

IN THE FRANKLIN COUNTY MUNICIPAL COURT
ENVIRONMENTAL DIVISION
COLUMBUS, OHIO

FILED
2019 MAY 30 PM 2:09

STATE EX REL.
COLUMBUS CITY ATTORNEY
ZACH KLEIN

RELATOR-PLAINTIFF,

v.

DOROTHY PRIEST, ET AL.

RESPONDENTS-DEFENDANTS.

CASE NO. **2019 EVH 60303**

JUDGE: STEPHANIE MINGO

PARCEL NO. 010-091422-00

TEMPORARY RESTRAINING ORDER

This matter came before the Court on May 30, 2019 on Relator's request for an ex parte temporary restraining order filed in conjunction with a Complaint and Motion for Preliminary and Permanent Injunctive Relief. In light of the circumstances, this motion was filed *ex parte*. For purposes of the temporary restraining order, the Court finds that the Relator has established that Respondent-Defendant DOROTHY PRIEST is the record owners of the property located at 936 Elizabeth Avenue in Columbus, Ohio. All Respondents-Defendants are persons in charge, care, and control of 936 Elizabeth Avenue in Columbus, Ohio, Parcel ID No. 010-091422-00.

On information and belief, Relator asserts the following:

1. The Premises at 936 Elizabeth Avenue is a single family dwelling located on the east side of the City of Columbus known by the police and surrounding community for the use and sale of narcotics and also prostitution.

2. In 2017, The Columbus Police Department (hereinafter "CPD") began frequently responding to the Premises pursuant to numerous complaints of narcotics activity, accidental overdose, robbery, burglary, shots fired, fights, and other general disturbances.
3. On August 1, 2017, CPD Officers were called pursuant to a complaint of shots fired at the Premises.
4. On March 10, 2018, CPD Officers and the Columbus Fire Department (hereinafter "CFD") – Medic 21 responded to a suspected overdose at the Premises. Defendant Dorothy Priest was found in the home unconscious due to an overdose of heroin administered by the Defendant via self-injection.
5. On April 27, 2018, CFD – Medic 21 responded to a suspected overdose at the Premises. Defendant Dorothy Priest was found unconscious due to a heroin overdose. The overdose was documented as self-inflicted.
6. On May 1, 2018, CPD Officers and CFD – Medic 823 responded to a suspected overdose at the Premises. Defendant Dorothy Priest was found unconscious due to a heroin overdose administered by the Defendant via self-injection. Defendant admitted to being a heroin user to the responding Medics.
7. On June 23, 2018, CPD Officers responded to the Premises pursuant to an Assault complaint. The suspect communicated to responding officers that after the victim was turned down for sex at the Premises, the victim refused to leave and a fight ensued between both parties.
8. On October 16, 2018, CPD Officers and CFD – Medic 21 were dispatched to the Premises on a suspected overdose. A female identified as Chelsie Brannon was

found lying on the floor of the kitchen and unconscious due to a heroin overdose. After transport to OSU East, Ms. Brannon was found to have incurred a possible stab wound to her hip.

9. On October 19, 2018, CPD Officers were checking the back alley between Hampton and Elizabeth Avenues pursuant to several complaints indicating that drug users and alleged prostitutes use the over grown alley to walk behind the Premises for the purpose of obtaining drugs. While surveying the area, officers located several items identified as drug paraphernalia on the ground, including used needles. Officers followed what appeared to be a beaten down path ending in the rear of the Premises. Officers noticed the rear fence gate was open and the garage in the rear of the Premises had a broken window and open door. Officers entered garage to ensure a burglary had not occurred and upon entering the garage found two live twelve gauge rounds next to the door, drug paraphernalia including used needles, burnt spoons and char boy, and a used mattress and chairs.
10. On November 12, 2018, while patrolling the area near the Premises, CPD Officers witnessed a male, later identified as David Moore, walk to the front door and enter the Premises. Officers continued surveillance on the house and observed Mr. Moore exit the Premises approximately five minutes after his arrival. Officers then witnessed Mr. Moore make an improper right hand turn while driving northbound on Elizabeth Avenue. Officers initiated a traffic stop and spoke with Mr. Moore who appeared visibly nervous. After exiting the vehicle, Mr. Moore began speaking with the officers stating that he knew the

officers stopped him because he was coming from 936 Elizabeth Avenue, a known drug house. Mr. Moore then admitted to the purchasing of .2 grams of crack cocaine and two Xanax bars at the Premises in exchange for \$35. Mr. Moore stated he has purchased drugs from the Premises at least four times.

