remedy. As the Court has done in other cases, the Court could have separated portions of the warrant that were sufficiently supported by probable cause and upheld those portions, but it did not. Therefore, it is the remedy in *Rainey* that is extreme given law enforcement's failure to notify the issuing court that a third party was also subject to search. The extreme nature of the remedy does not change that the holding of the case that has subsequently been followed throughout the state was, "the validity of the search warrant depends on whether the showing, at the time of issuance, satisfies fundamental requirements as to the existence of probable cause and whether description of the premises to be searched and the person or things to be seized satisfy basic requirements". The People fail to meet this standard in two regards in this case. The first, the warrant did not provide probable cause to search an expanded interpretation of "entire premises", only the residence. Second, that it failed to establish probable cause to search the vehicles or mention them at all.

In *People v. Hansen*, 38 N.Y.2d 17 (1975), the Court considered the search of a vehicle at a property pursuant to a search warrant. This case is extremely factually similar to our case. Unlike the *Rainey* Court, who suppressed all evidence as a result of the search warrant's overbreadth, the *Hansen* court upheld a search warrant in part, but suppressed evidence seized under an invalid portion. The Court held, "we do not say that invalid portions of a warrant may be treated as severable in all or even most circumstances. We distinguish, for instance, those cases in which, in consequence of overbreadth of a single described area of search, the warrant must be struck down" (citing *Rainey*).

In this case the search warrant affidavit contained sufficient probable to search the building/ residence at the property, but did not contain sufficient allegations to establish probable cause to search a vehicle at the property prior to and at the time of the search. This vehicle was specifically referenced in the affidavit and described with particularity, satisfying that requirement set forth in *Rainey* and *People v. Dumper*, 28 NY2d 296 (1971). There were not specific factual allegations that the vehicle was being used in commission of a crime, however, the *Hansen* court held that separate probable cause must be established to search a vehicle at the property.

The Court in *Hansen* could have adopted the principle that the People requests in our case; that a vehicle on the property is within the curtilage of the residence and therefore, should be encompassed in the search warrant. The Court rejected that principle and held that separate areas to be searched must be particularly described and each supported by probable cause.

In *Dumper*, a search warrant allowed for the search of 'a one story wood frame cottage with white sidewall, green roof', etc., and a 'cottage east of the main house'. While conducting the search, a vehicle entered the driveway. Though the vehicle was not mentioned in the warrant or application, the police searched the vehicle that was driven onto the property. The court rejected the search of the vehicle because it was not particularly described.

The People distinguish the facts of *Dumper* from our matter, stating, 'the *Dumper* case did not address the propriety of the search of a vehicle already at the premises'. The court did not address that potential issue, but re-iterated the court's position in *Rainey*, holding, "both the Federal and State Constitutions require that a search warrant 'particularly describe the place to be searched. The scope of search has been carefully limited. A warrant to search *a building* has been held insufficient to justify search of a shed attached to the building...". In *Rainey*, the warrant used the "entire

premises" language. The Court of Appeals holding in *Dumper* clearly interprets the "entire premises" language of *Rainey* to simply mean building. The Court of Appeals made clear in *Dumper* that the "entire premises" language in *Rainey* simply meant a building.

In *People v. Sciacca,* 45 NY2d 122 (1978), the Court again considered what area may be searched pursuant to an executed search warrant. In that case a vehicle was driven onto the premises during the execution of the search warrant. Though that is certainly distinguishable from our case, it is similar considering it was a search of a vehicle at the premises of a search warrant that was never mentioned in the warrant application, which occurred in our case. Regardless of whether that case is distinguishable or similar, the holding in this case cannot be misinterpreted. The Court stated, "it is clear that a warrant to search a building does not include authority to search vehicles at the premises".

The People have failed to cite any New York decisional authority that supports their position. Time and time again, the Court has held that the area to be search must be clearly specified and supported by probable cause. This was not a tertiary search of the curtilage of the home. This case involves the search of two vehicles that were never even mentioned in the

search warrant application. There is zero indication the police had any belief they were owned or controlled by Defendant at the time of the search.

B. Even if the search warrant application provided probable cause to search the "entire premises", the search of the vehicle was not permitted.

