

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
FELONY DIVISION

STATE OF FLORIDA,

CASE NUMBER: [REDACTED]

vs.

DIVISION: C

R [REDACTED] B [REDACTED]
Defendant.

RECEIVED DEC 11 2006

ORDER ON DEFENDANT'S MOTION TO SUPPRESS

THIS CAUSE came up for hearing on October 4, 2006, on: 1) Defendant's Motion to Suppress, and 2) State's Traverse thereto, at which hearing testimony was taken and arguments of counsel were heard. This cause came up for further hearing on November 15, 2006, on: 1) Defendant's Motion to Suppress, 2) State's Traverse thereto, 3) Supplement to Defendant's Motion to Suppress, 4) State's Response to Supplement to Defendant's Motion to Suppress, and 5) Defendant's Reply to State's Response to Supplement to Defendant's Motion to Suppress, at which hearing additional evidence in the form of deposition testimony was filed with this Court by Defendant, R [REDACTED] B [REDACTED]

Whereupon, this Court, on November 20, 2006, having read: 1) Defendant's Motion to Suppress, 2) State's Traverse thereto, 3) Supplement to Defendant's Motion to Suppress, 4) State's Response to Supplement to Defendant's Motion to Suppress, and 5) Defendant's Reply to State's Response to Supplement to Defendant's Motion to Suppress; having heard testimony, having heard arguments of counsel, having examined evidence presented, having reviewed the Court's file, and being otherwise fully and duly advised in the premises, issued its ruling by which it is:

ORDERED AND ADJUDGED that Defendant's Motion to Suppress is GRANTED to the extent of excluding the equipment and trailers per the State's Information as follows:

- 1) Count 1 - The John Deere TF 270 Skid Steer Loader with ID No. [REDACTED], reported to be stolen from Southern Site Equipment which is the subject of Count One of the State's Information;
- 2) Count 2 - The Atlas Copco Commercial Air Compressor with ID No. [REDACTED], reported to be stolen from Carolina Equipment Company and which is the subject of Count Two of the State's Information;
- 3) Count 3 - The Cherokee Trailer with VIN [REDACTED], reported to belong to [REDACTED] and which is the subject of Count Three of the State's Information;
- 4) Count 4 - The motor vehicle or mobile home which is the subject of Count Four of the State's Information;
- 5) Count 5 - The motor vehicle or mobile home which is the subject of Count Five of the State's Information;
- 6) Count 6 - The motor vehicle or mobile home which is the subject of Count Six of the State's Information;
- 7) Count 8 - The 2002 Pacemaker Cargo Sport c56103a Trailer with VIN [REDACTED], reported to belong to "[REDACTED]" or "[REDACTED]" and which is the subject of Count Eight of the State's Information;
- 8) Count 9 - The Western Gentleman Trailer with VIN [REDACTED], reported to be stolen from [REDACTED] and which is the subject of Count Nine of the State's Information; and

ORDERED AND ADJUDGED that Defendant's Motion to Suppress is **DENIED** with respect to the "long flatbed trailer that some equipment could be held on like a backhoe and stuff,"¹ which was the object of the consented search, and which was not located by law enforcement as a result of the search conducted on the property of Defendant, ~~REDACTED~~, on November 14, 2005.²

DONE AND ORDERED at Tampa, Hillsborough County, Florida, this _____ day of _____ 2006.

ORIGINAL SIGNED
CONFORMED COPY

DEC 08 2006

~~ROBERT A. FOSTER, JR.~~
Honorable Robert M. Foster
Circuit Court Judge

Copies furnished to:
Michael P. Maddux, P.A.
State Attorney's Office

¹Depo. of Detective Roger Darrell Martin, Nov. 3, 2006, p. 6, ln 5-7.

²*Id.*, p. 17, ln. 9-10, "We never located the trailer that we actually went there to find." See also p. 25, ln. 6-9, wherein Detective Martin stated "we didn't find anything that linked him to that and we didn't find what we were looking for," and "Nothing ever came of it." (Referring to what deputies thought they were going to find.). Accordingly, all the property seized was beyond the scope of the consent that was obtained and therefore must be suppressed.