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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0667**

State of Minnesota,
Respondent,

vs.

Heriberto Dominguez Bravo,
Appellant.

**Filed February 3, 2020
Affirmed
Reyes, Judge**

Ramsey County District Court
File No. 62-CR-17-1545

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

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appellant)

Considered and decided by Reyes, Presiding Judge; Jesson, Judge; and Klaphake,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

REYES, Judge

In this direct appeal from his judgment of conviction of first-degree controlled-substance sale, appellant argues that the district court improperly determined that police had reasonable, articulable suspicion to conduct a dog sniff outside of his apartment. We affirm.

FACTS

A confidential informant (CI) provided a Minneapolis police officer with information about a person known to the CI as “Eric.” The CI saw Eric in possession of several pounds of narcotics and multiple firearms in his pickup truck. The CI described Eric’s appearance and stated that Eric drove a gray Ford F-150 pickup truck, that he resided in a specified apartment complex in St. Paul, and that Eric had been trafficking methamphetamine into Minnesota. The CI also stated that Eric is an associate of the Sinaloa cartel. The officer surveilled the apartment complex, where he observed a gray Ford F-150 truck registered to appellant’s father. The officer connected appellant’s father with appellant, identified appellant as Heriberto Dominguez Bravo, and found records showing that appellant lived in the apartment complex. Officers also observed appellant leaving the residence and getting into the Ford truck. The officer met with and showed the CI a photograph of appellant, who the CI identified as “Eric.”

The CI had worked with the officer approximately 20 times in the last year, always providing reliable information, which had led to the recovery of narcotics and firearms.

The CI had also worked with the Minneapolis Narcotics Unit for seven to eight years, “leading to convictions and recovery of several pounds of narcotics.”

Based on the information from the CI and the police’s corroboration of appellant’s identity, residence, and vehicle, the officer requested a canine search of the hallway outside of appellant’s apartment door. The dog alerted to the odor of narcotics at appellant’s unit. The officer then applied for, and the district court issued, a search warrant for appellant’s residence. Inside, police found an unloaded firearm and more than 222 grams of methamphetamine.

Respondent State of Minnesota charged appellant with first-degree sale of 17 grams or more of methamphetamine within a 90-day period, in violation of Minn. Stat. § 152.021, subd. 1 (1) (2016), and first-degree possession of 50 grams or more of methamphetamine, in violation of Minn. Stat. § 152.021, subd. 2 (a)(1) (2016). Appellant filed motions for disclosure of the identity and basis of knowledge of the CI and suppression of the evidence obtained from the dog sniff and the subsequent warrant-based search of his apartment. The district court held a pretrial motion hearing at which the officer testified. Following the hearing, appellant filed a motion to dismiss, arguing that police lacked reasonable, articulable suspicion to conduct the dog sniff and that the warrant to search his apartment therefore lacked probable cause. The district court denied his motion, determining that law enforcement had reasonable, articulable suspicion. Pursuant to Minn. R. Crim. P. 26.01, subd. 4, appellant agreed to a stipulated-evidence court trial. The district court convicted appellant of both counts. This appeal follows.

DECISION

Appellant appears to argue that police lacked reasonable, articulable suspicion to conduct the dog sniff outside his apartment because the CI was not reliable due to lack of (1) information about the CI's past reliability and (2) sufficient police corroboration of the CI's information and that, without the dog sniff, police lacked probable cause for the warrant to search his apartment. We disagree.

We review a district court's denial of a defendant's motion to dismiss for an abuse of discretion and its underlying factual findings for clear error. *See State v. Olson*, 884 N.W.2d 395, 398-99 (Minn. 2016). We review its determination of reasonable, articulable suspicion de novo. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005).

