STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1741

State of Minnesota,
Respondent,

vs.

Natalie Rae Skaudis,
Appellant.

Filed October 19, 2020
Reversed and remanded
Segal, Chief Judge

St. Louis County District Court
File No. 69VI-CR-18-393

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

Mark S. Rubin, St. Louis County Attorney, Bonnie A. Norlander, Assistant County Attorney, Virginia, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Segal, Chief Judge; Larkin, Judge; and Reilly, Judge.

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

SEGAL, Chief Judge

Appellant challenges her conviction of driving while impaired (DWI), arguing that the district court erred in denying her motion to suppress the results of her blood-alcohol

test results on the grounds that the search warrant authorizing the blood draw was invalid. Because the state failed to prove that there had been a judicial probable-cause determination supporting the search warrant, we reverse and remand.

FACTS

On April 12, 2018, Deputy Ryan Smith of the St. Louis County Sheriff's Office was on patrol in Eveleth when he observed a vehicle that "was traveling more so on the shoulder than in its lane of traffic." Deputy Smith eventually pulled over the vehicle and the driver identified herself as appellant Natalie Rae Skaudis. During the interaction, Skaudis was very emotional, had difficulty staying focused, and indicated that she had post-traumatic stress disorder and issues with law enforcement. Deputy Smith learned that Skaudis had active warrants and, after initial resistance, Skaudis was placed under arrest.

Two additional officers, including Deputy Brock Kick, arrived to provide assistance. One of the officers observed a marijuana pipe in plain view in the vehicle and, during a search of the vehicle, the officers discovered a pouch with two small baggies of a substance that field-tested positive for methamphetamine.

Skaudis was asked to perform field sobriety tests. Based on the results of the tests, Deputy Smith believed that Skaudis was under the influence of a controlled substance. An electronic warrant application to obtain a blood sample from Skaudis was submitted by Deputy Kick, and a blood sample was obtained approximately 20 minutes later. An analysis of the blood sample by the Minnesota Bureau of Criminal Apprehension (BCA) revealed the presence of amphetamine and methamphetamine. After the blood sample was

obtained, Deputy Smith submitted the search warrant to the records division to be filed in the electronic system.

Respondent State of Minnesota charged Skaudis with fifth-degree controlled-substance crime, obstructing the legal process, and two counts of fourth-degree DWI. Several months later, the sheriff's office discovered that the search warrant on file did not contain the page with the district court judge's signature authorizing the warrant. The record contained the probable-cause statement, first page of the warrant and receipt and inventory of the search, but did not contain the signature page. The sheriff's office contacted court administration and the BCA and learned that the copy on file with court administration was also missing the signature page and that the BCA had destroyed its copy of the warrant in accordance with its record-retention schedule. An investigator with the sheriff's office was able to locate a physical copy of the first page of the warrant, but was unable to find the signature page.

The district court held a hearing to address the issue of the missing signature page. The district court judge who presided over the hearing was the same judge who received the electronic search warrant application. He indicated on the record that he could not recall whether he had signed the search warrant. He stated that if he were called to testify about the warrant he would not be able to confirm or deny that he had signed it. At the contested omnibus hearing, Skaudis argued that the results of the blood draw should be suppressed because the absence of the signature page rendered the search warrant invalid. Deputy Smith and Deputy Kick testified that they received a signed copy of the warrant in

response to the application. Deputy Smith indicated that the loss of the signature page was an honest mistake and that he did not know how it occurred.

The district court denied the motion to suppress. The district court credited the testimony from the two deputies and determined that their testimony established that the search warrant application was signed by the district court judge before the blood sample was obtained. On September 5, 2019, Skaudis waived her right to a jury trial and stipulated to the prosecution's case pursuant to Minn. R. Crim. P. 26.01, subd. 4, to obtain review of the denial of the suppression motion. The state agreed to dismiss the charge of obstructing the legal process and one count of DWI, and the district court found Skaudis guilty of fifth-degree controlled-substance crime and the remaining count of DWI. The district court stayed adjudication of the conviction of fifth-degree controlled-substance crime, stayed execution of the sentence for the DWI conviction and placed Skaudis on probation. This appeal follows.

D E C I S I O N

When reviewing a pretrial order on a motion to suppress evidence, we independently review the facts and determine, as a matter of law, whether the district court erred in denying the motion. *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). Upon a motion to suppress, the state bears the burden of establishing that the evidence was obtained in accordance with the applicable constitutional provisions. *State v. Edstrom*, 916 N.W.2d 512, 517 (Minn. 2018). If the state fails to meet this burden, the evidence must be suppressed. *See State v. Jackson*, 742 N.W.2d 163, 177-78 (Minn. 2007) (noting that evidence obtained in violation of the Constitution must generally be suppressed).

