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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

Case No. 05-3228

Honorable Mary M. Waterstone

vs.

ALEX ACEVAL AND RICARDO PENA,

Defendants.

IN CAMERA CONFERENCE

before the Honorable Mary M. Waterstone, Circuit Judge, 403 Frank Murphy Hall of Justice, 1441 St. Antoine, Detroit, Michigan, June 17, 2005, at or about 3:00 p.m.

APPEARANCES: Officer Robert McArthur
 Special Investigations Unit
 City of Inkster

Transcribed By: M. Yvonne Lownie (CSR-2008)
 Certified Shorthand Reporter
 (313) 224-7072

1 THE COURT: We are back on the record in case
2 05-3228, the People versus Alexander Aceval and Ricardo
3 Pena and, after having a brief discussion with Officer
4 McArthur with regard to the evidentiary hearing and the
5 questions that were being asked at the evidentiary
6 hearing regarding the confidential informant, it seemed
7 to me that any further questions by Mr. Feinberg on the
8 record including even the questions that Ms. Plants
9 wanted him to ask would, based on the information I
10 received from Investigator McArthur, jeopardize the life
11 of the confidential informant.

12 So at this time I'm going to look through Officer
13 McArthur's file on the confidential informant and I will
14 also look at that document, the debriefing document of
15 January 8th. So I'll do that first.

16 (Reviewing document.)

17 THE COURT: All right. I think it probably
18 wouldn't hurt for me to put this information here in a
19 sealed record.

20 OFFICER MCARTHUR: Fine. As long as it's sealed.
21 The offer on there would have gave away his identity for
22 the defendant to drive the drugs and get the money.

23 THE COURT: Well, his name which is in the
24 following documents would also give him away.

25 OFFICER MCARTHUR: That's correct.

1 THE COURT: So clearly if --

2 OFFICER MCARTHUR: I thought we were speaking on
3 the record.

4 THE COURT: No. We are not speaking on the record.
5 We are speaking on the sealed record. This record will
6 be sealed. It will not be made a part of the file
7 unless and until someone asks for it like the Court of
8 Appeals.

9 The document dated January 8th, '05, with a
10 supplemental date of 1-9-05, Incident No. 05437,
11 prepared by the complaining officer, Officer Robert
12 McArthur, regarding the defendant Alexander Aceval and
13 it gives his name, date of birth, et cetera.

14 The report indicates that on January 8th, 2005, SIU
15 -- I don't know what that means?

16 OFFICER MCARTHUR: Special Investigation Unit.

17 THE COURT: Sergeant Rechtzigel and Officer Robert
18 McArthur met with Inkster Confidential Informant 94350,
19 hereinafter referred to as CI, and obtained information
20 regarding his or her knowledge pertaining to narcotic
21 traffickers mostly distributing cocaine and marijuana
22 throughout the entire metropolitan Detroit area.

23 The CI states that he/she has been offered \$5,000
24 by Alexander Aceval, a/k/a Alex, to be a courier and
25 transport money/narcotics, a round trip from Detroit,

1 Michigan, to Chicago, Illinois, and back.

2 Officers obtained Alex Aceval's residence/vehicles
3 information from CI. The address given is 22001
4 Abington Drive, Farmington hills. Abington with one b.
5 48335.

6 Jeep S/W, VIN No. 1, J as in John, 4, G as in
7 George, W as in Waterstone, 5, 8, N as in nice, X as in
8 X-ray, 3, C as in Charley, 561068 [1J4GW58NX3C561068].

9 Michigan License Plate No. WYH 632, gray in color.
10 Vehicle is registered to DCFS Trust leased to
11 Armando Aceval, 774 Fielding Street, Detroit 48226.

12 The CI advised officers that Alexander Aceval owns
13 and operates a night club called J Dubs/After Dark which
14 is located 12850 Sibley, Riverview, Michigan 48192.

15 The bar is utilized for his cocaine/marijuana
16 operation where drugs are delivered, stored and
17 dispersed, and it has a signature of Sergeant, must be,
18 Rehtzigel.

19 OFFICER MCARTHUR: That's correct.

20 THE COURT: All right. I will give that back to
21 Officer McArthur.

22 He has also given to me his confidential informant
23 file. It has a picture of a gentleman, white male, blue
24 eyes, mustache and narrow goatee, narrow and short
25 goatee. The source identifies him as CI 94350 active.

1 Last name Povish, first name Chad, middle William. Date
2 of birth 12-22-70. Race white. Sex male. Height
3 five-six. Weight 185. And gives his address and
4 emergency contact and the control officer.

5 It also has what appears to be some titled
6 information regarding Mr. Povish's vehicle which is a
7 1986 Oldsmobile, two door. Registration information 8,
8 F as in Frank, R as in Richard, Q as in quick, 96
9 [8FRQ96].

10 Gives his address and his driving license number.
11 Indicates no prior alcohol violations. One suspension
12 for something.

