

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CRIMINAL ACTION  
Docket No. CR-14-013

STATE OF MAINE

v.

**ORDER**

DORIAN WHITE,

Defendant

Before the court is Defendant's omnibus motion to suppress evidence. His attorney challenges the arrest of the Defendant and subsequent search for failure on the part of the State to produce the warrant issued by the State of New York as supported by probable cause. Defendant also challenges the identification of the Defendant by what he characterizes as a suggestive "show up."

Facts found by the court from testimony and exhibits at hearing are that a confidential informant for the City of Waterville Police Department made two drug buys on September 25, 2013, in both cases alleged to be crack cocaine. The seller was identified by the pseudonym "Stacks." Apparently the individual also went by the name "Pops" and "Money." Some months later, in December of 2013, the investigating officer was in contact with another confidential informant who advised the officer that a person known as "Stacks" was one Dorian White, he was from New York, and he was a member of the Bloods gang. The officer called the

District Attorney in the appropriate New York precinct and discovered that there was a warrant in New York for White's arrest. The District Attorney's office also sent to the Waterville officer a six-page document consisting of four pages of mug shot photographs and two pages of photographs of tattoos. As a result, the officer obtained a search warrant and conducted a surveillance of a certain premises in Waterville. The photos were shown to both confidential informants.

On January 3, 2014, officers responded to a domestic disturbance at or near the Waterville Central Fire Station. Inasmuch as the photos of the Defendant had been made available to all the officers of the Department, the officers confronted the male in the domestic disturbance who identified himself as "Donte Brown." Satisfying himself that the individual in question was in fact Dorian White and not Donte Brown, the officer effected an arrest and a search of the individual attendant to the arrest. This resulted in the discovery of drugs, illegal under the circumstances, and a sum of money.

At the Waterville Police Department, Mr. White was shown the photographs and admitted that he was Dorian White.

At the hearing on the motion to suppress, the Defendant argued that the court could not sustain the arrest based upon the warrant because the warrant had not been produced to the court. Agreeing that under the "fellow officer rule," *Whiteley v. Warden, Wyoming State Penitentiary*, 401 U.S. 560 (1971), officers

may effect an arrest without personal knowledge of probable cause if they are “entitled to act” on a request made by a fellow officer who has the authority. Arguing that the existence of probable cause at the originating source is a requisite of the rule, it was incumbent upon the State to establish the validity of the warrant. Without doing so, the officer had no probable cause to act. Since the State did not produce the warrant at the suppression hearing, the Defendant argues the lack of probable cause. To this argument, the State responds with a motion to reopen the evidence in order to present the warrant which it alleges it has in its possession. Thus, the motion hearing is not concluded but is subject to the request by the State.

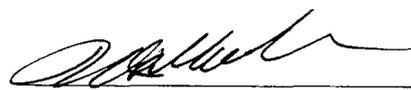
The court grants the State’s request to reopen the evidence in the suppression hearing and orders a continued hearing on the motion for final resolution.

The entry will be:

State’s Motion to Reopen Evidence in the hearing on Defendant’s Motion to Suppress conducted November 4, 2014, is GRANTED.

The Clerk will schedule a continuation of the Motion hearing without delay.

DATED: June 9, 2015



Donald H. Marden  
Superior Court Justice