

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
)	
v.)	CRIM. NO. 03-06-B-S
)	
)	
DONALD ANDREWS and)	
KEVIN BROWN,)	
)	
Defendant)	

**RECOMMENDED DECISION ON MOTION TO SUPPRESS
AND ORDER ON MOTION TO COMPEL DISCLOSURE OF
CONFIDENTIAL INFORMANT'S IDENTITY**

Kevin Brown and Donald Andrews are charged in a two count indictment with conspiracy to possess with the intent to distribute 50 or more grams of cocaine base and possession with the intent to distribute 50 or more grams of cocaine base. Defendant Donald Andrews has joined in Kevin Brown's motion to suppress and has filed a motion to suppress evidence obtained in three searches and to compel disclosure of a confidential informant's identity. (Docket Nos. 26, 28, 29.) I have already issued a Recommended Decision recommending that Kevin Brown's motion be denied. I now recommend that the court **DENY** Andrews's motion to suppress as well. I further **DENY** Andrew's motion to compel the disclosure of confidential informant 02-91's identity.

Facts

Carl Gottardi, II, a detective lieutenant with the Somerset County Sheriff's Department, the affiant in all three search warrant affidavits, has been employed by the

Somerset County Sheriff's Department for over nineteen years. He has received training and participated in numerous investigations involving the unlawful possession and sale of controlled substances. (Aff. and Req. for Search Warrant, attached to Docket No. 22, ¶ 20.)¹ As a result of his work in law enforcement, Gottardi has become acquainted with an individual identified as 02-91, a confidential informant ("Informant 02-91" or "02-91"). Informant 02-91 has a history of drug addiction, but for the past few years has been a reliable informant for Gottardi. Six people have been arrested for various felony level drug offenses as a result of information provided by 02-91. Furthermore, in 2002 Informant 02-91, made controlled drug purchases for Gottardi. (*Id.*, ¶ 1.)

On December 10, 2002, Informant 02-91 informed Gottardi that Shane Murphy and Tara Michaud, both of Fairfield, Maine, were selling/using crack cocaine on a daily basis. Informant 02-91 told Gottardi details about Murphy and Michaud, including the vehicle they operated, the fact that Murphy was currently on probation, and the fact that their prior residence, a trailer in Smithfield, Maine, had been destroyed in a fire. Gottardi independently confirmed these details. (*Id.*, ¶¶ 2, 3.) Informant 02-91 also told Gottardi that Murphy and Michaud had been purchasing crack cocaine on a daily basis for a few months prior to December 10 from some black males in Waterville. (*Id.*)

Informant 02-91 declared that he/she had been with Murphy and Michaud to an apartment on King Street in Waterville to purchase crack cocaine and that he/she could purchase crack cocaine from Murphy or Michaud. (*Id.*, ¶ 4.) Gottardi arranged for 02-91 to make a controlled purchase of crack cocaine from Murphy. Keeping Murphy under

¹ There are three such affidavits attached to Docket No. 22, each submitted in support of one of the three search warrant requests at issue. The two December 23, 2002 affidavits are identical, but for the descriptions of the premises to be search, and they both reproduce the original averments set forth in the December 20, 2002 affidavit, plus 14 additional averments.

constant surveillance, Gottardi confirmed that once 02-91 gave Murphy the money for the crack cocaine purchase, Murphy went directly to 9 King Street and purchased a substance that was later delivered to 02-91 and tested positive as cocaine. (Id., ¶ 5.) Informant 02-91 gave the affiant a detailed description of the black males who sold cocaine at the King Street premises and he also provided details about the location and appearance of the apartment from which they operated. According to 02-91, the primary seller was a black male named “Pee Wee” who weighs over 300 pounds. (Id., ¶ 6.) During the third week of December 2002, Informant 02-91 made another purchase of cocaine from Murphy and Murphy again informed 02-91 that Pee Wee had supplied the drugs. (Id., ¶ 8.) According to Murphy, and as he related to 02-91, Pee Wee and the other two back males had recently moved to Waterville from New York and on December 19, 2002 all three of them had returned to New York to “re-up” with crack cocaine (pick up more drugs). (Id., ¶ 9.)

Gottardi corroborated Pee Wee’s connection with the King Street residence in a number of ways. Informant 02-91 indicated he/she personally observed Pee Wee entering the same King Street residence where Murphy purchased the cocaine. (Id., ¶ 10.) Gottardi also learned from a citizen informant who had supplied the Waterville Police Department with reliable information in the past that a large black male named James Scriven lived at 9 King Street. Gottardi corroborated with Central Maine Power that a James Scriven did have a power connection at an apartment in the building. (Id., ¶ 11.) Gottardi also learned that Scriven had a Maine identification card that listed his weight at 345 pounds. (Id., ¶ 12.) He also learned that Scriven had a New York criminal record including a past conviction involving crack cocaine. (Id.)

Gottardi applied for and executed a warrant to search the King Street apartment on December 20, 2002, believing that Scriven had just returned from his trip to New York the previous day. (Id., ¶ 19.) At the time of the search there were four people in the residence, two black males and two black females. (Id., ¶ 21.) Scriven was not present at the residence and one of those present indicated that Scriven was in New York. (Id.) During the execution of the December 20 search warrant, the telephone inside the residence rang several times and displayed the caller ID number of Tara Michaud of Fairfield, Maine. (Id., ¶ 22.) Gottardi also located a small address book with Michaud and Murphy's phone numbers. (Id.)

Informant 02-91 spoke with Gottardi on December 21 and advised him that Murphy and Michaud said that the police had failed to find the cocaine recently brought from New York when they executed the December 20 warrant because, according to the black males, the drugs had been relocated to another residence. (Id., ¶ 24.) However, the men were eager to sell more cocaine because, according to Murphy and Michaud, the police had seized all of their cash on December 20. On December 21, Murphy and 02-91 traveled to 9 King Street and 02-91 personally saw crack cocaine that Murphy purchased there. (Id., ¶ 23.) Murphy next spoke with 02-91 on December 22 and told 02-91 that he had again that day purchased drugs from the black males at 9 King Street. (Id., ¶ 24.)

On December 23, Gottardi executed a search warrant at the residence of Murphy and Michaud. During the search, officers found a small amount of crack cocaine. (Id., ¶ 25.) Gottardi interviewed Michaud while the search was taking place. Michaud admitted to Gottardi that she and Murphy had been buying cocaine from the individuals at the 9 King Street apartment. Michaud identified three black males she had dealt with there as

Pee Wee, Corey, and Kevin. (Id., ¶ 26.) She also told Gottardi that these individuals had a “safe house” on College Avenue in Waterville, that Kevin was renting this house for the purpose of storing drugs, that Michaud had visited the house with Kevin earlier that month, and that Kevin retrieved crack cocaine from the kitchen area while they were there. (Id., ¶ 27.) Michaud showed the house to Gottardi that day. (Id.) Michaud also informed Gottardi that there was a hiding spot inside the living room closet at the 9 King Street apartment and that she had seen Kevin go to this hiding spot to retrieve crack cocaine for her to purchase. (Id., ¶ 28.) Finally, Michaud informed Gottardi that “one month ago” she had observed the black males with 1500 grams of crack cocaine, but that she did not know how much crack cocaine they had brought back from their latest “re-up” in New York. (Id.) During subsequent questioning by another officer, Michaud indicated that she had broken into the College Avenue premises the previous evening, hoping to find either crack cocaine or cash. Michaud stated that she hurriedly looked through the kitchen area but failed to find any drugs. Michaud departed after a short period of time for fear of being discovered inside the premises. (Id., ¶ 29.)

Detective Thomas Rourke interviewed Murphy separately. According to Gottardi, Murphy informed Detective Rourke that he had been purchasing crack cocaine from three black males at the 9 King Street apartment roughly 5-6 times weekly over the preceding “couple of months.” (Id., ¶ 30.) He also stated that he had purchased a gram of crack cocaine from Pee Wee the preceding day and that he believed the men still possessed a quantity of crack cocaine. (Id.)

In the evening of December 23, 2002, Gottardi applied for and obtained a second search warrant for the 9 King Street apartment and a search warrant for the 143 College

Avenue premises. On this occasion Gottardi presented the affidavit and request to a Justice of the Peace rather than a District Court Judge. The affidavits submitted in support of these search warrants recounted 19 paragraphs of the first affidavit and added additional averments based primarily on the information supplied by Michaud and Murphy following the search of their premises. Due to the lateness of the hour and the likelihood that the December 20 raid would make any occupants especially watchful, Gottardi requested a nighttime, no knock search warrant to be executed that evening. (Id., ¶ 33.) According to Crime Scene Evidence Logs, numerous items, including crack cocaine, were discovered at both premises.

