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FEATURED

Court allows injunction labeling house raided by Foxboro police a "drug-free zone"

By David Linton dlinton@thesunchronicle.com 4 hrs ago



Foxboro has placed this sign declaring the area a Drug Free Zone in front of 109 North St., the site of a recent drug raid.

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FOXBORO — The town has obtained a court order targeting an alleged drug house on North Street raided by police in June under a rarely-used state law on public nuisances, legal experts say.

The order, a preliminary injunction, prohibits the occupants of 109 North St. from “unlawfully keeping, selling or manufacturing any controlled substances” on the premises, according to a ruling by a Dedham Superior Court judge.

Violation of the order may result in a contempt order, fines and possibly jail.



The order was issued last week by Judge Brian Davis after the town filed the civil complaint against owner April O'Sullivan, her sons Shane O'Sullivan and Ryan O'Sullivan, her daughter Heather Warren and two others.

The town also asked the court to order to house closed for between 90 days to a year. But the judge found the town did not prove there have been two convictions for illegal drugs sales at the house in the past five years. However, the judge allowed the town to renew its request in the future.

The complaint, sought by Police Chief William Barker through the town's legal counsel, comes after a June 29 raid followed days later by two overdoses and a drug seizure from the driver of a car leaving the house weeks later, according to court papers.

Arrested in the raid were the O'Sullivans and Jessica Lynn Bertram of Mansfield, Shane Sullivan's girlfriend, on various drug charges following an investigation of Shane O'Sullivan alleged drug dealing business. Alleged heroin and other narcotics were seized in the raid, police say.

About a week later, April O'Sullivan was arrested again on drug charges following a car stop by Foxboro and state police. She was ordered held in jail where she died July 23, according to the complaint.

In back to back overdoses July 4 and July 5, according to the complaint, emergency workers had to use Narcan and CPR to revive the individuals, one of them the boyfriend of Heather Warren. The 7-year-old child of the couple led emergency workers to the man, according to the complaint.

The complaint also cited concerns about the safety of police and fire officials responding to the house, where law enforcement officials spotted a cardboard "cop target" police say was used for shooting. The house is also monitored by several close circuit TV cameras, according to the complaint.

"We're just trying to prevent a tragedy," Baker said Wednesday during an interview.

Baker, who is a lawyer and has served as a police chief in other states, said he has used similar public nuisance laws in other jurisdictions where he has served.

The order allowed the town to erect a sign labeling the property a "drug-free zone."

Ryan O'Sullivan and Bertram represented themselves at the court hearing last week.



The house and the defendants represented a nuisance that endangers people coming and going from the house and disturbs the peace of the residential neighborhood in addition to using up significant police and fire resources, according to the complaint.

The court found it was "effectively undisputed" that there has been unlawful drug use at the property although what kind of drugs was debated, the judge wrote.

According to the U.S. Department of Justice, the use of public nuisance laws to combat drug houses was first used in 1987 in Portland, Ore. There are now 24 states that have a law on the books.

Although Massachusetts is one of the states, the law has been rarely used or challenged, according to two legal experts.

“The absence of reported decisions suggests that it’s probably rare,” said David Siegel, a law professor at New England School of Law in Boston.

Peter Elikann, former chairman of the Massachusetts Bar Association’s criminal justice section, said the police chief “should be given his due for doing everything he can to cut down on the opioid drug epidemic.”

Ordering the residents of the house to refrain from illegal drugs sales is largely a “symbolic gesture” because the conduct is already illegal, Elikann said. The most effective part of the law, he added, is the provision to shut a drug house down.

However, Elikann noted the ruling allows the town to come back again to shut down the house if they obtain more evidence of drug convictions.



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