Order

Michigan Supreme Court
Lansing, Michigan

November 13, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 169475
COA: 367101
Berrien CC: 2021-003492-FH

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

STEPHAN JARON DELANEY,
Defendant-Appellant.

By order of May 1, 2026, plaintiff was directed to answer the application for leave to appeal the November 17, 2025 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

CAVANAGH, C.J. (*dissenting*).

I respectfully dissent from the Court's order denying leave to appeal. Defendant raised a substantial Fourth Amendment challenge to a search warrant that, on its face, failed to establish either a nexus to his home or the particularity the Constitution requires. I would have granted oral argument on the application.

To summarize, law enforcement obtained a warrant to search defendant's home for evidence related to the distribution of narcotics. In support, the search warrant affidavit detailed that defendant met a woman online and that the two chatted for a few weeks. When the woman came to Benton Harbor to visit defendant, he took her to another city to purchase drugs. Later that night, defendant cut up the drugs, and the woman consumed them. The affidavit does not say where this took place. The next thing the woman remembered, she woke up in the hospital, where she consented to a search of her phone and purse. What remained of the drugs purchased the night before were found inside her purse at the hospital. The affiant law enforcement officer who reviewed text messages sent between defendant and the woman opined that, based on his training and experience, the two were talking about purchasing cocaine. The affidavit includes a summary of one text message where the woman asked defendant if they could get "snow flake emoji."

Even assuming, as the lower courts did,[1] that the woman used the drugs inside defendant's home, it is questionable whether the affidavit establishes "a substantial basis for inferring a fair probability" that controlled substances or evidence of the distribution of narcotics would be found inside defendant's home the next day. *People v Wilkins*, ___ Mich ___, ___ (July 22, 2026) (Docket No. 167737); slip op at 10 (quotation marks and citations omitted); see also *People v Russo*, 439 Mich 584, 603-604 (1992). "The critical element in a reasonable search" is whether "there is reasonable cause to believe that the specific 'things' to be searched for and seized are located on the property to which entry is sought." *Zurcher v Stanford Daily*, 436 US 547, 556 (1978). Here, the controlled substances that defendant and the woman purchased remained inside the woman's purse at the hospital. Nothing in the affidavit suggested that defendant had other drugs inside his home or that he was a known drug dealer. See *United States v McPhearson*, 469 F3d 518, 524-525 (CA 6, 2006). The affidavit establishes only that something criminal happened inside the home the night before, not a fair probability that there would be evidence of that crime or other contraband in the home the next day. I believe this issue was worthy of further exploration.

The search warrant affidavit also included cursory information about an unrelated "assault with a deadly weapon" that defendant allegedly committed approximately a week before. This portion of the affidavit suffered from its own distinct flaws. Most glaring, the affidavit contains almost no information about the assault and does not specify the weapon allegedly used. In Michigan, assault with a "deadly weapon" may be committed using "a gun, revolver, pistol, knife, iron bar, club, brass knuckles," or "other dangerous weapon[s]," MCL 750.82(1), which could include an automobile, broomstick, flashlight, lighter fluid, or even a booted foot. See *People v Buford*, 69 Mich App 27, 30-32 (1976). This lack of information raises serious concerns about the warrant's particularity and whether it reasonably directed law enforcement's search. See *People v Hughes*, 506 Mich 512, 539-540 (2020). Absent any description of the weapon, nothing in the warrant distinguished evidence of the assault from the ordinary contents of a home and left officers free to seize essentially anything that could theoretically constitute a deadly weapon. "[E]xploratory rummaging is constitutionally intolerable . . . ." *People v Carson*, ___ Mich

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[1] The lower courts acknowledged that the search warrant affidavit did not actually state that defendant and the woman returned to his home in Benton Harbor after purchasing the drugs in Paw Paw. Nonetheless, the panel concluded that this did not defeat the probable-cause determination. I am skeptical of this conclusion. See *People v Sloan*, 450 Mich 160, 180 (1995) (" 'All data necessary to show probable cause for the issuance of a search warrant must be contained in the four corners of a written affidavit . . . .' ") (citation omitted), overruled on other grounds *People v Hawkins*, 468 Mich 488, 507 (2003). However, as the panel noted, the parties did not dispute that the two returned to defendant's home in Benton Harbor.

___, ___ (July 31, 2025) (Docket No. 166923); slip op at 24.

In my view, it appears that the lower courts applied "an uncritical approach that assumes officers can lawfully search any residence with some connection to a person suspected of illegal drug activities." *People v Buggs*, ___ Mich ___, ___; 35 NW3d 364, 367 (2026) (THOMAS, J., concurring in part and dissenting in part). I would have granted oral argument on the application to explore the important Fourth Amendment issues presented in defendant's appeal. Because the Court denies leave to appeal, I respectfully dissent.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 13, 2026

Clerk