

IN THE COURT OF APPEALS OF IOWA

No. 3-744 / 12-1258
Filed August 21, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JEFFREY EUGENE GATEWOOD,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert,
Judge.

A defendant appeals his conviction for possession of a controlled
substance asserting a search warrant was not supported by probable cause.

AFFIRMED.

Jeffery A. Wright of Carr & Wright, P.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney
General, John Sarcone, County Attorney, and Stephan Bayens and Joseph
Crisp, Assistant County Attorneys, for appellee.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

Jeffrey Gatewood was convicted following a bench trial on the stipulated facts in the record, of possession of a controlled substance, third offense, as an habitual offender, in violation of Iowa Code sections 124.401(5) and 902.8 (2011). The conviction was based on evidence obtained as a result of a search warrant executed at the apartment where he was staying and at the home next door. He asserts on appeal, as he did in his motion to suppress, the information contained in the application for the warrant to search the apartment where he was staying was scant, unsubstantiated, and based on double hearsay.

The application contained information from a confidential informant¹ (CI), who conducted three controlled purchases at the behest of the police with regard to this case. Marvis Spencer provided the drugs to the CI twice at the house and once between that house and the apartment in question, which is located next door to the house. Spencer told the CI at the second controlled purchase that he was not “doing business” out of the house right now, but was “doing business” out of the apartment next door. Police observed Spencer enter and exit the apartment on multiple occasions and also observed an unidentified man enter the apartment, stay for only a minute or two, and then leave. This activity occurred during the CI’s third controlled purchase from Spencer, and this behavior was consistent with drug-related activity taking place at the apartment according to

¹ The search warrant application stated the confidential informant had supplied information in the past that had proven reliable, provided information that formed the basis of search warrants twice, provided information that led to making one arrest and the filing of two arrest warrants, provided information that led to the filing of four charges, and provided information that led to the seizure of drugs and other contraband. It also stated that the information provided by the informant had been corroborated by law enforcement.

the officers' training and experience. When the police executed the search warrant they found Gatewood in the apartment, along with four other people, and Gatewood was in possession of two baggies of marijuana.

Upon our de novo review of the totality of the circumstances, we agree with the district court that the issuing judge had a substantial basis for concluding probable cause existed justifying the issuance of the search warrant for the apartment in question. See *State v. Davis*, 679 N.W.2d 651, 656 (Iowa 2004) (providing the standard of review); see also *State v. Gogg*, 561 N.W.2d 360, 363 (Iowa 1997) (same). As the district court stated:

The actions and statements of Marvis Spencer created a nexus between himself, the suspected drug activity he was engaged in, and the [apartment] location. He told a reliable informant that he was "doing business" out of that location, and was seen repeatedly entering and exiting that apartment. Finally, activity consistent with a drug-related transaction was observed taking place at the apartment during the third controlled purchase from Spencer.

Based on this information, we find the judge issuing the search warrant made "a practical, common-sense decision" that "there was a fair probability that law enforcement authorities [would] find evidence of a crime at a particular place"—the apartment in question in this case. See *Davis*, 679 N.W.2d at 656.

We therefore affirm the district court's denial of Gatewood's motion to suppress, thereby affirming Gatewood's conviction and sentence.

AFFIRMED.