

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

DARRETT L. KING,

Defendant-Appellee.

UNPUBLISHED

June 17, 2004

No. 245766

Wayne Circuit Court

LC No. 02-009934

Before: Neff, P.J., and Zahra and Murray, JJ.

PER CURIAM.

Plaintiff appeals as of right the order of dismissal entered by the circuit court after it granted defendant's motion to quash the search warrant and to suppress the evidence. We reverse.

Defendant was charged with multiple offenses after a search conducted pursuant to a warrant produced multiple weapons and quantities of controlled substances at his house. The circuit court granted defendant's motion to quash and to suppress the evidence, finding that the search warrant affidavit contained information that was generic and stale.

This Court reviews a trial court's findings of fact regarding a motion to suppress for clear error. *People v Sobczak-Obetts*, 463 Mich 687, 694; 625 NW2d 764 (2001). Questions of law relevant to a motion to suppress are reviewed de novo. *Id.*

A search warrant and the underlying affidavit are to be read in a common sense and realistic manner. *People v Russo*, 439 Mich 584, 604; 487 NW2d 698 (1992). Affording deference to the magistrate's decision requires that the reviewing court ensure that there is a substantial basis for the magistrate's conclusion that there is a fair probability that contraband or evidence of a crime will be found at a particular place. *Id.* Probable cause exists when a person of reasonable caution would be justified in concluding that evidence of criminal conduct is in the stated place to be searched. *Id.*, 606-607.

The unidentified informant in this case advised affiant in January that he had seen a bag of heroin at the premises. The informant accurately identified the vehicles used by defendant, and stated that he had also seen quantities of narcotics on the premises in the summer of 2000. Defendant stored his proceeds nearby, and the informant had observed him move large quantities of cash between the houses.

There was no showing that the informant had provided reliable information in the past, however evidence supported the informant's credibility. The affiant confirmed that the informant correctly identified the vehicles driven by defendant, and that defendant owned multiple parcels of real estate in other people's names. Affiant observed an unidentified man moving cautiously between the houses, carrying a package, consistent with the transactions described by the informant. The informant stated that defendant rarely sold narcotics from the address in order to avoid detection, thus a controlled buy could not be arranged. The informant used terminology showing his knowledge of drug trafficking.

There was a substantial basis for the magistrate to conclude that there was probable cause to conduct a search. If the informant was credible, his testimony established that it was likely that drugs would be found at the stated address. The circuit court did not afford proper deference to the magistrate's decision, and erred in granting defendant's motion.

Reversed.

/s/ Janet T. Neff
/s/ Brian K. Zahra
/s/ Christopher M. Murray