

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4215

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER D. TAVENNER,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:09-cr-00530-CMH-1)

Submitted: October 6, 2010

Decided: November 16, 2010

Before KING, AGEE, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Michael S. Nachmanoff, Federal Public Defender, Frances H. Pratt, Brian L. Mizer, Assistant Federal Public Defenders, Alexandria, Virginia, for Appellant. Neil H. MacBride, United States Attorney, Jason H. Poole, Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher D. Tavenner appeals his conviction for one count of possession of marijuana, in violation of 21 U.S.C. § 844 (2006). He claims the magistrate judge erred in denying his motion to suppress evidence seized pursuant to a search as an incident to a lawful arrest. Finding no error, we affirm.

This court reviews the factual findings underlying the denial of a motion to suppress for clear error and the legal conclusions de novo. United States v. Johnson, 400 F.3d 187, 193 (4th Cir. 2005). The evidence is construed in the light most favorable to the prevailing party below. United States v. Seidman, 156 F.3d 542, 547 (4th Cir. 1998). Probable cause to arrest is defined as:

facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense. The evidence needed to establish probable cause is more than a mere suspicion, rumor, or strong reason to suspect but less than evidence sufficient to convict.

United States v. Williams, 10 F.3d 1070, 1073-74 (4th Cir. 1994) (internal quotations and citations omitted). "[T]he district court is entitled to respect the inferences drawn by officers from their own experience in deciding whether probable cause exists.'" United States v. White, 549 F.3d 946, 951 (4th Cir.

2008) (quoting Ornelas v. United States, 517 U.S. 690, 700 (1996)).

We conclude that the facts, as found by the magistrate judge and affirmed by the district court, support the finding that there was probable cause for the arrest. Accordingly, we affirm the judgment because the search was a lawful search as an incident to the arrest. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED