**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A17-1422**

State of Minnesota,
Respondent,

vs.

Lamont Johnson,
Appellant.

**Filed September 4, 2018**
**Affirmed**
**Worke, Judge**

Hennepin County District Court
File No. 27-CR-16-27902

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Jesson, Judge; and Bratvold, Judge.

**U N P U B L I S H E D  O P I N I O N**

**WORKE**, Judge

Appellant argues that the district court erred in not suppressing evidence obtained pursuant to a search warrant that was issued based in part on a dog-sniff. We affirm.

## FACTS

Officer Lee is assigned to the FBI Safe Streets Task Force. His duties include investigating narcotics, firearms, gang crimes, violent criminals, and repeat violent offenders. Around July 2016, Officer Lee received narcotics-related information from a confidential reliable informant (CRI) regarding appellant Lamont Johnson and began an investigation. Through this investigation, Officer Lee connected Johnson to a particular apartment and learned that Johnson used the alias "Baby C."

In September 2016, Officer Lee received a tip from a cooperating defendant (CD) who "knew a guy" called "Baby C" who lives at a certain location and who was in possession of firearms and controlled substances. There is an apartment building at the intersection identified by the CD. The CD told Officer Lee that to reach Baby C's apartment "you go through the front doors on the south side of the building, . . . up the . . . stairs and it's the first [apartment] on the right-hand side." Officer Lee verified that the apartment was consistent with the location of the apartment that he had connected to Johnson—he had a phone-tracking ping on Johnson's phone that tracked to that corner of the apartment building, and through surveillance, he verified that a vehicle that Johnson used was located at the apartment building. Officer Lee showed the CD a color photo of Johnson without names or identifiers and the CD identified Johnson as Baby C. The CD also provided a cellphone number, which Officer Lee verified belonged to Johnson.

On September 15, 2016, Officer Lee arranged for a dog-sniff to be conducted at the apartment building after verifying the information provided by the CD. When officers arrived, they were let in by a tenant who was exiting. The dog-sniff was conducted on the

"whole second floor." The canine sniffed at every door in the hallway and alerted to the apartment connected to Johnson. The same day, Officer Lee applied for a search warrant based on his belief that controlled substances and firearms, among other things, would be found in Johnson's apartment.

When officers executed the search warrant, Johnson yelled that there were guns in a closet. Officers found a loaded 9mm firearm with two extended magazines, a .40 caliber firearm with a magazine, ammunition, another extended magazine, and over $4,000. Johnson told the officers that the firearms belonged to him. Johnson was previously convicted of felony controlled-substance crimes, making him ineligible to possess a firearm.

Johnson was charged with possession of a firearm by an ineligible person and moved to suppress the evidence obtained during execution of the search warrant. Following a hearing, the district court denied Johnson's motion. A jury found Johnson guilty as charged, and the district court sentenced Johnson to the presumptive sentence of 60 months in prison. This appeal followed.

## D E C I S I O N

### *Search warrant*

Johnson argues that the district court should have suppressed the evidence obtained during execution of the search warrant. When reviewing a district court's pretrial order on a motion to suppress evidence, this court reviews the district court's factual findings under a clearly erroneous standard and legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009).

Johnson argues that the evidence should have been suppressed because the search warrant was based on the dog-sniff, which was unlawful. Johnson relies on *State v. Edstrom*, in which this court held that a dog-sniff at an apartment door inside a secured building is unconstitutional. 901 N.W.2d 455, 464 (Minn. App. 2017), *aff'd in part, rev'd in part*, __ N.W.2d__, 2018 WL 3867515 (Minn. Aug. 15, 2018).[1] Here, we do not need to analyze the applicability of *Edstrom* or whether the dog-sniff was constitutional because the search-warrant application and affidavit established probable cause to support the issuance of the search warrant without consideration of the dog-sniff.

The United States and Minnesota Constitutions require that probable cause support a search warrant. U.S. Const. amend. IV; Minn. Const. art. I, § 10. When reviewing a district court's probable-cause determination made in connection with the issuance of a search warrant, this court must determine whether the issuing judge "had a substantial basis for concluding that probable cause existed." *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001). We afford great deference to an issuing court's probable-cause determination. *State v. Gabbert*, 411 N.W.2d 209, 212 (Minn. App. 1987). This deference is not boundless, however, and we may reverse if a "probable-cause determination reflected an improper analysis of the totality of the circumstances." *Id.* (quotation omitted).

