

Attorney Contributor: Erin Coleman

Criminal Law Journal Member: Madaleine Gray

This case began on June 6, 2014 when Officer Megan Valentine, of the Franklin Police Department, stopped Ms. Angela Daniel, the defendant for suspected driving under the influence.¹ At the time of the incident, the Defendant refused to participate in any field sobriety tests and blood alcohol testing. Consequently, Officer Valentine obtained a search warrant for a blood draw.² That same day, Defendant was transported to the Williamson County Medical Center, where she had her blood drawn.³ At no point during the blood draw did Officer Valentine leave a copy of the search warrant with the Defendant.⁴

The Defendant filed a motion to suppress the blood draw evidence due to Officer Valentine's failure to abide by Tennessee Criminal Procedure Rule 41(g)(6).⁵ Rule 41 states:

A person aggrieved by an unlawful or invalid search or seizure may move the court pursuant to Rule 12(b) suppress any evidence obtained in the unlawful search and seizure. If property was unlawfully seized, the aggrieved person may move for the return of the property. *The motion shall be granted-* except as to the return of contraband- if the evidence in support of the motion shows that ...

(6) the serving officer- where possible- did not leave a copy of the warrant with the person or persons on whom the search warrant was served.⁶

At the suppression hearing, Officer Valentine testified it was her normal protocol to leave search warrants with defendants.⁷ However, she was unable to recall whether she left one with the

¹ See *State v. Daniel*, 2018 Tenn. LEXIS 383, No. M2015-01073-SC-R11-CD.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Tenn. R. Crim. P. 41

⁷ See *State v. Daniel*, 2018 Tenn. LEXIS 383, No. M2015-01073-SC-R11-CD.

Defendant on June 6, 2014.⁸ The Defendant was adamant throughout her testimony that she never received a copy of the search warrant on that day.⁹

After the hearing, the General Sessions Judge granted the motion to suppress finding that Officer Valentine’s failure to give the Defendant a copy of the search warrant was not a clerical error as defined by the Exclusionary Rule Reform Act (ERRA).¹⁰ Thus, no exception applied to Rule 41 and the evidence had to be suppressed under the rule. This decision was upheld by the Tennessee Court of Criminal Appeals.¹¹ The State appealed to the Supreme Court of Tennessee to ask the specific question as to whether “Rule 41 requires suppression of the evidence at issue under the facts and circumstances presented and, if so, whether the ERRA applies to countermand Rule 41’s exclusionary rule.”¹²

The Supreme Court of Tennessee reversed the Tennessee Court of Criminal Appeals judgment and remanded the case to the trial court.¹³ The Court’s holding was dependent on the recent creation of narrow good-faith exceptions to Rule 41’s exclusionary rule—particularly the Court’s decision in *State v. Reynolds*—where the deviations from the Rule’s requirements are inadvertent, inconsequential, and clearly resulted in no prejudice to the defendant.¹⁴

The Tennessee Supreme Court’s holding in *State v. Daniel* misconstrues Tennessee’s exclusionary rule’s purpose and, as a result, promotes a vague and exploitable two-prong test, contradicts the language of Rule 41 of the Tennessee Rules of Criminal Procedure, and slights previous case law interpreting the Rule.

⁸ *Id.*

⁹ *Id.*

¹⁰ Tenn. Code Ann. § 40-6-108 (2012).

¹¹ See *State v. Daniel*, 2018 Tenn. LEXIS 383, No. M2015-01073-SC-R11-CD.

¹² See *State v. Daniel*, 2018 Tenn. LEXIS 383, No. M2015-01073-SC-R11-CD.

¹³ *Id.*

¹⁴ *Id.*

The *Daniel* Court devised its reasoning in reliance with the analysis articulated in *State v. Lowe*. The *Lowe* Court discussed *State v. Reynolds* and its anomalous ruling. In *Reynolds*, the Tennessee Supreme Court assessed the good-faith exceptions accepted by the United States Supreme Court, beginning with *United States v. Leon*, because Tennessee’s relevant constitutional provision echoes the text of the Fourth Amendment.¹⁵ After scrutinizing the ensuing applications of the good-faith exception, the *Reynolds* Court permitted the introduction of evidence obtained when law enforcement officers acted in an objectively reasonable good-faith reliance on “binding appellate precedent that specifically authorized a particular police practice” and stipulated that Rule 41 does not supersede applicable substantive law on the exclusionary rule and its exceptions.¹⁶

The Court in *Daniel* also relied on *State v. Davidson*, which stated that a search warrant must comply with provisions of the United States Constitution, the Tennessee Constitution, and Tennessee’s statutory requirements.¹⁷ The *Davidson* Court discussed issuance of a warrant by a “neutral and detached magistrate” and held that the issuing judge’s failure to notice an unsigned affidavit does not indicate that a departure from the role of “neutral and detached” magistrate.¹⁸ *Davidson*’s “neutral and detached” language pertains to the necessity—and allure—of “severance and disengagement” from law enforcement activities to ensure fairness and preserve judicial veracity. This notion is noteworthy in analyzing the holding in *Daniel*, which shifts the burden to the State to establish, by a preponderance of evidence, that: (1) the technical noncompliance was the result of a good-faith error; and (2) the error did not result in any prejudice to the defendant.¹⁹

¹⁵ See *State v. Turner*, 297 S.W.3d 155, 165 (Tenn. 2009).

