STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1816

State of Minnesota,
Respondent,

vs.

Jacob Ronald Shea,
Appellant.

Filed August 21, 2023
Affirmed
Slieter, Judge

Clay County District Court
File No. 14-CR-21-531

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

Brian J. Melton, Clay County Attorney, Pamela L. Foss, Assistant County Attorney, Moorhead, Minnesota (for respondent)

Dane DeKrey, Ringstrom DeKrey PLLP, Moorhead, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Frisch, Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal following his conviction for possession of child pornography, appellant challenges the district court's order denying suppression of evidence seized in a warranted search of the residence in which he rented a room. Appellant claims that the

search of his room and the search of his computer exceeded the scope of the warrant. Because the search of appellant's room was within the scope of the warrant, and because he failed to preserve a challenge to the search of his computer, we affirm.

FACTS

In December 2020, Moorhead police received a report that an IP address associated with a residence owned by appellant Jacob Ronald Shea's brother (brother) had accessed child pornography. Officers obtained a warrant which described the residence as "[a] white or light colored duplex with a white two stall garage door attached to each unit and grey brick on the lower portion of the exterior of the building." The warrant authorized the seizure and search of "[e]lectronic devices capable of storing digital media . . . primarily owned or accessible by [brother]" found at the residence.

Officers executed the warrant in January 2021. Officers observed that the residence was a "normal home, effectively a family residence" with three bedrooms. During an interview with brother at the start of the search, officers learned that Shea had a room in the residence. Brother also told officers that he had access to Shea's room and the electronics inside. Based on that information, officers seized electronic devices from Shea's room. A subsequent forensic search of the devices found in Shea's room, including a computer and a yellow USB drive, revealed child pornography.

Respondent State of Minnesota charged Shea with eight counts of possession of child pornography in violation of Minn. Stat. § 617.247, subd. 4 (2020). Shea moved to suppress the evidence obtained as a result of the warranted search, arguing that law enforcement exceeded the scope of the warrant by entering Shea's room. The district court

denied Shea's motion, concluding that the warrant "authorized the search of the residence, including . . . Shea's bedroom, a room accessible by [brother], the primary target of the [w]arrant."

As part of the Minn. R. Crim. P. 26.01, subd. 4, stipulated-evidence trial, the parties agreed that the district court's order denying Shea's motion to suppress was dispositive of the case and a full trial would be unnecessary if Shea succeeded on appeal. The district court found Shea guilty and convicted him of eight counts of possession of child pornography. Shea appeals.

DECISION

"When reviewing a district court's pretrial order on a motion to suppress evidence, 'we review the district court's factual findings under a clearly erroneous standard and the district court's legal determinations de novo.'" *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009) (quotation omitted). When a defendant stipulates to the evidence against him pursuant to Minn. R. Crim. P. 26.01, subd. 4, this court's review is further limited to the pretrial order denying the motion to suppress. *Id.*

I. The district court properly concluded that the search of Shea's bedroom did not exceed the scope of the search warrant.

"A search pursuant to a warrant may not exceed the scope of that warrant." *State v. Soua Thao Yang*, 352 N.W.2d 127, 129 (Minn. App. 1984). "The test for determining whether a search has exceeded the scope of the warrant is one of reasonableness . . . ." *Id.* This court looks to the totality of the circumstances to determine whether officers acted

reasonably in executing the search warrant. *State v. Thisius*, 281 N.W.2d 645, 645-46 (Minn. 1978).

The warrant in question here authorized law enforcement to search the entire residence for electronic devices "owned or accessible by [brother]," and brother told officers that he had access to Shea's room and the electronics inside. Given brother's statement, it was reasonable for the officers to conclude that Shea's room might contain electronic devices capable of storing child pornography and that the search of Shea's room was reasonable under the circumstances. *Id.*

Shea argues that, because he rented his bedroom and was not the warrant's primary target, the search of his bedroom exceeded the scope of the warrant. We disagree.

