

NMDPS - SEARCH WARRANT – EVIDENCE EXCLUDED

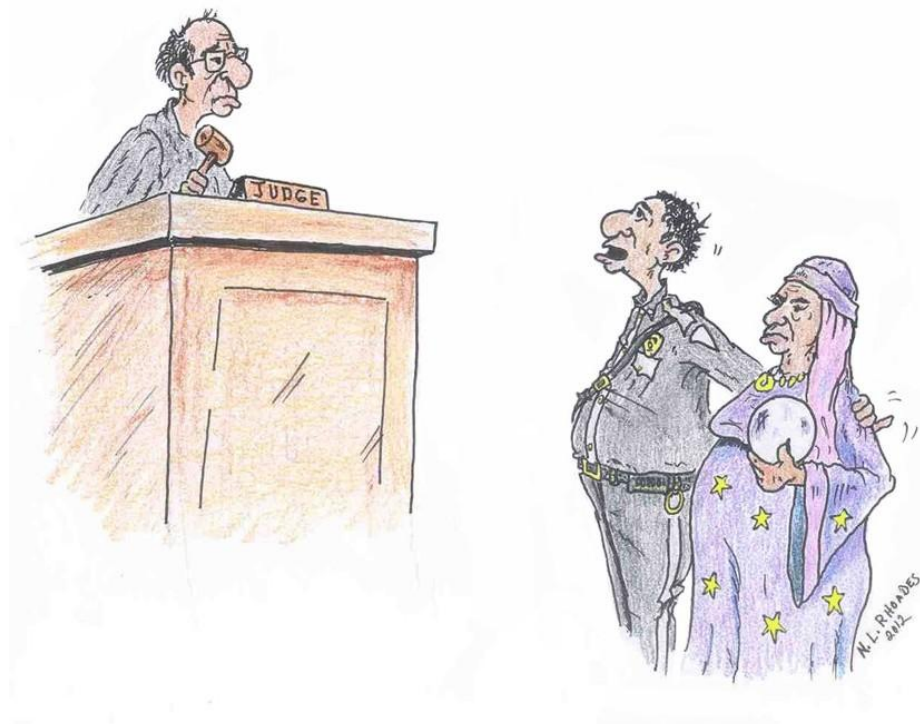
A body of a female was found in a remote area near Los Lunas, New Mexico. A Valencia County Sheriff's detective obtained a search warrant, based upon (hearsay) tips "from a confidential source and two concerned citizens that Defendant admitted to at least one person that he had killed the victim for stealing from him."

Deputies did a search of Defendant's residence and found a piece of carpet with bloodstains that someone had tried to clean. The blood on the carpet matched that of the victim. It was critical evidence that led to Defendant being charged with first-degree murder. But could this important piece of evidence, the blood stain carpet, be used at trial?

A search warrant can use hearsay if reliability and basis of knowledge is shown. Simply saying, however, a source is a concerned citizen doesn't make that person reliable. Nor do multiple sources help since they may be citing the same rumor. The search warrant affidavit also did not indicate how the sources got their information.

Failure to follow reliability and basis of knowledge guidelines can be costly. The Supreme Court, noting they had no choice, held the blood stain evidence could not be used. When the State suggested officers had more facts, they were reminded that if it isn't in the warrant, it can't be used. State v. Haidle (2012).

Elliott Guttman, Law Enforcement Academy



She's the basis for my warrant yer Honor!