I. The Motion to Suppress

Andrews has moved to suppress the evidence obtained during the December 20 and December 23, 2002 searches, contending (1) that the December 23 King Street warrant was not based on probable cause because the supporting affidavit relates no appreciable new information obtained subsequent to the December 20 raid conducted at the premises and because Pee Wee was never present at any of the searches; (2) that a rent receipt was taken beyond the scope of the December 20 warrant and that this illegally seized evidence was what actually led police to the 143 College Avenue premises; (3) that there was no justification for the warrants to authorize no knock, nighttime execution; and (4) that the warrant was illegally obtained because Gottardi is a Somerset County officer and the December 20 warrant was obtained in Somerset County for execution in Kennebec County.

1. *Probable Cause*

The applicable standard is whether the totality of the circumstances, as set forth within the four corners of the affidavits presented to the state court judge and the justice of the peace, was sufficient to support their findings of probable cause that crimes were being committed and that evidence of said crimes was likely to be discovered in the premises to be searched. United States v. Schaefer, 87 F.3d 562, 565 (1st Cir. 1996). Their findings of probable cause are entitled to “great deference by reviewing courts.” Illinois v. Gates, 462 U.S. 213, 236 (1983).

Andrews’s contention that the December 23 warrants were based on the same evidence as the December 20 warrant is inaccurate. While it is true that the affidavits submitted in support of the December 23 warrants recounted the averments found in the December 20 affidavit, they also presented significant new evidence, including the statements of Michaud and Murphy, who described, among other things, continued trafficking activity at 9 King Street and the use of 143 College Avenue to store crack cocaine. This evidence was sufficient to justify the issuance of a search warrant for both premises.

2. *Rent Receipt*

According to Andrews, during the December 20 raid on the King Street apartment, police officers seized a certain receipt for rental payments made on the College Avenue premises. Andrews argues that this receipt would have been beyond the scope of the warrant and, thus, items seized in the subsequent search of the College Avenue premises would have been the fruit of a Fourth Amendment violation, assuming that this receipt is what led police to College Avenue. In its response, the Government

attaches copies of three such receipts, two of which it seized in the December 20 search of the King Street apartment.

The Fourth Amendment protects individuals “against unreasonable searches and seizures,” and requires that search warrants “particularly describe the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. In general, if the scope of a search exceeds that permitted by the terms of a valid warrant, the subsequent seizure is unconstitutional.

United States v. Hamie, 165 F.3d 80, 82 (1st Cir. 1999) (citing Horton v. California, 496 U.S. 128, 140 (1990)).

The December 20 search warrant appropriately authorized the seizure of, among other things, records pertaining to the acquisition, sale and distribution of drugs and other contraband. Although the search warrant did not expressly extend to “records of occupancy,” I consider the rent receipts to fall flatly within the language “records . . . pertaining to the acquisition, sale, and distribution of drugs” because the existence of another local residence being rented by the individuals at 9 King Street would directly pertain to their suspected drug trafficking activities. Therefore, because the seizure of the rent receipts did not amount to a Fourth Amendment violation, there is no basis to exclude the rent receipts seized on December 20. Neither is there any basis to exclude the evidence seized from the College Avenue premises as “fruit of the poisonous tree.”²

² The Government argues that the receipt would fall into the plain view exception even if it fell outside the scope of the warrant. As stated by the Court of Appeals in Hamie:

In certain limited circumstances . . . the “plain view” doctrine permits law enforcement agents to seize evidence in plain view during a lawful search even though the items seized are not included within the warrant’s scope.

In order that it remain an exception rather than the rule, the Supreme Court has established a two-part test for the plain view doctrine. First, “an essential predicate to [the seizure of evidence not within a warrant’s purview is] that the officer did not violate the Fourth Amendment in arriving at the place from which the evidence could be plainly viewed.” Horton, 496 U.S. at 136. Second, the doctrine requires that the evidence’s incriminating character be “immediately apparent” to the officer. Id.

