

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LARRY C. WILLIAMS and JOHN JONES,

Defendants-Appellees.

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UNPUBLISHED

June 5, 1998

No. 201743

Recorder's Court

LC No. 96-004431

Before: Neff, P.J., and White and D. A. Teeple,\* JJ.

MEMORANDUM.

The prosecutor appeals as of right from orders dismissing drug charges against defendants following the trial court's decision to suppress evidence seized pursuant to a search warrant that the court determined contained insufficient information to support a probable cause finding. We reverse and remand. This case is being decided without oral argument pursuant to MCR 7.214(E).

To the extent that the trial court found the affidavit insufficient to establish probable cause because the affidavit lacked statements from which it could assess the credibility of the informants, the court erred. The task of the issuing magistrate is to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit, there is a fair probability that contraband or evidence of a crime will be found in a particular place. *Illinois v Gates*, 462 US 213, 238; 103 S Ct 2317; 76 L Ed 2d 527 (1983). The duty of a reviewing court is to ensure that the magistrate had a substantial basis for concluding that probable cause existed. *Id.* at 238-239. Under this "totality of the circumstances" approach, an informant's veracity, reliability, and basis of knowledge are all highly relevant in determining the value of his or her report, but these elements are not "entirely separate and independent requirements to be rigidly exacted in every case." *Id.* at 230-231.

The informants in this case were named. Named informants, as a general rule, are presumed reliable. *People v Powell*, 201 Mich App 516, 522-523; 506 NW2d 894 (1993). An affidavit based on information supplied by a named source must contain affirmative allegations that permit the magistrate to conclude that the informant had personal knowledge of the facts alleged. MCL 780.653(a); MSA

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\* Circuit judge, sitting on the Court of Appeals by assignment.

18.1259(3)(a); *Powell, supra*, 522. Here, defendant challenges the credibility of the informants and asserts a lack of corroboration. We conclude, however, that under the totality of the circumstances, there was a substantial basis for the magistrate's finding of probable cause.

The informants' credibility was reasonably established by the statements they made against their penal interest. *People v Poole*, 218 Mich App 702, 706-707; 555 NW2d 485 (1996). Additionally, the informants' credibility was corroborated by the fact that the information they supplied concerning Larry Hill was proven accurate when the police raided Hill's residence and discovered two ounces of cocaine, after the informants admitted selling that amount to Hill. *People v Stumpf*, 196 Mich App 218, 223; 492 NW2d 795 (1992).

The informants' admissions concerning their recent involvement with "Jay" in cocaine trafficking establish that the informants had personal knowledge of the facts alleged. *Powell, supra*, 523. The informants admitted to being in possession of twelve ounces of cocaine on March 1, 1996, to being fronted a half kilo of cocaine on February 29, 1996 by an individual named "Jay" at the Stout Street address, to selling two ounces of this cocaine to Larry Hill, a fact subsequently corroborated by the police, to selling 4-1/2 ounces of this cocaine to an individual named "Wayne," to purchasing cocaine on several occasions in the preceding three months from Jay at the Stout Street address and to delivering money to Jay at the Stout Street address to pay for cocaine fronted to the informants by Jay. In light of these factual statements, a reasonably cautious person could find a substantial basis to conclude that drug trafficking was occurring at the Stout Street residence and that evidence of that activity, including cocaine, would be found in the residence. *People v Dowdy*, 211 Mich App 562, 567; 536 NW2d 794 (1995); *People v Lucas*, 188 Mich App 554, 567-568; 470 NW2d 460 (1991).

Defendants have failed to demonstrate that the probable cause determination was fatally undermined by false or misleading information contained in the affidavit or by material omissions from the affidavit. *People v Stumpf*, 196 Mich App 218, 224; 492 NW2d 795 (1992).

Reversed and remanded for the reinstatement of charges against defendants. We do not retain jurisdiction.

/s/ Janet T. Neff  
/s/ Helene N. White  
/s/ Donald A. Teeple