13 OFFICER MCARTHUR: That document checked to see if
14 he had any wants or warrants at the time and he had
15 none.

16 THE COURT: That was an old driver's license appeal
17 what I was talking about. All right.

18 And there is a LEIN I.D. on him. Nothing filed as
19 best I can tell from looking at it. He had a
20 misdemeanor in '92. He had a '94 attempt, false
21 pretenses. Sentenced to probation and then he had a
22 1998 misdemeanor domestic violence dismissed in a
23 district court and then a misdemeanor assault and
24 battery in 2002.

25 That is basically the file. There is a subpoena to

1 Mr. Povish in the file requiring him to testify on June
2 20th, 2005. I guess that's for him; right?

3 OFFICER MCARTHUR: Right.

4 THE COURT: Well, based on -- and can you tell me
5 how much he was paid?

6 OFFICER MCARTHUR: He was paid, I have to look. I
7 think \$100 for driving us around and then he was going
8 to get ten percent, whatever we got.

9 THE COURT: So you have a check and, if I wanted to
10 see it on Monday, you could bring it?

11 OFFICER MCARTHUR: I could check it.

12 We actually paid him in cash but we have receipts
13 that he signed.

14 THE COURT: That makes a lot more sense that you
15 paid him in cash. So, when you said I could check, that
16 was what you were saying, not I have a check?

17 OFFICER MCARTHUR: Right.

18 THE COURT: I'm sorry. I misunderstood.

19 OFFICER MCARTHUR: It's Friday.

20 THE COURT: I'm satisfied that there was a CI and
21 that this gentleman is the CI.

22 (Brief ending of conference in chambers
23 with Officer McArthur.)

24 THE COURT: I am sorry to have to start this again
25 but it occurred to me, as soon as the court reporter put

1 so far?

2 OFFICER MCARTHUR: Actually, no, not a trial.

3 THE COURT: Not so far.

4 Was the information that he has given you in these
5 other matters found to be valid?

6 OFFICER MCARTHUR: Yes, and credible.

7 THE COURT: And credible?

8 OFFICER MCARTHUR: Yes.

9 THE COURT: You have every reason to believe that
10 he is reliable from your experience in this case as well
11 as other cases; is that correct?

12 OFFICER MCARTHUR: That's correct, your Honor.

13 THE COURT: And prior to the night this happened,
14 had he given you information in other cases that would
15 be -- that was useful and helpful?

16 OFFICER MCARTHUR: Yes, he has.

17 THE COURT: And valid?

18 OFFICER MCARTHUR: Yes, he has.

19 THE COURT: And it was valid?

20 OFFICER MCARTHUR: Yes, it was.

21 THE COURT: In the other cases, at least one other
22 case?

23 OFFICER MCARTHUR: Yes, in all other cases.

24 THE COURT: They were prior to this?

25 OFFICER MCARTHUR: Actually they were while this

1 case, some before and some after.

2 THE COURT: Okay. All right. So the reasonable
3 suspicion that you used was essentially his information
4 based on him driving you around and the information of
5 the other situations that his information had proved
6 correct?

7 OFFICER MCARTHUR: That's correct.

8 THE COURT: All right.

9 OFFICER MCARTHUR: Plus our own observations of
10 that day also.

11 THE COURT: That day. What observations were
12 those?

13 OFFICER MCARTHUR: Truck pulling into the parking
14 lot with a Mexican driver with a Texas plate on the
15 truck pulling a trench digger with the frost laws. The
16 trench digger was unloaded and driven to the rear of the
17 bar.

18 THE COURT: But that was after you stopped the
19 vehicle?

20 OFFICER MCARTHUR: No. It was prior to stopping
21 the vehicle.

22 THE COURT: Before you stopped the vehicle?

23 OFFICER MCARTHUR: That's correct.

24 Texas is a target state and a lot of drugs come
25 from Texas.

1 Also, our CI leaving and going to Kmart and
2 purchasing four large black duffel bags.

3 THE COURT: Leaving where?

4 OFFICER MCARTHUR: He was also on the phone the
5 entire time telling us what was going on outside the
6 bar.

7 THE COURT: Okay. Anything else you used to base
8 your reasonable suspicions?

9 OFFICER MCARTHUR: Basically it was phone
10 conversations, him telling me the cocaine was there, him
11 telling who was driving the cocaine, who was inside the
12 bar. While he left the bar, he was going to get the
13 black bags to put the cocaine in.

14 Also, see Mr. Aceval coming out of the bar pulling
15 one of the black bags and loading it in the vehicle.

16 THE COURT: You saw Mr. Aceval come out of the bar
17 with one of the duffel bags?

18 OFFICER MCARTHUR: Actually it was Sergeant
19 Rehtzigel who actually observed it and relayed it on
20 the phone to us

21 THE COURT: All right. Anything further?

22 OFFICER MCARTHUR: Basically that's it.

23 THE COURT: I just wanted the record to be
24 complete.

25 (Conference at or about 3:25 p.m.)