¹⁶ See *State v. Reynolds*, 504 S.W.3d 283 (Tenn. 2016).

¹⁷ See *State v. Davidson*, 509 S.W.3d 156 (Tenn. 2016).

¹⁸ See *United States v. Richardson*, 943 F.2d 547, 550 (5th Cir. 1991) (holding that magistrate’s failure to administer oath during warrant application “was inadvertent ... [and] clearly was not a departure from his neutral and detached role”); See also *State v. Davidson*, 509 S.W.3d 156 (Tenn. 2016).

¹⁹ See *State v. Daniel*, 2018 Tenn. LEXIS 383, No. M2015-01073-SC-R11-CD.

Daniel erroneously relied on *Davidson* for comparative purposes when, in actuality, the two cases' distinctions are significantly more probative. While the *Davidson* Court held that a good-faith error by a judge does not hinder his ability to function as a disinterested party to law enforcement objectives, *Daniel* deals with the procedural inconsistencies of a law enforcement officer with an interest in obtaining evidence in a suspected driving under the influence case. Unlike disinterested judges, law enforcement officers are interested parties and cannot be severed from their employment objectives. The “prejudice” language in *Daniel* is vague and unfeasible given the immersive nature of law enforcement positions. While Courts consider the exclusionary rule “a judicially-created remedy” and support the good-faith exception on the belief that “the criminal is not to go free because the magistrate has blundered,”²⁰ inconsistencies within the discretion of law enforcement officers could severely disrupt fairness and promote negligence. Exposing defendants to procedural inconsistencies creates another variable—or barrier—that may have a large impact on the overall course of proceedings for defendants. Additionally, the good-faith exception impedes judicial integrity by epitomizing a nearly farcical overstatement of deference to law enforcement officers in evidentiary proceedings.

Further, the Court in *Davidson* refrained from condemning a judge who failed to rectify an error within an excess of documents requiring attention.²¹ The task of sufficiently preparing, signing, and delivering an affidavit is within the job responsibilities of police officers and should be afforded the officer's full attention during preparation. The *Daniel* test snubs the public's belief that government entities follow routine procedural standards to promote uniformity. The holding goes further to drastically reduce the responsibility of observing the procedural requirements articulated in Rule 41, diminishing the Rule's efficacy. Standardized practices in criminal

²⁰ *Id.* at 941.

²¹ See *State v. Davidson*, 509 S.W.3d 156 (Tenn. 2016).

proceedings should be respected; procedures that establish routine and equality embody the principles of Due Process and Equal Protection. The holding in *Daniel* not only substantiates, but sanctions imprudent practices by law enforcement officers by curtailing the application of remedial provisions that penalize negligent errors.

The *Davidson* Court substantiates its Rule 41 holding with policy reasoning that rationalizes circumventing the compulsory suppression because “societal interests are not advanced when the exclusionary rule applies to exclude evidence obtained from execution of the warrant.”²² Conversely, Tennessee residents have an interest in maintaining the heightened protections afforded by the strict compliance requirements and suppression remedy codified in Rule 41. Societal interests are arguably more vulnerable if the good-faith exception becomes an unconstrained instrument for manipulation and abuse by law enforcement officials who seek to use the irremediable grant of police power as a scapegoat to achieve their ulterior motives—attainable with an unfettered means to encroach on individual privacy rights and resulting in citizen distrust of law enforcement.

The precedent examined in both *Lowes* and *Reynolds*, which the Court in *Daniel* relies on, depicts an expansion of the good-faith exception and an unsolicited and daunting deviation from long withstanding case law. With the existence of several commonly recognized exceptions to the warrant requirement—such as the plain view doctrine, consent, and the existence of exigent circumstances—the importance of shielding citizen’s privacy rights considerably outweighs the trivial successes of law enforcement allowed by a good-faith exception—correcting errors that were only created through employee negligence. In *Daniel*, the Court should have looked to the exigent circumstances exception before haphazardly expanding the good-faith exception.

²² *Id.*

The holding articulated in *State v. Daniel* unnecessarily expands the good-faith exception and circumvents the purpose and language of Rule 41 of the Tennessee Rules of Criminal Procedure. The ambiguous language of the holding creates an instrument for inconsistency and potential abuse and goes further to eradicate law enforcement's recordkeeping responsibilities. The Court in *Daniels* concludes that societal interests are not furthered by suppressing evidence that was obtained lawfully notwithstanding a law enforcement officers "good-faith error." However, the Court fails to give sufficient weight to societal interests in the greater protections that are available to Tennessee citizens under the unique mandatory suppression provision in Rule 41 of the Tennessee Rules of Criminal Procedure. The Court in *Daniel* relied on erratic precedent that departed from almost a century of practice. Given the rapid expansion of exceptions to the exclusionary rule evidenced in the analysis in *Reynolds*, it is in the best interest of citizens' rights to avoid additional and unnecessary expansion of the good-faith exception. The holding in *Daniel* further expands the application of good-faith exception, which inevitably will result in the erosion of the individual liberties afforded by the Tennessee Constitution and the Fourth Amendment of the Constitution.