[1] The Minnesota Supreme Court recently held that police do not intrude upon the curtilage of an apartment when they conduct a dog-sniff in the hallway immediately adjacent to an apartment door; thus, a Fourth Amendment search does not occur under these circumstances. *See Edstrom*, 2018 WL 3867515, at *1. The recent *Edstrom* decision, therefore, does not support Johnson's argument.

This court looks at the totality of the circumstances to determine whether a judge had a substantial basis for finding probable cause to issue a warrant. *State v. Holiday*, 749 N.W.2d 833, 839 (Minn. App. 2008). A judge must "make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit . . . including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Id.* (quotations omitted). "[C]ourts must be careful not to review each component of the affidavit in isolation" and be mindful that "a collection of pieces of information that would not be substantial alone can combine to create sufficient probable cause." *Id.*

Here, the search-warrant application and affidavit stated that during the past three months, Officer Lee investigated Johnson for narcotics. Through surveillance during this investigation, Officer Lee knew that Johnson stayed at his girlfriend's apartment. Officer Lee went to the apartment building and verified the apartment number. Officer Lee also worked with a CRI in the past three months and conducted a controlled buy in which the CRI purchased narcotics from Johnson that field-tested positive for cocaine.

Officer Lee then received information from a CD that a male going by the alias "Baby C" was in possession of multiple firearms and selling large quantities of crack cocaine out of his apartment. The CD provided an address and described the location of the apartment. The CD provided Baby C's cellphone number and described him as "a black male, approximately 6 feet tall, with short hair." The CD knew Baby C to be a Vice Lord, to be armed with multiple firearms, and to be involved in a recent shooting in south Minneapolis. The CD identified Johnson as Baby C when shown Johnson's photograph.

Officer Lee stated that within the past 72 hours, he had the CD contact Baby C through the cellphone number and the CD was observed talking to Baby C about narcotics and guns. Officer Lee also stated that the CD and CRI observed Johnson "in possession of a firearm within the last couple of weeks."

Johnson argues that the CD was unreliable and the tip was unreliable because it lacked a basis of knowledge. An informant's reliability can be established if the police can corroborate the informant's information. *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004). A basis of knowledge may be supplied by first-hand information or through self-verifying details that permit an inference that the information was gained in a reliable way and is not merely based on general reputation or rumor. *State v. Cook*, 610 N.W.2d 664, 667 (Minn. App. 2000), *review denied* (Minn. July 25, 2000). Assessing the basis of knowledge involves "consideration of the quantity and quality of detail in the . . . report and whether police independently verified important details." *Id.* at 668.

The CD had personal knowledge. The CD recently observed Johnson in possession of a firearm, as did the CRI. Officer Lee also had the CD call the cellphone number that the officer verified was connected to Johnson and observed the CD talk to Baby C about narcotics and guns.

The CD provided detailed information. The CD provided Johnson's alias, described him, and identified him in a photograph. The CD knew "Baby C to be a Vice Lord street gang member [who] associates with known 10's gang members." The CD knew Baby C to have been involved in a recent shooting in south Minneapolis. The CD provided Baby C's address and described the location of the apartment.

Officer Lee independently verified important details provided by the CD. Officer Lee was already investigating Johnson for narcotics and conducting surveillance at the address provided by the CD. Officer Lee knew that Johnson stayed at the apartment, which was his girlfriend's. Officer Lee had a CRI conduct a controlled buy from Johnson in the past three months. Additionally, Officer Lee confirmed that Johnson has a criminal history that includes controlled-substance convictions and verified that he is a convicted felon who is prohibited from possessing firearms. Looking at the totality of the circumstances, the affidavit provided a substantial basis for the judge to determine that probable cause existed based on the CD's information that was corroborated by the officer's independent investigation, information provided by the CRI, and Johnson's criminal history.

***Pro se brief***

Johnson raises several allegations in his pro se supplemental brief. He asserts that he was profiled, there was exculpatory evidence, the dog-sniff was pretext to enter the apartment, and the district court misstated the law regarding constructive possession. Johnson fails to provide legal argument or authority supporting his allegations. As such, we consider them forfeited on appeal. *State v. Myhre*, 875 N.W.2d 799, 806 (Minn. 2016) (stating that an appellate court may deem issues raised in a brief, but not adequately argued or explained, forfeited on appeal); *State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002) (stating that allegations set out in a pro se supplemental brief are considered waived when "[t]he brief contains no argument or citation to legal authority in support of the allegations").

**Affirmed.**