

The following is the affidavit of probable cause in the case of Brian Westberry, who was charged with aggravated assault, possession of an instrument of crime, terroristic threats, simple assault and recklessly endangering another person. The complainant is Gregory Cujdik. The defendant is Brian Westberry:

Commonwealth of Pennsylvania
County of Philadelphia



AFFIDAVIT OF PROBABLE CAUSE
Copy

Police Incident Number (DC#):

0908014035

Warrant Control Number:

AFF-0002571-2009

DET PATRICIA EBERHART PATRIC 7607 Northeast Detectives Division

0908014035 On 4-5-09 at approximately 11:05am P/O Gregor #6936 responded to a radio call of a person with a gun. Upon arrival P/O Gregor was met by the complainant, who stated that on 4-5-09 at 12:15am the defendant pointed a silver revolver at the complainant inside of the defendant's residence, [REDACTED] Annapolis Rd. Based on this information P/O Gregor #6936 knocked on the defendant's door, [REDACTED] Annapolis st. and the defendant answered the door and P/O Gregor ordered the defendant out of his residence. The defendant exited his residence and P/O Gregor confiscated a 38 caliber revolver from the defendant's left front pocket loaded with five live rounds.

The defendant was arrested and transported to the 15th district cell room. Detective Eberhart #7607 interviewed the complainant inside of Northeast Detectives Division on 4-5-09 at 1:19pm and he stated that on 4-4-09 at approximately 11:30pm he went to the location of [REDACTED] Annapolis Rd. Once there he knocked at the front door of the residence looking for his girlfriend. The Defendant's Father answered the door and told the complainant that his son, the defendant and the complainant's girlfriend were still out. The complainant left the location.

On 4-5-09 at approximately 12:15am the complainant went back to the location of [REDACTED] Annapolis Rd. and knocked at the door to the location and the defendant answered the door and stated that the complainant's girlfriend didn't want to talk to the complainant.

The complainant and the defendant were then involved in a verbal dispute and during the dispute the complainant observed the defendant's right hand on the side of his leg. The complainant then observed what he believed to be a silver revolver with wood grips. The complainant punched the defendant in the jaw area and the defendant stumbled back and went towards the complainant with the gun and told the complainant to leave. The complainant exited the location through the storm door and when he looked back the defendant was pointing the gun at him from inside his house.

On 4-5-09 at approximately 12:48pm Detective Eberhart #7607 interviewed the defendant inside of Northeast Detectives Division and he stated that on 4-5-09 at approximately 12:15am he heard banging on his front door and he answered his door and the complainant stated "Let me see my girlfriend" The defendant told the complainant to leave because the complainant was inside of his house. The defendant stated that the complainant punched him in the neck when the defendant attempted to call the police. The defendant then stated that he pulled out his 38 caliber revolver because he was disoriented when he was punched.

On 4-5-09 at approximately 11:05am the defendant stated that the police knocked on his door and ordered him to leave his residence. The defendant stated that he didn't want to leave the loaded gun in the house because his three year old nephew was in the house at the time police asked him to exit his house.

The defendant doesn't possess a valid permit to carry a firearm license. The defendant doesn't have any felony convictions which would make him ineligible to possess a firearm. The 38 caliber snub nose revolver serial number 930887 that was confiscated is registered to the defendant.

On 4-5-09 at approximately 1:30pm Detective Eberhart #7607 contacted The Philadelphia District Attorney's Office Charging Unit and based on the advice given released the defendant.

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND THAT PROBABLE CAUSE TO ARREST EXISTS.

Affiant: DET PATRICIA EBERHART PATRIC 7607 Northeast Detectives Division

Sworn to or affirmed and subscribed before me this 13 day of April, 2009

Affiant Signature

Issuing Authority Signature