A narcotics dog sniff in a common hallway outside a person's apartment is a search under the Minnesota Constitution and requires reasonable, articulable suspicion that the person is engaged in illegal drug activity. *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007). To have reasonable, articulable suspicion, officers must have "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880 (1968). The bar for this showing is "not high." *Richards v. Wisconsin*, 520 U.S. 385, 394, 117 S. Ct. 1416, 1422 (1997). We consider the totality of the circumstances when reviewing reasonable, articulable suspicion. *Davis*, 732 N.W.2d at 182. A police officer investigating a person for suspicion of trafficking large quantities of drugs can reasonably infer that the person keeps drugs at their residence. *State v. Luhm*, 880 N.W.2d 606, 621 (Minn. App. 2016) (citing *State v. Yarbrough*, 841 N.W.2d 619, 623 (Minn. 2014)).

An informant's tip may provide police with reasonable, articulable suspicion if it "bear[s] indicia of reliability that make the alleged criminal conduct sufficiently likely." *State v. Timberlake*, 744 N.W.2d 390, 393-94 (Minn. 2008). An informant may be reliable if (1) "he or she 'has given reliable information in the past' and if [(2)] 'the police can corroborate the [informant's tip].'" *Luhm*, 880 N.W.2d at 621 (quoting *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004)) (emphasis added). The record need not contain details of the past information an informant has provided. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999).

Here, the district court found that the CI had a substantial history of reliability and that the officer corroborated appellant's identity, residence, and truck. As a result, the district court found the CI to be reliable, providing the police with reasonable, articulable suspicion to perform the dog sniff. The record supports the district court's findings.

First, the CI's record of providing reliable information to both the officer and the Minneapolis Narcotics Unit for several years establishes the CI's history of reliability. In addition, the CI had personally observed appellant in possession of narcotics and firearms and did not share merely appellant's general reputation or second-hand information. Second, police corroborated that "Eric" lived at the address the CI specified, that he drove a gray Ford pickup truck, and that "Eric" is appellant. While appellant's address is basic information, police connected the truck outside the residence to appellant's father, then to appellant by seeing him enter the truck. And they identified Eric as appellant by confirming his identity with the CI. The totality of the circumstances provided police with more than "an unarticulated hunch." *See Davis*, 732 N.W.2d at 182 (quotation omitted).

Appellant, relying on *Ross*, argues that the state failed to present a sufficient basis for reasonable, articulable suspicion because it can prove at most only one *Ross* factor.¹ However, appellant's argument that more than one factor is required is irrelevant because at least two factors are present here: past reliable information from the CI and police corroboration. Appellant relies on *State v. Cook*, 610 N.W.2d 664 (Minn. App. 2000), *review denied* (Minn. July 25, 2000), to argue that the corroboration here is insufficient because police needed to corroborate the incriminating aspects of the CI's tip. Appellant's argument is misguided. First, *Cook* involved probable cause, not reasonable, articulable suspicion. *See id.* at 669. Second, in *Cook* we distinguished between CI tips based on personal, first-hand information and tips "merely based on a suspect's general reputation or on a casual rumor," the latter of which *Cook* involved and which require verification. *See id.* at 668. The CI here personally observed appellant in possession of several pounds of narcotics and multiple firearms. *Cook* therefore does not control here.

Police had reasonable, articulable suspicion to conduct the dog sniff outside of appellant's apartment, and the district court properly denied appellant's motion to dismiss.

Affirmed.

¹ We consider the six *Ross* factors in the probable-cause context, which involves a higher standard than reasonable, articulable suspicion, *Alabama v. White*, 496 U.S. 325, 330, 110 S. Ct. 2412, 2416 (1990), to determine a CI's reliability: "(1) a first-time citizen informant is presumably reliable; (2) an informant who has given reliable information in the past is likely also currently reliable; (3) an informant's reliability can be established if the police can corroborate the information; (4) the informant is presumably more reliable if the informant voluntarily comes forward; (5) in narcotics cases, 'controlled purchase' is a term of art that indicates reliability; and (6) an informant is minimally more reliable if the informant makes a statement against the informant's interests." *Ross*, 676 N.W.2d at 304.