

Police Prosecutor Update

March 2025

Issue 367

Triblet v. State of Indiana
2025 Ind. App. Unpub. LEXIS 128
Indiana Court of Appeals- February 5, 2025

Signed Probation Order put Defendant on notice that as a condition of probation, he was subject to warrantless and suspicionless searches.

- Triblet was on probation for a Level 4 unlawful possession of a firearm by a serious violent felon
- The Probation Orders stated that Triblet “waive[d] his right against search and seizure”, and his person, residence, motor vehicle, or any location where he had personal property could be searched by “a Probation Officer or any law enforcement officer acting on a Probation Officer’s behalf” to ensure compliance with the terms of his probation.
- A search by his probation officer, accompanied by police officers, uncovered several handguns, marijuana, and ammunition in his apartment.
- The State filed new charges against Triblet, as well as a probation violation due to the new arrest.
- After being convicted at trial, Triblet appealed, arguing that the evidence obtained from his apartment was an unlawful search and seizure because there was no evidence that a reasonable articulable suspicion that he had violated the terms of his probation or committed a new crime existed for the search.

The Court held that the language in the Probation Order, signed by Triblet, clearly informed him that he was waiving his right against warrantless searches, and that this could be done without reasonable suspicion.

Conviction Affirmed.

Fireline v. State of Indiana
2025 Ind. App. Unpub. Lexis 147
Indiana Court of Appeals- February 11, 2025

A substantial independent basis existed for issuance of the search warrant

- Fireline had an active warrant for his arrest.
- Officers received a message via social media that Fireline was living in an RV on someone's property.
- The tipster gave information about where the RV was located as well as a physical description of the RV.
- When officers went to serve the arrest warrant, they observed a strong chemical odor coming from the RV that they believed was indicative of a methamphetamine lab.
- When knocking on the door of the RV, officers observed Fireline look out of the window, and then disappear inside of the RV.
- Officers heard several loud noises from inside of the RV.
- Fireline eventually exited the RV and was taken into custody.
- Based upon the chemical odor and Fireline's furtive movements at the window, officers applied for a search warrant to search the RV.
- The search of the RV produced over 29 grams of methamphetamine, \$9,000 in cash, boxes of plastic baggies, a digital scale, and identification and credit cards belonging to Fireline.
- Fireline was charged with Level 2 Dealing in Methamphetamine.
- After an unsuccessful attempt to suppress the evidence from the RV, Fireline was convicted at trial.
- Fireline appealed the conviction, arguing that the drug evidence was seized illegally in violation of his 4th Amendment rights in two parts: 1) the reliability of the tip was not properly established; and 2) the probable cause contained false and misleading statements.

Under the 4th Amendment, the Court looks to determine if a magistrate had a "substantial basis" to conclude that probable cause existed for the issuance of the search warrant. A substantial basis focuses on whether reasonable inferences can be drawn from the totality of the circumstances in the probable cause affidavit.

Reliability of the Tip Analysis

"When based on hearsay from a tipster, a [probable cause] affidavit must either:

- 1) contain reliable information establishing the credibility of the source and of each of the declarants of the hearsay and establishing that there is a factual basis for the information furnished; or
- 2) contain information that establishes that the totality of the circumstances corroborates the hearsay.

The trustworthiness of hearsay for the purpose of proving probable cause can be established in several ways, including where:

- 1) The informant has given correct information in the past;
- 2) Independent police investigation corroborates the informant's statements;
- 3) Some basis for the informant's knowledge is demonstrated; or
- 4) The informant predicts conduct or activity by the suspect that is not ordinarily easily predicted.”

Citing I.C. 35-33-5-2(b) and *Gerth v. State*, 51 N.E.3d 368, 372 (Ind. Ct. App. 2016)

Using these guidelines, the Court agreed that the credibility of the tipster was not established. **However**, the important distinction here is that the affidavit for the search warrant was not based on the hearsay provided by the tip. Officers developed independent probable cause for the search warrant of the RV when they arrived to serve the arrest warrant for Fireline: specifically, that Fireline was inside of the RV; the strong chemical odor associated with an active methamphetamine lab; and the furtive movements of Fireline while inside of the RV after seeing officers at his door.

