

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-3258

UNITED STATES OF AMERICA

v.

PATRICK JOSEPH KOFALT,
Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(No. 2-11-cr-00155-001)
District Judge: Honorable Nora Barry Fischer

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
May 23, 2014

Before: McKEE, *Chief Judge*, CHAGARES, *Circuit Judge*, and THOMPSON, *District Judge*.*

(Filed: August 26, 2016)

OPINION**

* The Honorable Anne E. Thompson, United States District Judge for the District of New Jersey, sitting by designation.

**This disposition is not an opinion of the full Court and pursuant I.O.P. 5.7 does not constitute binding precedent.

THOMPSON, *District Judge*

Patrick Joseph Kofalt appeals the District Court's denial of a motion to suppress child pornography found on his computers that was seized upon execution of a search warrant at his home on December 2, 2009. We will affirm for the reasons set forth by the District Court.

The District Court had jurisdiction pursuant to 18 U.S.C. § 3231, and we have jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a). On appeal from the denial of a motion to suppress, this Court reviews a District Court's factual findings for clear error and exercises de novo review over its application of the law to those factual findings. *United States v. Pavulak*, 700 F.3d 651, 660 (3d Cir. 2012). "A magistrate's 'determination of probable cause should be paid great deference by a reviewing court.'" *Illinois v. Gates*, 462 U.S. 213, 236 (1983) (quoting *Spinelli v. United States*, 393 U.S. 410, 419 (1969)). "[T]he duty of the reviewing court is simply to ensure that the magistrate had a 'substantial basis for . . . conclud[ing]' that probable cause existed." *Id.* at 238.

In denying Defendant's motion to suppress, the District Court held, *inter alia*, that "the Affidavit supplied the magistrate with ample reasons to find [the Minor child's] statements reliable and credible . . ." and that "there is sufficient evidence in the Affidavit to establish that [Affiant] reasonably believed that child pornography could be found at Defendant's residence on his computer and other related equipment." *United States v. Kofalt*, CRIM. 11-155, 2012 WL 5398832 (W.D. Pa. Nov. 2, 2012). The District Court

also found that “Defendant has failed to meet his burden to demonstrate that the Affidavit contained false statements or omitted information that ‘were material, or necessary, to the probable cause determination’ of the magistrate judge,” so he was not entitled to a hearing under *Franks v. Delaware*, 438 U.S. 154 (1978) to challenge the validity of the warrant. *Id.*

In its thorough Memorandum Opinion, the District Court clearly explained its reasons for denying the motion to suppress. The court’s analysis adequately and accurately disposed of each of the arguments Defendant raised. Accordingly, the order of the District Court denying the motion to suppress will be affirmed.