3. *Nighttime, No Knock Search Warrant*

Each of the three search warrants authorized a no-knock entry and nighttime execution. Andrews contends that these provisions were not justified under the circumstances and resulted in an unreasonable search. As grounds for such authority, Gottardi represented that any crack cocaine could be easily destroyed by ingesting the substance or discarding it out a window or down a drain. Furthermore, Gottardi represented that he intended to execute the warrants as soon as the suspects returned from New York, which might necessitate a nighttime search. (Gottardi Affidavit, ¶ 19.) With respect to the December 23 warrant, Gottardi further represented that “since the 9 King Street residence was raided on December 20, . . . the persons described herein will be even more watchful for police trying to gain access to their residence.” (*Id.*, ¶ 33.) Gottardi did not aver that guns were present in either location or that knocking and announcing would create a dangerous situation for the officers executing the warrants.

Rule 41(h) of the Maine Rules of Criminal Procedure provides that “[t]he warrant shall direct that it be executed between the hours of 7 a.m. and 9 p.m., unless the judge or justice of the peace, by appropriate provision in the warrant, and for reasonable cause shown, authorizes its execution at another time.” See also Fed. R. Crim. P. 41(h) (defining daytime to mean the hours from 6:00 a.m. to 10:00 p.m.).³ Gottardi complied

165 F.3d at 82. If the Government were required to fall back on this doctrine, which I do not think is necessary, it might be appropriate to conduct a hearing regarding whether the incriminating character of the receipt was immediately apparent to the officer who seized it.

³ Federal law permits nighttime execution where controlled substance are at issue:

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate judge issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

with Rule 41(c): he submitted a request for a nighttime warrant to the justice of the peace and provided the “reasonable cause” required by the Rule. Gottardi indicated that there was a heightened risk that evidence of drug trafficking would be destroyed if a daytime search were conducted, in part because the December 20 raid would have placed the suspects on heightened alert that a search of their premises might be conducted. Courts addressing the propriety of nighttime searches have held that the danger of evidence destruction is sufficient to justify nighttime searches. United States v. Tucker, 313 F.3d 1259, 1265-66 (10th Cir. 2002) (“We agree . . . that a substantial risk of destruction of the evidence would justify execution of a search warrant at night.”); see also United States v. Searp, 586 F.2d 1117, 1121-22 (6th Cir. 1978), cert. denied, 440 U.S. 921 (1979) (rejecting argument that officers’ failure to comply with Rule 41(c) meant that exclusionary rule applied and holding that nighttime execution of search warrant was reasonable to prevent destruction of evidence of bank robbery). I consider this rationale to be sound.

Pursuant to Maine Rules, the same result would be appropriate for the no knock component of the warrant. Rule 41(i) of the Maine Rules of Criminal Procedure provides that an unannounced execution may be authorized upon a finding of reasonable cause that “the property sought may be quickly or easily altered, destroyed, concealed, removed or disposed of if prior notice is given.” Nevertheless, there remains an issue whether the

21 U.S.C. § 879. There is no suggestion that Gottardi, the state judge or the state justice of the peace relied on the federal statute as a basis for seeking or authorizing nighttime execution of the subject warrants. See Gooding v. United States, 416 U.S. 430, 458 (1974) (holding that § 879 “requires no special showing for a nighttime search, other than a showing that the contraband is likely to be on the property or person to be searched at that time”).

issuance of a no knock warrant on the basis of Gottardi's affidavit complied with the Constitution of the United States. I conclude that it did.

“Police acting under a warrant usually are required to announce their presence and purpose, including by knocking, before attempting forcible entry, unless circumstances exist which render such an announcement unreasonable.” United States v. Sargent, 319 F.3d 4, 8 (1st Cir. 2003) (citing Wilson v. Arkansas, 514 U.S. 927, 936 (1995)). The circumstances that must maintain for a no knock entry to be reasonable are often described as “exigent circumstances.” E.g., Richards v. Wisconsin, 520 U.S. 385, 389-90 (1997); Aponte Matos v. Toledo Davila, 135 F.3d 182, 191 (1st Cir. 1998). At first blush, the exigent circumstances language appears to present a significantly heightened order of proof when, in fact, the “touchstone” of the constitutionality of any government search is reasonableness under the circumstances. Bd. of Educ. v. Earls, 536 U.S. 822, 828 (2002).