The People refer to CPL §690.15 to describe the three proper subjects of a search warrant: a place of premises; a vehicle; and a person. The People though urge the Court to focus only on subsection 1. But the law clearly separately distinguishes a vehicle from the premises. The Legislature saw fit to separately delineate vehicles from a premises. The People also urge the Court to consider the definition of premises to include more than just the building or residence.

The People rely on *U.S. v. Griffin*, 827 F.2d 1108, 1114-15 (7th Cir. 1987) to suggest that the term "premises" should refer to an estate including land an buildings thereon. The court in that case relied on the 1979 version of Black's law Dictionary. The People also refer to the 1999 version of Blacks Law Journal, which defines premises generally as a house or building with its grounds. Certainly the 1999 definition is narrower than the 1979 version. Regardless, even if the Court were to adopt this definition of "premises", the search of the vehicles would not be lawful.

In *People v. Velez*, 138 A.D.3d 1041 (2d Dept.), *lv denied*, 28 N.Y.3d 938 (2016), the search warrant authorized the search of the residence and yard. The court found a search of a shed on the property was outside the scope of the search warrant. The area described in this search warrant is the residence and its yard, which is exactly the definition of Blacks Law Dictionary offered by the People (stating a house or building with its grounds). The search in *Velez* was found to be unlawful, and even applying the definition of "premises" urged by the People, the search in our case would also be unlawful. *Velez* stands for the same position as the cases before it, that each area to be searched must be specifically delineated and supported by probable cause.

The People urge a plain reading of CPL §690.15 along with plain definitions of its terms. CPL §690.15 specifically separates vehicles from premises. The People are correct, the Fourth Amendment protects people, not places, but CPL §690.15 specifically protects a person's specific privacy interests in both premises, vehicles and their own person. Reading the statute on its face, the law itself requires that the People provide separate probable cause to search a vehicle regardless of how broad a definition they urge apply to the term premises.

C. Claiming the area around a residence is "curtilage" does not absolve a search warrant from requiring particularity of the areas to be searched and independent probable cause to search each area.

The People take the position that because precedent establishes that the "curtilage" of a home is considered part of the home, that a search warrant to search a home must therefore allow for a search of every area surrounding the home. The People's position is misplaced.

The federal authority cited by the People in their brief will be discussed in the following section. The only New York State authority cited by the People in support of their position all relate to warrantless searches conducted by law enforcement in and around the home of a defendant. The case law presented does not relate to search warrants or the requirement that each separate area to be searched must be particularly described and supported by probable cause.

In *People v. Morris*, 128 A.D.3d 813 (2d Dept.), *lv. Denied*, 25 N.Y.3d 1168 (2015), police entered the fenced front yard of a Defendant without a warrant and searched a bag located in the driveway. The police officers did this without a search warrant. The Court found that the defendant had a reasonable expectation of privacy in that area, requiring a search warrant.

In *People v. Theodore*, 114 AD3d 814 (2d Dept.), *lv. Denied*, 23 N.Y.3d 968 (2014) and *cert denied sub nom. New York v. Theodore*, 135 S. Ct. 946 (2015), a police officer observed a defendant smoking a marijuana cigarette in a car in the rear yard of the property, subsequently searching and finding a firearm. The rear yard was shielded from view from the street, within the natural and artificial barriers enclosing the home. The Second Department found that defendant had a reasonable expectation of privacy in this area and that law enforcement required a search warrant.

In *People v. Caputo*, 155 A.D.3d 648 (2d Dept. 2017), police entered a detached garage on a piece of property. The Second Department found that defendant had a reasonable expectation of privacy, but in this particular case, a search warrant is not required because exigent circumstances existed to justify the warrantless search. If police had not been in hot pursuit of the suspect, a search warrant would have been required.

In *People v. Avinger*, 140 A.D.3d 895 (2d Dept. 2016), a police officer entered the fenced-in rear yard of a defendant and observed contraband in a detached garage on the property without a search warrant. Again, the Second Department found the defendant enjoyed an expectation of privacy in this area and that a search warrant was required.

None of the cases cited by the People support their position in this case. None of these cases support their position that a search warrant allowing search of a residence should therefore allow for search of every place on the property. The cases cited by the People were based upon the foundation that law enforcement engaged in an illegal search of an area where a person has an expectation of privacy. The People ignore the fact that CPL §690.15 and all of the cases relied upon earlier that require a search warrant particularly describe each area to be searched and each area must be supported by probable cause.