Additionally, evidence may be suppressed based on nonconstitutional, statutory violations in the warrant process. *State v. Jordan*, 742 N.W.2d 149, 154 (Minn. 2007). Suppression is required when "the violation of the statute was a serious one that subverted the purpose of the statute." *Id*. at 153. But mere technical violations do not require suppression. *State v. Goodwin*, 686 N.W.2d 40, 44 (Minn. App. 2004), *review denied* (Minn. Dec. 14, 2004).

Both the United States and Minnesota Constitutions prohibit unreasonable searches and seizures and provide that search warrants shall be issued only upon probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Probable cause is determined by the reviewing judge based on the totality of the circumstances. *State v. Zanter*, 535 N.W.2d 624, 633 (Minn. 1995). The statute governing the issuance of search warrants provides that, upon a determination of probable cause, "the judge must issue a signed search warrant, naming the judge's judicial office," directing the place to be searched. Minn. Stat. § 626.11(a) (2018).

Skaudis argues here that the district court erred in denying her motion to suppress the results of the blood draw because the state was not able to produce a copy of a search warrant signed by a judge. She contends that the state thereby failed to prove that the warrant was issued following a probable-cause determination by a neutral and detached magistrate. She argues that the warrant is therefore defective, and that her conviction of

DWI based on the results of the blood draw conducted pursuant to the warrant must be reversed.[1]

The state cites the decision of the Minnesota Supreme Court in *State v. Andries*, 297 N.W.2d 124 (Minn. 1980), in support of its argument that it satisfied its burden of proof. In *Andries*, a deputy contacted the county attorney and informed him that there was probable cause to believe marijuana would be found at a particular residence. 297 N.W.2d at 125. The county attorney sought a telephone warrant because it was outside of business hours and the nearest judge lived 85 miles away. *Id.* The district court judge arranged a conference call with the deputy and county attorney, during which the deputy read the proposed warrant and supporting affidavit. *Id.* The district court judge then made the substantive determination that probable cause existed and a warrant should be issued, and directed the deputy to sign the warrant. *Id.* Both the deputy and judge recorded the telephone call, and a complete transcript was submitted to the district court during the hearing on the motion to suppress the evidence discovered as a result of the warrant. *Id.*

The supreme court concluded that, "[u]nder these circumstances," the constitutional and statutory warrant requirements were satisfied. *Id.* at 126. The supreme court observed "that the requirement that the issuing judge sign the warrant is a purely ministerial task" that may be delegated "so long as the issuing judge performs the substantive tasks of determining probable cause and ordering the issuance of the warrant." *Id.* at 125.

[1] Skaudis did not appeal the finding of guilt with respect to the fifth-degree controlled-substance crime, which was based on evidence discovered during a search of her vehicle prior to the execution of the warrant.

The facts in this case, however, differ in a significant respect. Unlike *Andries*, in this case there is no recorded conversation or transcript indicating that a judge actually performed "the substantive tasks of determining probable cause and ordering issuance of the warrant." *Id.* To the contrary, the district court judge stated on the record that he could not recall whether he had reviewed the application and signed the warrant.

The state's evidence that a valid search warrant was obtained is based exclusively on the testimony of the two deputies. At the hearing on the motion to suppress, the deputies testified that they saw the judge's signature on the second page of the warrant before they sought to obtain the blood test from Skaudis. The district court credited their testimony, and we defer to the district court's credibility determinations. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003). But even with this credited testimony, we are not satisfied that the state met its burden to establish that the evidence was obtained in accordance with constitutional requirements. The testimony of the deputies is simply not comparable to the recorded call and transcript documenting the judge's probable-cause determination in *Andries*.

The crux of the protection established by the probable-cause requirement is that a neutral judicial officer must determine that there is a sufficient basis to justify the issuance of a warrant. *See Johnson v. U.S.*, 333 U.S. 10, 14 (1948). To allow this requirement to be satisfied, based only on the testimony of law enforcement, weakens the protections guaranteed by the constitution. As in *State v. Cook*, 498 N.W.2d 17, 22 (Minn. 1993), we "are not questioning the truthfulness of the officer's recollections of what occurred[,]" but we would set the constitutional bar too low if we were to allow the state to establish the

existence of a judicial probable-cause determination in this case based solely on the testimony of the officers who requested the determination, without any confirming evidence that a judicial probable-cause determination had actually occurred.

We, therefore, hold that the state failed to meet its burden to establish that the challenged evidence was obtained in accordance with the constitutional requirement of a judicial probable-cause determination. The district court therefore erred in denying the motion to suppress the evidence discovered from the blood draw.[2] Because Skaudis's conviction for DWI is based on this evidence, we reverse that conviction and remand for further proceedings.

Reversed and remanded.

[2] Because the state failed to establish that the evidence was obtained in accordance with constitutional requirements, we do not consider the alleged statutory violation.