Conviction Affirmed.

Matlock v. State of Indiana
2025 Ind. App. Unpub. LEXIS 144
Indiana Court of Appeals- February 11, 2025

A substantial independent basis existed for issuance of the search warrant

- Officers conducted two controlled buys using a confidential informant to purchase fentanyl from Matlock.
- Matlock would use a third party to meet with people to exchange cash for fentanyl.
- Officers applied for and were granted a search warrant to search Matlock’s residence.

- The search turned up over \$20,000 in cash, multiple firearms and ammunition, methamphetamine, fentanyl, and hydrocodone.
- Matlock was convicted at trial and appealed, arguing that the search warrant affidavit failed to establish probable cause on the basis that the affidavit was based on uncorroborated information from a confidential informant and did not link Matlock's residence to the criminal activity.

For a valid search warrant under Indiana Code 35-33-5-2, there must be an affidavit filed with a judge:

1) particularly describing:

(A) the house or place to be searched and the things to be searched for; ...

2) alleging substantially the offense in relation thereto and that the affiant believes and has good cause to believe that

(A) the things sought are concealed there; ...

and

3) setting forth the facts known to the affiant through personal knowledge or based on hearsay, constituting probable cause.

If the probable cause is based on an anonymous tip, the reliability of the informant's hearsay must be established.

In this case, however, the reliability requirements were not necessary because this case involved a controlled buy, which is different from an anonymous tip. The only "tip" that officers used was the initial identification of the dealer as a man named "Matlock". Officers used independent information to confirm Matlock's identity and obtained further information such as his address and the fact that he was on GPS monitoring.

Additionally, the detective in this case based his affidavit on the controlled buys he set up rather than on the information provided by the confidential informant. "So long as the 'controls are adequate, the affiant's personal observation of a controlled buy may be sufficient as grounds for finding probable cause.'" *Heyen v State*, 936 N.E.2d 294 (Ind. Ct. App. 2010). The affidavit filed by officers in this case set out all the proper steps taken in setting up and conducting the two controlled buys.

The Court found that a sufficient nexus existed for the search of Matlock's residence based upon reasonable inferences taken from the affidavit. The Court stated that it was reasonable to infer that the seller's trip to Matlock's residence just prior to the meeting with

the confidential informant for the exchange of fentanyl was sufficient to link Matlock's residence to drug dealing.

Conviction Affirmed.

McGee v. State of Indiana

2025 Ind. App. LEXIS 37 | 2025 WL 542822

Indiana Court of Appeals- February 19, 2025

Second Amendment does not protect the possession of machine guns

- While conducting surveillance at an apartment complex, officers observed several individuals in the area, two of which were carrying handguns.
- McGee admitted to possessing a Glock 22 that had a "Glock switch" attached.
- McGee claimed he bought the gun from a private sale, and the seller told him about the switch.
- McGee explained his understanding of what the Glock switch does to the gun, testifying that the seller told him the device would make the gun "shoot fast", but he claimed he didn't know it would fire multiple bullets with one trigger pull.
- McGee was charged with a Level 5 Felony Possession of a Machine Gun.
- After being convicted at trial, McGee appealed the conviction, arguing that the statute he was charged with violating is in violation of his Second Amendment right to bear arms.

Second Amendment Argument

The Court relied on the U.S. Supreme Court case of *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, where SCOTUS established a two-part test in determining if a gun regulation violates the Second Amendment.

The first step is determining whether the Second Amendment's plain text covers an individual's conduct. If it does, then the individual's conduct is protected. If the conduct is protected, then step two requires the government to show that the regulation is consistent with the historical tradition of firearm regulation.