The position by the People was expressly rejected in *Hansen*. In *Hansen*, as noted above, the Court found the search of the vehicle on the property was invalid because, though the search warrant specified the vehicle, it was not supported by probable cause. The Court found that there was probable cause to search the home but not the vehicle. If the People's position is correct, the search of the vehicle in that case would have been upheld in *Hansen*.

This position was also rejected in *Velez*. In *Velez*, as described above, the search warrant allowed for the search of the residence and yard. The Second Department found the search of a shed was outside the scope.

In our case, the People ask the court to allow a search of an area not specifically authorized, like in *Velez,* and ask the court to allow for an even broader and wide sweeping search. Their position would allow law enforcement to search any area of a piece of property along with all buildings, garages, sheds, vehicles or any other structures on the property if they had a search warrant to search a residence because its within the "curtilage". This would also allow police to search any area of a piece of property along with all buildings, garages, sheds, vehicles or any other structures, whether or not they knew these areas existed at the time the search warrant was requested. The search warrant in our case made absolutely no mention of these vehicles or whether they had any relation to the Defendant and the People have never represented that law enforcement was aware of their existence at the time the warrant was issued. This cannot be allowed. It should also be noted that in relation to the "curtilage argument" offered by the People, the items seized were not in plain view and the People never so allege that they were. They were seized from closed vehicles after a search of those vehicles.

If law enforcement comes upon an area during the execution of a search warrant that was not particularized in the search warrant that they were unaware of or that they obtain probable cause to search during the

execution of the warrant, their responsibility is to then obtain a piggyback warrant.

D. The federal authority cited by the People does not apply in this case.

The federal authority cited by the People allows for broad sweeping searches of property. As the People state in their brief though, Article 1, §12 of the State Constitution protects, not places, but a person's reasonable expectation of privacy; the state formulation of the rule provides greater protection than that afforded under federal law. *People v. Scott*, 79 N.Y.2d 474 (1992). New York State has always provided individuals greater protection from state intrusion than the federal government. CPL §690 requires specificity and particularized probable cause for each area to be searched in a search warrant to protect individuals and prevent overbroad, sweeping police searches.

In addition, the authority cited by the People supports the position that a search of a house includes cars owned by the target of the search (People's Brief P.23). The People have failed to mention that law enforcement was unaware of the existence of these vehicles at the time the warrant was issued and have not made any representation that they knew they were in control of Defendant at the time of the search. The Nissan located in the driveway was

not owned by Defendant and was owned and registered to his cousin, Rodwell Adams. (See Peoples Appendix P. A-44). The Chevy searched in the backyard had no registration, no license plates or identifiable markings that would allow law enforcement to know that vehicle was owned by the Defendant. The People have never provided any indication that they knew the vehicles they were searching belonged to the Defendant until after they searched the vehicles and found materials in the vehicle belonging to Defendant. The police did not know that the vehicles were used or possessed by Mr. Gordon until after the search. The People cannot therefore now ask for forgiveness because the areas illegally searched happened to belong to Defendant. Therefore, the People's reliance on federal authority fails.

CONCLUSION

CPL §690 and fifty-five years of New York jurisprudence establish that all areas to be searched by a search warrant must be particularly described and each area must be supported by independent probable cause. The search warrant in this case established probable cause to search nothing more than the residence, not any broad interpretation of "entire premises". The search warrant did not provide probable cause to search any vehicles and did not mention the existence of any vehicles. Therefore, the search of these vehicles was outside the scope of the search warrant.

DATED: Hauppauge, New York
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Printing Specifications Statement Pursuant to 22 N.Y.C.R.R. §1250.8(j)

JONATHAN B. MANLEY, an attorney duly admitted in the court of this State, attorney of record for the Respondent, in this case, certifies that the within brief is double spaced, and uses 14 and 12 point Times New Roman font for text and footnotes respectively. According to the word count function of Microsoft Word 2010, which was used to prepare it, the brief contains 5,509 words, not including the table of contents, table of citations, proof of service or printing specifications statement.

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Attorney for Respondent