11. On February 17, 2019, CPD Officers and CFD – Medic 21 were dispatched to the Premises on a suspected overdose. A female identified as Anna Burney was found unresponsive, on the living room floor, due to a heroin overdose.
12. On February 19, 2019, while working plain clothes in an unmarked vehicle, CPD Officer S. Foe #2525, received information from an anonymous source that a male by the name of Tiel Dawson was inside the Premises. Officer Foe knew Mr. Dawson to have a felony warrant through the adult parole authority and also knew the house to be a place where the sale and use of narcotics occurs. Officer Foe contacted two uniformed officers and verified the warrants were good. Officer Foe along with uniformed officers approached the Premises and knocked on the door. Defendant Dorothy Priest yelled through the door requesting a reason as to why the officers were at the Premises. After communicating that they were there to place Mr. Dawson under arrest, Defendant Dorothy Priest refused to allow officers inside the home. Officers then witnessed the back door of the Premises swing open and a male attempting to leave. The male reentered the Premises after being confronted by one of the uniformed officers. CPD officers created a perimeter around the Premises and began giving announcements for Mr. Dawson to exit the Premises. Ultimately, Mr. Dawson exited the Premises and was arrested for outstanding warrants, transported and

slated at the Franklin County Jail on additional charges of resisting arrest and obstruction of justice.

13. In March 2019, The Columbus Police Narcotics Division (hereinafter "CPD Narcotics") began investigating the Premises pursuant to community complaints of narcotics activity and prostitution occurring at the Premises.
14. On March 25, 2019, CPD Narcotics Detectives Shawn Sparhawk and William Kaufman, using a confidential informant, executed a controlled purchase of .1 grams of crack cocaine at the Premises in exchange for \$20.00 of pre-recorded official funds. The confidential informant went to the front door of the Premises to purchase the drugs and witnessed a silver pistol in the seller's waistband.
15. On March 26, 2019, CPD Narcotics requested and obtained a no knock search warrant from a Judge of the Franklin County Municipal Court.
16. On March 27, 2019, CPD Officers were called to pursuant to a complaint of shots fired at the Premises.
17. On March 28, 2019 at approximately 6:55 p.m., CPD Narcotics Detectives John Gall and Jeffery Vance, using a confidential informant, executed a controlled purchase of .2 grams of crack cocaine at the Premises in exchange for \$20.00 of pre-recorded official funds. The confidential information went to the back door of the Premises, entered the Premises and executed the purchase inside the living room.
18. On March 28, 2019 at approximately 7:45 p.m., CPD Narcotics executed a search warrant at the Premises. Defendant Dorothy Priest was present inside the home, along with two males identified as James McClenton Jr. and Titus

Nelson, and a female identified as Jazmine Bankston. James McClenton was arrested for possession of crack cocaine.

19. The following items were seized from the Premises during the search:
 - a. 1.2 grams of crack cocaine
 - b. 1 semi-automatic handgun, 1 magazine
 - c. Ten rounds of ammunition
20. On April 1, 2019, CPD Narcotics Detective Shawn Sparhawk sent a letter to the Defendant via certified mail, notifying the Defendant of the narcotics activity occurring at the Premises and the Defendant's immediate duty to cease any and all illegal activity occurring at or on the Premises or else be subject to an abatement action.
21. On April 5, 2019, CPD Officers and CFD – Medic 823 were dispatched to the Premises on a suspected overdose. A female identified as Chelsie Brannon was found in the back bedroom of the home and unconscious due to a heroin overdose.
22. On April 9, 2019, CPD Officers and CFD – Medic 21 were dispatched to the Premises on a suspected overdose. An unidentified Caucasian male was found lying on his back and unresponsive.
23. On 4/18/2019, CPD Officers were conducting surveillance on the Premises. Officers noticed a red Camry back out of the driveway allowing an orange sedan to pull to the back of the house. Officers then noticed a female, later identified as Kelly Busby, walk from behind the house and into the middle of the street. Officers stopped Ms. Busby from walking in the middle of the street. While

Officers were speaking with Ms. Busby, she notified them that a female by the name of Jazmine Bankston had arrived at the Premises in the orange sedan with crack and heroin to sell. Ms. Busby also stated a male by the name of James McClenton arrived with Jazmine Bankston and was also in the house selling drugs. Ms. Busby communicated to the officers that both Jazmine and James are consistently present at the Premises, selling drugs out of the front and back doors. She also confirmed the presence of firearms inside the house.

24. On April 22, 2019, CPD Narcotics received a signed card evidencing receipt of the letter sent to the Defendant on April 1, 2019.
25. On May 9, 2019, while patrolling the area of Elizabeth and Astor Avenues, CPD officers observed a female, later identified as Autumn McLaughlin, walking northbound on Elizabeth Avenue and carrying a black laptop bag. Officers conducted a consensual encounter and requested consent to search the bag. Ms. McLaughlin consented and officers immediately observed a metal push rod, which officers know from experience to be used for drugs. Officers asked Ms. McLaughlin where she was walking from and she stated she was coming from 936 Elizabeth Ave. She further stated that she went to 936 Elizabeth Avenue for the purpose of purchasing crack as she knows people sell crack and heroin from the Premises and are "open for business at all hours of the day and night."
26. On May 19, 2019, CPD Officers and CFD – Medic 21 were dispatched to the Premises on a suspected overdose. Patient left the scene prior to arrival.