In applying the first part of this test to the firearm possessed by McGee, the Court followed prior caselaw that stated that machine guns are not protected by the Second Amendment as they are "not the type of weapons possessed by law-abiding citizens for lawful purposes." Machine guns have been categorized by most Courts in the United States as being "dangerous and unusual weapons", and therefore subject to restriction. The Glock

22 was a dangerous and unusual weapon due to having the “Glock switch” attached, converting it to a fully automatic weapon capable of firing multiple shots with a single pull of the trigger.

McGee also argued that there was insufficient evidence to prove he had knowledge that the switch turned his handgun into a fully automatic machine gun. The Court found that he knew that the handgun with the switch did not operate like a normal handgun based on his own testimony as to the purpose of the Glock switch, and specifically, that it “make[s] your gun shoot fast basically.”

Conviction Affirmed.

Drug School

Ecstasy Or MDMA (also Known As Molly)

What is it?

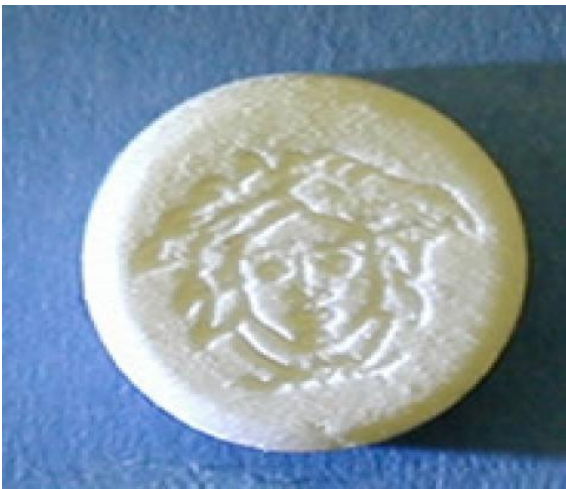
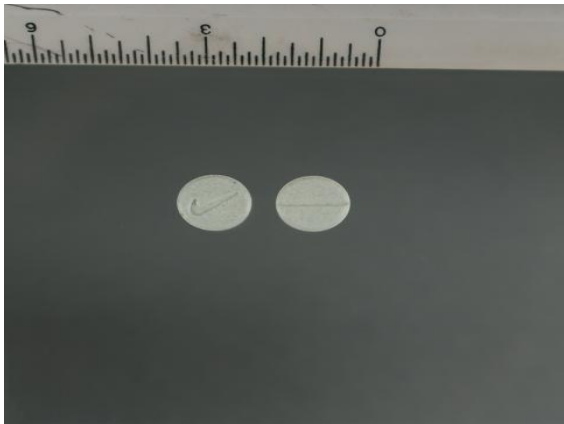
3,4-methylenedioxyamphetamine (MDMA) acts as both a stimulant and hallucinogen, producing an energizing effect, distortions in time and perception, and enhanced enjoyment of tactile experiences. It is a synthetically produced drug. Users take it to reduce inhibitions and to promote euphoria, feelings of closeness, empathy, and sexuality.

Although MDMA is known among users as ecstasy, researchers have determined that many tablets sold as ecstasy may not contain any MDMA, or may contain MDMA in combination to other harmful drugs, such as methamphetamine, ketamine, cocaine, cathinones, and caffeine.

MDMA is mainly distributed and sold in tablet form often with logos, creating brand names for users to seek out. As the pictures below illustrate, with the use of pill presses, they can be made into any type of pill in any color and with any logo. The colorful pills are often hidden among colorful candies. MDMA is also distributed in capsules, powder, and liquid forms.

MDMA is a Schedule I drug under the Controlled Substances Act, meaning it has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

What can it look like?



Upcoming Trainings

IPAC Spring Seminar
May 16, 2025
Marriot Indianapolis North

IPAC Summer Conference
June 18-20
Embassy Suites South Bend

More info and register on our website!

This is a publication of Indiana Prosecuting Attorneys Council which will cover caselaw and various topics of interest to law enforcement officers. Please direct any questions or suggestions you may have for future issues to Dave Thornburg, Drug Resource Prosecutor at IPAC – DaThornburg@ipac.in.gov