Supreme Court precedent reveals that legitimate concern over the destruction of evidence, even in the absence of additional concerns, can serve as sufficient justification to commence a premises search with a no knock entry. Richards, 520 U.S. at 394 (“In order to justify a ‘no-knock’ entry, the police must have a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence.” Id. at 394 (emphasis added) (holding that officer’s no knock entry was reasonable to prevent destruction of evidence under the circumstances, even though magistrate had rejected request for no knock entry); Illinois v. McArthur, 531 U.S. 326, 331-32 (2001) (holding that exigent circumstances existed to

prevent the defendant from entering his residence because there was probable cause to believe that the residence contained contraband and that the defendant would destroy the contraband if permitted to enter his residence); see also Id. at 337 (Souter, J., concurring) (“This probability of destruction . . . exemplifies the kind of present risk that undergirds the accepted exigent circumstances exception to the general warrant requirement.”); Schmerber v. California, 384 U.S. 757, 770-71 (1966) (dissolution of alcohol in blood, i.e., destruction of evidence, found to be sufficiently exigent circumstance for warrantless extraction of blood sample); Ker v. California, 374 U.S. 23, 42 n.13 (1963) (referring to the “threat of destruction of evidence” as “compelling circumstances”).⁴ In my view, this line of cases, although addressed to warrantless searches and seizures and to no knock entries not preauthorized in the warrant, clearly demonstrates that concern over the destruction of evidence, standing alone, can support a finding of “exigent circumstances” justifying a no knock entry. Gottardi’s affidavit sets forth concern over the destruction of evidence that was sufficient to support the District Judge’s and the Justice of the Peace’s conclusion that reasonable cause existed to approve nighttime, no knock entries.

4. *The Territoriality Challenge*

Andrews also “contests the legality of a Somerset County Deputy . . . securing a warrant on December 20, 2002 in Skowhegan, Somerset County, to be executed in . . . Kennebec County.” (Docket No. 28 at 3.) Andrews claims that this violated “established Maine procedure and therefore renders the fruits of that search inadmissible, as well as

⁴ Andrews contends that a nighttime, no knock entry to the College Avenue premises could not be justified because the premises were known to be vacant. There is no authority for the proposition that officers cannot conduct nighttime, no knock searches of premises they have reason to believe might be vacant, just because they might instead stake out the premises until morning. Where premises are vacant, it is hard to understand why nighttime, no knock entries should be of any special concern, there being no occupant to intrude upon. The Fourth Amendment protects persons, not premises. Furthermore, knocking and announcing at a vacant residence can be dispensed with because such protocol would be futile. Richards v. Wisconsin, 520 U.S. 385, 394 (1997).

any subsequent search leading from that illegality.” (Id.) Andrews cites neither Maine law for the first proposition nor federal law for the latter proposition. The Government responds that Gottardi would testify, if necessary, that he has the authority to obtain a warrant from a Somerset County judge or justice of the peace for execution in Kennebec County but that, “[i]n any event, the issue has little to do with probable cause.” (Docket No. 30 at 8.) Gottardi is a Detective Lieutenant in the Somerset County Sheriff’s Department. (Aff. and Req. for Search Warrant, prelim. stmt.) The power of a county sheriff to act in a law enforcement capacity is circumscribed by Maine law. See, e.g., 30-A M.R.S.A. §§ 404, 405 (limiting power to arrest in other counties).

This challenge concerns only the December 20 warrant. In my view, the question is not whether Gottardi had authority to seek a search warrant in Somerset County for execution in Kennebec County, but whether any of the officers who participated in executing the warrant had the authority to do so in Kennebec County. There is no question that District Court Judge MacMichael had the authority to issue a warrant for execution in Kennebec County. Nor, as discussed above, is there a legitimate basis to argue that probable cause did not exist for the issuance of the subject warrant. Thus, the question is whether Gottardi, or any⁵ of the officers who assisted in the execution of the December 20 warrant, had the authority to execute the search warrants in Kennebec County. Although it would have been surprising to discover that that none of the nine or ten officers who participated in the December 20 search was authorized to search premises in Kennebec County pursuant to a warrant, the Government failed initially to

⁵ The warrant reads, “TO: Any officer authorized by law to execute this search warrant.” (December 20, 2002 Search Warrant, p.1, first line.)

provide anything of evidentiary quality to put the matter to rest. I then ordered it to provide some evidentiary supplementation.

On June 16, 2003, the United States provided a supplementary affidavit prepared by Carl Gottardi, II. In it Gottardi recites not only that he was a sworn deputy in Kennebec County at the time of the search, but also that he holds statewide arrest powers. Furthermore, Waterville police and other Kennebec County officers assisted with the search. Andrews was given until June 23 to respond to the affidavit or to file additional motions. He has done neither. I am fully satisfied that there was no illegality in the execution of the search warrant.