27. On May 21, 2019, CFD Medic – 21 responded to the Premises on a suspected overdose. A female identified as Jessica Kirschbaum was found lying on the living room floor and unresponsive due to a heroin overdose.
28. Plaintiff alleges that the Premises is a public nuisance as defined in § 3767.01 and/or R.C. § 3767.12 (*et. seq.*), C.C.C. 4703.01 (F), and under common law, subject to abatement under R.C. § 3767.
29. Plaintiff asserts that the Premises herein is generally reputed to be kept, conducted and maintained for the purpose of committing violations of Ohio Revised Code 2925 (Drug Offenses), and for the purpose of illegal activity.
30. Defendants are guilty of maintaining a nuisance at the Premises, subject to abatement and in accordance with R.C. § 3767.01 (*et. seq.*), for having a structure in violation of the laws pertaining to illegal drugs (including violations of R.C. Chapter 2925, R.C. § 3719.10, etc.); such operations and criminal activity at the Premises, substantially interferes with the area's public decency, sobriety, peace, safety, welfare and good order.
31. Defendants own fixtures, furniture and moveable property have been used or are currently being used in conducting, maintaining, and facilitating said public nuisance.
32. Defendants at all times relevant to this action have maintained a public nuisance threatening the health, safety and welfare of the people of the City of Columbus, the health, safety and welfare of the persons at and nearby the Premises, and the that of the Columbus Police.

33. Defendants are guilty of maintaining a public nuisance at the Premises based on their actual and constructive knowledge of the nuisance, in addition to the well-known general reputation of the Premises, which is prima facie evidence of the nuisance and of knowledge of and acquiescence and/or participation in the nuisance.

Pursuant to Ohio Civil Rule 65(A), and R.C. 3767.04(B)(2), this Court hereby enters this temporary restraining order. The Court finds that Relator has made a preliminary showing that continued illegal activity at 936 Elizabeth Avenue in Columbus, Ohio, will cause immediate and irreparable harm to the surrounding community. The Court finds the criminal activity occurring at the Premises constitutes an imminent danger for those at the Premises and for those around the Premises.

Furthermore, pursuant to Civil Rule 65, Relator has established that exigent circumstances exist to support the issuance of an *ex parte* restraining order in accordance with the Ohio Revised Code.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

The Relator has established by clear and convincing evidence that the illegal activity occurring at the premises located at 936 Elizabeth Avenue in Columbus, Ohio, continues to cause irreparable harm to the community and that the property is a nuisance *per se* as defined in R.C. § 3767.01 and R.C. § 3767.02, and in Columbus City Code § 4703.

It is the further **ORDER** of this Court that all occupants of 936 Elizabeth Avenue in Columbus, Ohio, be forcibly removed from the premises forthwith. Said occupants may be forcibly detained during the execution of this order. Furthermore, the premises shall be closed, padlocked, boarded or secured as deemed necessary by the Chief of the Columbus Police Department or his or her designee(s) against its use for any purpose until a final decision is rendered on the Complaint for Preliminary and Permanent Injunctive Relief as required by R.C. § 3767.04. This temporary restraining order shall apply to and prohibit usage of or entrance onto any curtilage or porch areas of the premises for any purpose—no vehicles or persons are to be anywhere on the parcel.

It is further **ORDERED** that this temporary restraining order shall apply to the parcel in its entirety. No person may enter and/or occupy 936 Elizabeth Avenue in Columbus, Ohio, including any portion of the parcel. Any violation of this order, including mutilation of this order, is contempt of court, punishable as a first degree misdemeanor.

It is further **ORDERED** that only necessary personal property located on the premises be removed by the occupants prior to closure and under the direction of the Columbus Division of Police. The Columbus Division of Police is authorized to inventory personal property located on the premises; however, only items related to or in connection with the illegal conduct must be inventoried and accounted for. The Columbus Division of Police may, however, also remove and secure at an off-site location highly mobile and valuable property, including but not limited to such personal property as automobiles, cash, jewelry and electronic equipment which may be at risk of theft during the pendency of this ORDER.

This case is continued for further preliminary hearing on the merits of Relator's Complaint for Preliminary and Permanent Injunctive Relief on the 10th day of June, 2019 at 12:00 P.M. in courtroom 15B, located on the 15th floor of 375 S. High Street, Columbus, Ohio 43215. This Order shall remain in effect until that time or as otherwise ordered by this Court.

This order shall be served upon the Respondents-Defendants by the Columbus Division of Police or Relator's Counsel; the order may be served by posting a copy of it in a conspicuous place at or upon one or more of the principal doors or entrances of the property. The closing of said premises at 936 Elizabeth Avenue in Columbus, Ohio with forcible entry and removal of all occupants shall be effectuated by the Columbus Division of Police with the assistance of Columbus Code Enforcement. Based on the Affidavit submitted with the Complaint and Motion, the Court finds that notice of entry upon the premises could result in destruction, concealment or removal of contraband, illegal narcotics or property and could create a serious risk of physical harm to law enforcement officers or other authorized individuals in the execution of this *ex parte* Order.

IT IS SO ORDERED.

5-30-19.
DATE


JUDGE STEPHANIE MINGO