

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LAMONT CANNON,

Defendant-Appellee.

UNPUBLISHED

February 8, 2002

No. 230921

Wayne Circuit Court

LC No. 00-006775

Before: Cavanagh, P.J., and Neff and B. B. MacKenzie*, JJ.

PER CURIAM.

Defendant was charged with possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv), possession with intent to deliver less than fifty grams of heroin, MCL 333.7401(2)(a)(iv), possession of a firearm by a felon, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant filed a motion to suppress evidence arguing that there was no probable cause to support issuance of the search warrant. The trial court granted the motion and entered an order of dismissal. The prosecution appeals as of right. We reverse.

On appeal, the prosecution argues that the trial court erred in granting defendant's motion to suppress the evidence on the ground that the search warrant was not supported by probable cause. We agree. We review a magistrate's decision regarding probable cause to determine whether there was a substantial basis for concluding that "there is a 'fair probability that contraband or evidence of a crime will be found in a particular place.'" *People v Whitfield*, 461 Mich 441, 446; 607 NW2d 61 (2000), quoting *People v Russo*, 439 Mich 584, 603-604; 487 NW2d 698 (1992), quoting *Illinois v Gates*, 462 US 213, 238; 103 S Ct 2317; 76 L Ed 2d 527 (1983). The search warrant and the underlying affidavit are to be read in a realistic and common sense manner, and deference is given to the magistrate's determination. *Whitfield, supra*.

A search warrant affidavit must contain facts within the knowledge of the affiant, not the affiant's mere conclusions, beliefs, or inferences. *People v Ulman*, 244 Mich App 500, 509; 625 NW2d 429 (2001). The affiant's experience is relevant to the establishment of probable cause, and police officers are presumptively reliable. *Id.*; *People v Darwich*, 226 Mich App 635, 639; 575 NW2d 44 (1997). Further, the affidavit may include hearsay from an unnamed informant if the magistrate could conclude that the information supplied was based on personal knowledge

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

and either that the unnamed informant was credible or that the information was reliable. MCL 780.653; *People v Echavarria*, 233 Mich App 356, 366-367; 592 NW2d 737 (1999); *People v Poole*, 218 Mich App 702, 706; 555 NW2d 485 (1996).

The specificity of details provided by an informant regarding asserted facts indicate that an informant is speaking from personal knowledge. *People v Stumpf*, 196 Mich App 218, 223; 492 NW2d 795 (1992). The fact that the police previously used information from an informant with success provides support for the conclusion that an informant is credible or that the information is reliable. *Id.* Further, an independent investigation by police that produces corroborating evidence and substantially verifies the information provided by an informant provides support for a finding that the informant is credible or that the information is reliable. *Ulman, supra* at 509-510; *Stumpf, supra*.

In this case, the search warrant affidavit contained information indicating that the affiant officer had attempted a controlled drug purchase using a confidential informant within twenty-four hours of the request for the search warrant at issue. During the attempt, the affiant and other officers conducted surveillance of the attempted purchase. Although the attempted purchase was unsuccessful, the informant returned directly to the affiant, as observed by the officers, and relayed that the person who answered the door at the location had a plastic bag containing a number of packets with an off-white rocky substance in his hand. The informant also indicated that the person informed him that he would not sell him any “rocks” because he did not know him. The affidavit also included that the confidential informant had provided the affiant officer and members of the Highland Park Police Department HIDTA Task Force with reliable information on thirty-three previous occasions, resulting in arrests and the seizure of cocaine, weapons, and narcotic proceeds.

After reviewing the affidavit in a common sense and realistic manner, and affording due deference to the magistrate’s decision, we conclude that the search warrant was supported by probable cause. See *Whitfield, supra* at 448. The affidavit included information provided by a confidential informant who had participated in the attempted controlled drug purchase, while under police surveillance, and had personal knowledge of the information supplied. See MCL 780.653; *Echavarria, supra*. The affidavit established that the informant was credible or that the information was reliable in that the police successfully used information from the informant on thirty-three previous occasions resulting in arrests and the seizure of cocaine, weapons, and narcotic proceeds. See *Stumpf, supra*. Consequently, there was a substantial basis for the magistrate to conclude that there was a fair probability that evidence of a crime would be found at the location for which the search warrant was issued. See *Whitfield, supra*.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Janet T. Neff
/s/ Barbara B. MacKenzie