

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT MYERS,

Defendant-Appellee.

UNPUBLISHED

May 11, 1999

No. 210410

Wayne Circuit Court

Criminal Division

LC No. 97-502813

Before: Kelly, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

The prosecution appeals by right from an order of the Wayne Circuit Court dismissing this case charging possession with intent to deliver 225 grams or more but less than 650 grams of cocaine, MCL 333.7401(2)(a)(ii); MSA 14.15(7401)(2)(a)(ii), pursuant to defendant's motion to quash the search warrant which led to the recovery of evidence in support of the charge. We reverse the motion to quash and dismissal rulings and remand for reinstatement of the charge. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A search warrant may not issue unless probable cause exists to justify the search. *People v Sloan*, 450 Mich 160, 166-167; 538 NW2d 380 (1995). Probable cause exists when the facts and circumstances would allow a person of reasonable caution to conclude that the evidence of a crime or contraband sought is in the stated place. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997). This Court reviews for clear error the trial court's findings of fact in deciding a motion to suppress evidence, while we review de novo the trial court's ultimate decision regarding a motion to suppress. *Id.*

Here, the trial court incorrectly concluded that the circumstances of the unnamed informant's two controlled drug buys described in the search warrant affidavit were insufficient to show that the informant's information was reliable. The reliability of an unnamed informant's statements regarding the location of drugs may be corroborated by successful controlled buys under close police surveillance. *People v Head*, 211 Mich App 205, 208-209; 535 NW2d 563 (1995); *People v Wares*, 129 Mich

App 136, 140-142; 341 NW2d 256 (1983); *People v Davis*, 72 Mich App 21, 25; 248 NW2d 690 (1976).

The corroboration in this case is not insufficient simply because the affidavit does not unambiguously indicate whether the police officer affiant actually observed the informant entering and leaving defendant's apartment or merely observed the informant going through the common entrance door to the apartment building. See *Davis, supra* at 21, 25. It was not necessary for the affidavit to eliminate all possible alternative sources of the drugs in order to establish probable cause to search defendant's apartment, vehicles and person. See *Wares, supra* at 141. The information in the search warrant affidavit was sufficient to establish probable cause to search the areas in question.

Reversed and remanded to the Wayne Circuit Court for reinstatement of the charge.
We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski