STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0214

State of Minnesota,
Respondent,

vs.

Lakaiki Latrice Williams,
Appellant.

Filed December 12, 2022
Reversed
Gaïtas, Judge

Hennepin County District Court
File No. 27-CR-20-11066

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Emily M. Asp, Sharon Markowitz, Special Assistant Public Defenders, Stinson LLP, Minneapolis, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Segal, Chief Judge; and Kirk, Judge.*

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

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Lakaiki Latrice Williams appeals from her conviction for first-degree sale of a controlled substance following a stipulated-evidence court trial. Williams and respondent State of Minnesota agree that a single dispositive issue has been preserved for our review: whether the district court erred in determining that probable cause supported a search warrant that police obtained during their investigation of Williams. We conclude that the district court erred and, based on the parties' stipulation that this issue is dispositive, we reverse.

FACTS

The sole issue in this case is whether one of multiple search warrants that police obtained while investigating Williams for narcotics sales was supported by probable cause. That warrant, which a district court judge signed on April 20, 2020, required Alliance Housing Incorporated to give police a "list of current tenants" residing at a specific apartment building in Minneapolis and a "list of current unit numbers associated with each tenant."

The warrant application states that the apartment building is "a 61-unit sober, supportive, permanent, singles housing program location," and that police were investigating one suspected resident in particular, Williams, for "the possession, and distribution of controlled substances to wit, Heroin." According to the application, police "received information within the recent past, from a Cooperating Defendant [CD] who provided information on a female [Williams] who is selling large quantities of Heroin out

of a sober house in Northeast Minneapolis." The application states that the CD "indicated the sober house had a black fence around the front of the property." Additionally, it states that the CD told police that Williams "drives a vehicle with Texas License plates."

The warrant application states that the affiant, a narcotics investigator, was aware that the sober house had "a black fence located on the front of the property." Moreover, the affiant queried Williams's driver's license and confirmed that, "as of 9/17/2019," Williams listed her address as the sober house in question. The search warrant application states that the affiant drove to the sober house "and located a silver Volkswagen Jetta parked next to the building." It further states, "inside the vehicle your affiant observed a female matching the description of [Williams]."[1]

After obtaining and executing the requested warrant, police confirmed that Williams resided in an apartment at the sober house but learned that she lived in a different unit than the one listed on her driver's license. Police then performed a dog-sniff outside of Williams's apartment door. Based on the dog's alert for the presence of controlled substances, police obtained a second search warrant—not at issue here—to search Williams's apartment. In the apartment, police found fentanyl and indicia of drug sales. Police then obtained two additional search warrants—also not at issue here—for Williams's cars, where more narcotics were found. In total, the police recovered 630.89 grams of fentanyl. Williams was arrested and charged with first-degree possession and first-degree sale of a controlled substance.

[1] The search warrant application did not include any information about the car's license plates.

Williams filed a motion to suppress all the evidence found by the police, challenging the initial search warrant as unsupported by probable cause, and the subsequent search warrants as tainted by the illegality of the initial search warrant. The state responded that probable cause supported the initial warrant and the subsequent warrants were not the product of the initial warrant. Concluding that probable cause supported the initial warrant, the district court denied Williams's suppression motion. Williams filed a motion for reconsideration, which the district court also denied.

Subsequently, Williams waived her jury trial rights and agreed to submit the issue of her guilt to the district court to preserve a dispositive issue for appeal pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 4. Williams and the state agreed that the district court's pretrial ruling on the legality of the initial search warrant was dispositive of the entire case. Based on stipulated evidence, the district court convicted Williams of first-degree sale of 50 or more grams of fentanyl in violation of Minnesota Statutes section 152.021, subdivision 1(4) (2018). The district court sentenced Williams to 90 months in prison.

DECISION

The parties have limited the scope of our review in this appeal. They agree that the only question before us is whether the district court erred in determining that the search warrant directing Alliance Housing Incorporated to give police a list of tenants and unit numbers was supported by probable cause.

Because the parties have limited our review to this issue, we also note that several issues are *not* before us on appeal. We do not consider the threshold question of whether

Williams had a reasonable expectation of privacy in the list of tenants and unit numbers. *See United States v. Jones*, 565 U.S. 400, 406 (2012); *State v. Leonard*, 943 N.W.2d 149, 156 (Minn. 2020) (stating that the threshold issue in a challenge to the constitutionality of a search is whether the individual challenging the search had a reasonable expectation of privacy in the place or item searched). We do not consider whether a warrant is required to obtain such a list or whether the probable-cause standard applies under these circumstances. And, because the parties stipulated that our decision on the probable-cause issue presented here is dispositive, we do not consider whether the subsequent searches in this case were tainted by the initial warrant.