II. Motion to Compel Disclosure

Andrews moves separately for the disclosure of Informant 02-91's identity, contending that 02-91 is a material witness whose testimony is critical to his defense. (Docket No. 29 at 2.)

Courts have long recognized the government's qualified privilege to [withhold] the identity of informants. Roviaro v. United States, 353 U.S. 53, 59, 1 L. Ed. 2d 639, 77 S. Ct. 623 (1956); United States v. Hemmer, 729 F.2d 10, 15 (1st Cir.), cert. denied, 467 U.S. 1218, 104 S. Ct. 2666, 81 L. Ed. 2d 371 (1984). As Roviaro and its progeny make clear, however, said privilege, though well-established, is by no means absolute. In the past we have held that disclosure must be forthcoming if "the government informant was the sole participant, other than the accused, in the transaction charged," or was "the only witness in a position to amplify or contradict the testimony of government witnesses." United States v. Bibbey, 735 F.2d 619, 621 (1st Cir. 1984), quoting from Roviaro, 353 U.S. at 64. However, when the government informant is not an actual participant or a witness to the offense, disclosure is required only in those exceptional cases where the defendant can point to some concrete circumstance that might justify overriding both the public interest in encouraging the flow of information, and the informant's private interest in his or her own safety. Hemmer, 729 F.2d at 15; United States v. Estrella, 567 F.2d 1151, 1153 (1st Cir. 1977). Mere speculation as to the usefulness of the informant's testimony, it must be emphasized, is insufficient to justify disclosure of his or her identity, so defendants have

an obligation to provide at least some explanation of how the informant's testimony would have supported their alleged defenses. United States v. Giry, 818 F.2d 120, 130 (1st Cir. 1987); Hemmer, 729 F.2d at 15. Moreover, our cases have also established that where the informant is a mere tipster, a conduit rather than a principal or active participant in the enterprise, disclosure is not required, even in those instances where the informant was present during the commission of the offense. Giry, 818 F.2d at 130. In sum, we believe we fairly state the point when we say that the privilege need only give way when disclosure of the informant's identity would be vital to a fair trial.

United States v. Martinez, 922 F.2d 914, 920-21 (1st Cir. 1991). Nothing in Gottardi's affidavit suggests that Informant 02-91 was an actual participant in the charged conspiracy to possess and distribute crack cocaine. Although 02-91 might be able to provide "material" testimony, due to the fact that he visited the King Street apartment on at least one occasion with Murphy and Michaud and purportedly provided Gottardi with "a detailed description of the black males who sold cocaine at the King Street premises," (Gottardi Aff., ¶ 6), his purchases were arranged through Murphy. This evidence makes 02-91 a "mere tipster, a conduit rather than a principal or active participant in the enterprise" for which "disclosure is not required, even in those instances where the informant was present during the commission of the offense." 922 F.2d at 921. Indeed, it is hard to distinguish this case from the facts of Martinez, where the Court of Appeals concluded that "a fair trial did not necessitate the presence of the government informant." Id. Nothing in Brady v. Maryland, 373 U.S. 83 (1963), compels a contrary conclusion. The Brady rule does not require the prosecution to disclose before trial the names of witnesses who will testify against the defendant. Weatherford v. Bursey, 429 U.S. 545, 559 (1977). The motion is **DENIED**.

Conclusion

For the reasons stated herein, I **DENY** Andrews's motion to compel disclosure of Confidential Informant 02-91's identity and **RECOMMEND** that the Court **DENY** Andrews's motion to suppress.

SO ORDERED.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection. Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

June 10, 2003

Margaret J. Kravchuk
United States Magistrate Judge

U.S. District Court
District of Maine (Bangor)
CRIMINAL DOCKET FOR CASE #: 1:03-cr-00006-JAW-1
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Case title: USA v. ANDREWS, et al
Other court case number(s): None
Magistrate judge case number(s): None

Date Filed: 02/05/03

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Pending Counts

21:841A=ND.F NARCOTICS -
SELL, DISTRIBUTE, OR
DISPENSE COCAINE BASE
(1)

21:841A=ND.F NARCOTICS -
SELL, DISTRIBUTE, OR
DISPENSE COCAINE BASE
(2)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

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None

Complaints

None

Disposition

Plaintiff

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