

HOUSE BILL No. 5827

May 29, 1990, Introduced by Rep. Dunaskiss and referred to the Committee on Judiciary.

A bill to amend chapter VIII of Act No. 175 of the Public Acts of 1927, entitled as amended
"The code of criminal procedure,"
as amended, being sections 768.1 to 768.36 of the Michigan Compiled Laws, by adding section 27a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Chapter VIII of Act No. 175 of the Public Acts
2 of 1927, as amended, being sections 768.1 to 768.36 of the
3 Michigan Compiled Laws, is amended by adding section 27a to read
4 as follows:

CHAPTER VIII

5
6 SEC. 27A. EVIDENCE THAT IS OTHERWISE ADMISSIBLE IN A CRIMI-
7 NAL PROCEEDING SHALL NOT BE SUPPRESSED BY A COURT IF THE EVIDENCE
8 WAS SEIZED BY A LAW ENFORCEMENT OFFICER OR GOVERNMENTAL OFFICIAL

1 PURSUANT TO A SEARCH WARRANT UNLESS THE COURT FINDS THAT 1 OR
2 MORE OF THE FOLLOWING OCCURRED:

3 (A) THE MAGISTRATE IN ISSUING THE SEARCH WARRANT WAS MISLED
4 BY INFORMATION IN AN AFFIDAVIT THAT THE AFFIANT KNEW WAS FALSE OR
5 WOULD HAVE KNOWN WAS FALSE EXCEPT FOR THE AFFIANT'S RECKLESS DIS-
6 REGARD OF THE TRUTH, AND WITHOUT THAT INFORMATION THERE WOULD NOT
7 HAVE BEEN PROBABLE CAUSE FOR ISSUANCE OF THE SEARCH WARRANT.

8 (B) THE MAGISTRATE WHOLLY ABANDONED HIS OR HER JUDICIAL ROLE
9 IN ISSUING THE SEARCH WARRANT UNDER SUCH CIRCUMSTANCES THAT ANY
10 REASONABLY WELL-TRAINED OFFICER OR OFFICIAL COULD NOT RELY ON THE
11 SEARCH WARRANT.

12 (C) THE SEARCH WARRANT WAS BASED ON AN AFFIDAVIT SO LACKING
13 IN PROBABLE CAUSE THAT BELIEF IN THE EXISTENCE OF PROBABLE CAUSE
14 BY THE AFFIANT WAS ENTIRELY UNREASONABLE.

15 (D) THE SEARCH WARRANT WAS SO FACIALLY DEFICIENT THAT LAW
16 ENFORCEMENT OFFICERS OR GOVERNMENTAL OFFICIALS EXECUTING THE
17 SEARCH WARRANT COULD NOT REASONABLY PRESUME THE SEARCH WARRANT
18 WAS VALID.