To answer the single question before us—whether the district court erred in concluding that the search warrant was supported by probable cause—we first identify our standard of review. "When reviewing pretrial orders on motions to suppress evidence, [appellate courts] may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). In other words, our review is de novo. *Id.* In a challenge to the validity of a search warrant, however, an appellate court also gives "great deference" to the determination of the signing judge that there was probable cause for the search. *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001). The precise question before the reviewing court is "whether the issuing judge had a substantial basis for concluding that probable cause existed." *Id.* When considering this question, the reviewing court should not analyze the individual components of the search-warrant application in a hyper-technical fashion but should consider whether the totality of the

allegations established probable cause. *State v. Wiley*, 366 N.W.2d 265, 268 (Minn. 1985). Our review is limited to the "four corners of the document"; we do not consider information outside of the search-warrant application in determining whether there was probable cause. *State v. McGrath*, 706 N.W.2d 532, 539-40 (Minn. App. 2005), *rev. denied* (Minn. Feb. 22, 2006). "[T]he resolution of doubtful or marginal cases should be largely determined by the preference to be accorded warrants." *Wiley*, 366 N.W.2d at 268 (quotation omitted).

Having identified our standard of review, we next turn to the law governing searches. The Fourth Amendment to the United States Constitution provides that "no Warrant shall issue, but upon probable cause, supported by Oath or affirmation." U.S. Const. amend. IV. Our state constitution likewise requires probable cause for a search warrant. Minn. Const. art. I, § 10. The probable-cause requirement is intended to safeguard citizens from rash and unfounded invasions of privacy and from unsubstantiated criminal charges. *Brinegar v. United States*, 338 U.S. 160, 176 (1949).

In considering whether to grant a search-warrant application, a judge must "make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit . . . , there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Illinois v. Gates*, 462 U.S. 213, 238 (1983); *see also Wiley*, 366 N.W.2d at 268 (applying this precept from *Gates*). The issuing judge should examine the totality of the circumstances to determine if there is probable cause to believe it is more likely than not that the items sought will be found in the place to be searched. *Gates*, 462 U.S. at 238; *see generally* 2 Wayne R. LaFave, *Search and Seizure*, § 3.2(e) (6th ed. 2022). "Elements bearing on this probability include information linking the crime to the place to

be searched and the freshness of the information." *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998).

Here, an informant alleged that Williams was selling drugs from the apartment building. When police request a search based on an informant's tip, the informant's reliability and basis for knowledge must be examined as part of the totality of the circumstances. *State v. Ross*, 676 N.W.2d 301, 303-04 (Minn. App. 2004) (quoting *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999)), *rev. denied* (Minn. June 15, 2004). Reliability and basis for knowledge must be viewed as "closely intertwined issues" and not two "independent requirements to be rigidly exacted." *Gates*, 462 U.S. at 230. And the pieces of information in the affidavit must not be reviewed in isolation from each other. *Wiley*, 366 N.W.2d at 268.

In *Ross*, we identified six factors for assessing the reliability of confidential, but not anonymous, informants:

> (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.

676 N.W.2d at 304.

Even when an informant is "undeniably credible," the warrant application also must show that the informant had a basis for the knowledge passed on to police. *State v. Cook*, 610 N.W.2d 664, 667-68 (Minn. App. 2000), *rev. denied* (Minn. July 25, 2000). A basis

for knowledge can be established through an informant's first-hand, personal knowledge, "such as when a [confidential reliable informant (CRI)] states that he purchased drugs from a suspect or saw a suspect selling drugs to another," or through "self-verifying details that allow an inference that the information was gained in a reliable way and is not merely based on a suspect's general reputation or on a casual rumor." *Id.* at 668.

Applying this law, we now address the information in the search warrant application at issue here. Reviewing the district court's decision de novo and giving deference to the judge who signed the search warrant, we consider whether the application establishes a fair probability that contraband or evidence of a crime would be found in Williams's apartment.

The search warrant application does not directly address the veracity of the informant beyond noting that this individual was a CD—a person presumably facing criminal prosecution and consequently cooperating with the police. Informants who give information to earn "favor with the police" are considered less reliable than citizen informants who voluntarily approach law enforcement. *State v. Ward*, 580 N.W.2d 67, 71-72 (Minn. App. 1998) (quoting *State v. McCloskey*, 453 N.W.2d 700, 703 (Minn. 1990)). We also note that the search warrant application does not contain other facts from which we can infer the informant's reliability, such as the informant's history of providing reliable information or a controlled buy.

Police corroboration of the CD's tip is the only *Ross* reliability factor present here. Police do not need to corroborate every detail of an informant's tip for the tip to be credible. *Wiley*, 366 N.W.2d at 269. "Even corroboration of minor details lends credence to an informant's tip and is relevant to the probable-cause determination." *State v. Holiday*, 749

N.W.2d 833, 841 (Minn. App. 2008). But corroboration is not sufficient to lend reliability to an informant's tip if the only facts corroborated by police are "easily obtained." *State v. Albrecht*, 465 N.W.2d 107, 109 (Minn. App. 1991).