Separate search warrants are not required in situations of "community occupation" when two or more people "occupy the premises in common rather than individually, as where they share common living quarters but have separate bedrooms." *State v. Lorenz*, 368 N.W.2d 284, 286-87 (Minn. 1985) (quotations omitted). In contrast, "a search warrant for a multiple occupancy building is invalid unless it describes the particular unit to be searched with sufficient definiteness." *Id.* at 286 (quotation omitted).

The living arrangement here is the type of "community occupation" that is not subject to the "multiple-occupancy" rule. *Id.* Still, Shea claims our decision in *State v. Marsh* suggests that a separate search warrant was required to search his room. 931 N.W.2d 825, 831 (Minn. App. 2019) (holding "the validity of the search of a rented room, pursuant to a warrant authorizing the search of the entire house, depends on whether

officers reasonably knew or should have known that it was a multiple-occupancy building at the time of the search"), *rev. denied* (Minn. Sept. 17, 2019).

Marsh discussed whether "[o]bjectively available facts" signaled to law enforcement that the single-family residence was really a multiple-occupancy dwelling, such that a separate search warrant was necessary. Among the facts which led to *Marsh*'s conclusion that no such signal was present were "a single mailbox, no separate entrances, open access to all areas of the house including the second floor, and no unit numbers or signs." *Id.* at 831-32. Here, testimony during the evidentiary hearing established that the residence was a single-family home with three bedrooms. Residents shared common living areas, including the kitchen, living rooms, and bathrooms, but the residents had separate bedrooms. Shea's bedroom was not locked or numbered, nor did it bear any other markings suggesting that it was a separate unit in the house. The facts available to law enforcement at the time of the search were insufficient to signal to the officers that this was a multiple-occupancy building, such that the search of Shea's room required a separate warrant. Under the totality of the circumstances, officers acted reasonably in executing the warrant and searching Shea's room. The search of Shea's room was valid, and the district court did not err by denying Shea's motion to suppress.[1]

[1] Shea also argues that the "community-living exception to the warrant requirement," as announced in *Lorenz*, 368 N.W.2d at 286, "should be overturned." We first note that *Lorenz* does not announce an "exception." Instead, *Lorenz* simply concludes that "the multiple occupancy rule does not apply when two or more people or families occupy a single residence in common, . . . but have separate bedrooms." *Id.* In any event, we decline to consider Shea's request. We are an error-correcting court, and our role is to decide cases consistent with existing law. *State v. Grigsby*, 806 N.W.2d 101, 114 (Minn. App. 2011) (stating that "[a]s an error-correcting court, this court is not in a position to overturn

II. Shea did not preserve his right to challenge the search of his computer.

Shea argues that officers exceeded the scope of the warrant by searching his personal computer. The state contends that the issue was not preserved for appellate review. We agree with the state.

The parties' stipulation stated that the dispositive pretrial issue was the "Order dated May 12, 2022, denying [Shea's] motion to suppress evidence." *See* Minn. R. Crim. P. 26.01, subd. 4 (outlining the procedure for preserving a pretrial issue for appellate review, including "agree[ing] that the court's ruling on a specified pretrial issue is dispositive of the case"). The district court's order focused solely on the search of Shea's bedroom, concluding that "the [w]arrant properly authorized the search of the residence, including . . . Shea's bedroom, a room accessible by [brother], the primary target of the [w]arrant." Because the parties agreed that the district court's order denying Shea's motion to suppress addressed the sole dispositive issue, which was limited to whether the search warrant authorized the search of Shea's bedroom, the issue of whether the search of Shea's computer exceeded the scope of the warrant is not before this court. *See Ortega*, 770 N.W.2d at 149 ("Because Ortega stipulated to the evidence against him . . . our review is further limited to the pretrial order that denied Ortega's motion to suppress."); *see also Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating appellate courts will not decide issues first raised on appeal).

Affirmed.

---

established supreme court precedent" (quotation omitted)), *aff'd*, 818 N.W.2d 511 (Minn. 2012).