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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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SCHALLER, J., dissenting. I respectfully disagree with the majority's conclusion that the trial court properly denied the defendant's motion for a *Franks* hearing. At the outset, I note the statement in the affidavit that the defendant calls into question. Specifically, the affiants stated in the affidavit that ''we have *personal knowledge* of the facts and circumstances hereinafter related as a result of our own investigative efforts and those of brother officers who have reported their findings to us.'' (Emphasis added.)

As the majority correctly states, the defendant must meet a three part test in order to be entitled to a *Franks* hearing to challenge the truthfulness of an affidavit supporting a search warrant. The defendant must make a substantial preliminary showing that (1) the affidavit contained a false statement, (2) the false statement was included knowingly and intentionally, or with reckless disregard for the truth, and (3) the statement was necessary to the finding of probable cause to issue the warrant. I conclude that the defendant has satisfied this test in the present case and is entitled to a *Franks* hearing.

With regard to the first prong of the test, it is clear, and indeed the majority concludes, that Prue's testimony establishes that the affiants did not have personal knowledge at the time of the warrant application that a sample of the defendant's blood had been drawn.

With regard to the second prong of the test, I conclude that the affiants did include this statement with reckless disregard for the truth. As the majority states, the test for reckless disregard for the truth requires a showing that the affiants entertained serious doubts as to the truth of their statement or had obvious reasons to doubt the accuracy of the information reported.

At this point, I want to call attention to a point of confusion in this case. Specifically, I note that the ''statement'' or ''information reported'' that the defendant takes issue with is the affiants' statement that they had personal knowledge of the facts contained in the affidavit. It is essential to distinguish the statement that the defendant challenges, that the affiants had personal knowledge of what they reported, from the facts themselves that the affiants did report. This is essential in the present case because the law and the facts become confusing since the legal test for reckless disregard for the truth requires a showing that the affiants entertained serious doubts as to the truth of their statement or had obvious reasons to doubt the accuracy of the information reported. It would be incorrect, therefore, to shift the focus to assessing the truth of the underlying facts alleged in the affidavit rather than the truthfulness of the assertion that the affiants had *personal knowledge*.

Returning to the second prong, I conclude that the defendant has met this test because Prue's testimony clearly reveals that at no time prior to the warrant application did the affiants have any personal knowledge of the facts related in the affidavit nor did they make any effort to obtain such knowledge. On the basis of this testimony, I must conclude that the affiants entertained serious doubts as to the truth of their statement that they had personal knowledge of the facts related in the affidavit. No other conclusion is plausible.

For the same reasons stated previously, I conclude that the affiants had obvious reason to doubt the accuracy of the information reported in the affidavit regarding personal knowledge. With Prue's admission that the police did not have personal knowledge that a blood sample had been taken, the affiants had an obvious reason to doubt the accuracy of their statement that they did have personal knowledge.

With regard to the last prong, I conclude that the statement that the affiants had personal knowledge was necessary to the finding of probable cause to believe that a blood sample would be at the hospital. If this statement is removed from the warrant application, the only statement supporting the conclusion that a blood sample was taken, or even existed, would be the affiants' statement that they have experience in law enforcement. On the basis of this statement alone, the court's conclusion that there is probable cause to believe that a blood sample was taken and exists could rest only on the police officers' belief that such samples have been taken because their experience reveals that blood samples have been taken in the past under similar circumstances.

Unless it was presented with affirmative personal knowledge that such a sample was taken and exists, a judge could not find probable cause to search for and seize an item the existence of which is unknown. Warrant applications must not be granted to provide the police with an opportunity to engage in a fishing expedition for evidence the existence of which is in the realm of speculation. The problem with this warrant is not lack of clarity but, rather, lack of truthfulness and accuracy.

Because the defendant has satisfied all three elements of the applicable test, the trial court improperly denied him a *Franks* hearing. Accordingly, I would reverse the judgment of the trial court.