

STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY

SUPERIOR COURT

State of New Hampshire

v.

Timothy Verrill

Docket No. 219-2017-CR-072

ORDER ON MOTION TO SEARCH IN LIEU OF SEARCH WARRANT

The State moves to allow the search of the server(s) and/or records maintained for or by Amazon.com for all recordings made by an Echo smart speaker with Alexa voice command capability, FCC ID number ZWJ-0823, from the period of January 27, 2017 to January 29, 2017, in addition to any information identifying cellular devices that were linked to that smart speaker during that time period, and to produce such information to the court. (Court index #204.) The State asserts there is probable cause to believe that evidence of crimes—audio recordings capturing the attack on victim Christine Sullivan that occurred in the kitchen of 979 Meaderboro Road and any events that preceded or succeeded the attack—may be found on the server(s) maintained by or for Amazon.com for all recordings made by the aforementioned Echo smart speaker. (*Id.*) The State asserts that the Echo smart speaker was among the items lawfully seized by investigators at 979 Meaderboro Road on February 3, 2017, and is currently in the possession of the New Hampshire State Police. (*Id.*)

After reviewing the motion, the court takes it up and rules on it without waiting for a response from defense counsel, as it appears the defendant would have no standing to assent or object to the State's motion. *See State v. McLellan*, 144 N.H. 602, 604 (1999) (noting that because the defendant lacked a possessory interest in the classroom, desk, or money prior to the time of the offending act, the defendant did not have automatic standing); *State v. Paige*, 136 N.H. 208, 210 (1992).

The court finds there is probable cause to believe the server(s) and/or records maintained for or by Amazon.com contain recordings made by the Echo smart speaker from the period of January 27, 2017 to January 29, 2017, and that those servers contain

information identifying any cellular devices that were linked to that smart speaker during that time period, and that such information contains evidence of crimes committed against Ms. Sullivan, including the attack and possible removal of the body from the kitchen, in the time period of January 27, 2017 to January 29, 2017. See State v. Delisle, 137 N.H. 549, 552 (1993) (finding that once a defendant is before the superior court, the preferred procedure for obtaining evidence is by motion to the court); State v. Ward, 163 N.H. 156, 159 (2012) (“Probable cause exists if a person of ordinary caution would justifiably believe that what is sought will be found through the search and will aid in a particular apprehension or conviction.”).

Accordingly, the State’s motion to search in lieu of a search warrant is granted. The court directs Amazon.com to produce forthwith to the court any recordings made by an Echo smart speaker with Alexa voice command capability, FCC ID number ZWJ-0823, from the period of January 27, 2017 to January 29, 2017, as well as any information identifying cellular devices that were paired to that smart speaker during that time period.

So ordered.

November 5, 2018



Steven M. Houran
Presiding Justice