Here, the search warrant application states that the affiant was already "aware" of two details provided by the informant—that the apartment building was a sober house and there was a black fence in front of the building. The affiant then corroborated one more detail provided by the CD—that Williams resided in the apartment building. The affiant viewed Williams's driver's license, which confirmed that she listed her address as a unit in the building. And the affiant drove by the property on one occasion and observed a woman matching Williams's description in a car parked outside.

The easily obtained facts here—that the apartment building was sober housing, there was a black fence in front of the building, and Williams lived there—do not show that the informant was a reliable source. Indeed, these details are similar to the information that police corroborated in *Albrecht*, where we concluded that an anonymous informant's tip was not reliable. 465 N.W.2d at 109. There, the informant told police that Albrecht was dealing and supplying marijuana. *Id.* at 108. The informant claimed to have observed marijuana in Albrecht's home multiple times, described the inside of Albrecht's home, and identified the car that would be in the driveway when Albrecht was home. *Id.* Police confirmed that the informant had correctly identified the location of Albrecht's home and the type of car that Albrecht drove. *Id.* But observing that Albrecht's home address and details about his car were easily obtained facts, we concluded that corroboration of those facts was not sufficient to establish the informant's reliability. *Id.* at 109; *cf. Holiday*, 749

N.W.2d at 841-42 (holding that a CRI's knowledge of a defendant's gang-affiliation, nickname, and specific apartment location within a building were not easily obtained facts and showed a personal familiarity with the defendant). Similarly, here, the affiant's corroboration of easily obtained information did not show that the CD was particularly reliable.

The state argues that Williams's case is distinguishable from *Albrecht* because the search warrant here was just the "first step" in the investigation, whereas the search warrant in *Albrecht* was for a search of a home. 465 N.W.2d at 108. But the state conceded at oral argument that, given the unique procedural posture of this case, our review is limited to whether the search warrant application satisfies the traditional probable-cause standard. Thus, because we do not consider Williams's expectation of privacy in the information sought, whether a warrant was even required under the circumstances here, or whether some other legal standard should apply in these situations, the purpose of the warrant is not a factor in our analysis. Thus, we reject the state's attempt to distinguish *Albrecht* on this ground.

But even if we conclude, as did the district court, that the police corroboration here, unlike *Albrecht*, established the CD's reliability, the search warrant application cannot overcome a more significant problem. It contains no information about the CD's basis for knowledge. The application does not state how or why the CD knew that Williams was selling drugs out of her apartment. It does not reveal whether the CD had purchased drugs from Williams, had seen her selling drugs, had heard her discussing drug possession or sales, or had observed drugs in her apartment. There is simply no information from which

we can infer that the CD had a basis for knowing the facts alleged. *See Cook*, 610 N.W.2d at 668 (affirming the district court's finding of no probable cause for a warrantless arrest because a "[r]ecitation of facts establishing a CRI's reliability by his proven 'track record' . . . does not by itself establish probable cause" and "[t]he information obtained from the CRI must still show a basis of knowledge" (quoting 2 Wayne R. LaFave, *Search and Seizure* § 3.3(b), at 121 (3d ed. 1996))); *see, e.g.*, *Wiley*, 366 N.W.2d at 269 (holding that a warrant was supported by probable cause when an informant personally observed stolen guns and narcotics at the defendant's residence); *Holiday*, 749 N.W.2d at 840 (holding that a confidential informant's personal observations of a defendant with drugs in his residence within the last 48 hours was a sufficient basis for knowledge); *State v. Wiegel*, No. A18-2125, 2019 WL 7286956, at *2 (Minn. App. Dec. 30, 2019) (affirming denial of a motion to suppress evidence, in part, because confidential informant "provided the basis for his knowledge—he was on his way to purchase methamphetamine from" the defendant), *rev. denied* (Minn. Mar. 17, 2020); *State v. Freeman*, No. A14-1759, 2015 WL 732524, at *3-4 (Minn. App. Feb. 23, 2015) (distinguishing *Cook*, 610 N.W.2d at 668, and reversing the district court's finding of no probable cause because the informant "recently and personally observed [the defendant] at the home with firearms dealing narcotics").[2]

Given this considerable shortcoming in the search warrant application, the totality of the circumstances alleged did not establish that it was more likely than not there would be drugs in Williams's apartment. Even deferring to the signing judge as we are required

[2] Nonprecedential cases are not binding authority but may be cited as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).

to do, there was not a substantial basis to conclude that the search warrant application satisfied the probable-cause standard. By concluding otherwise, and denying Williams's motion to suppress the evidence, the district court erred. Because the parties stipulated that this issue is dispositive, we must reverse.

Reversed.