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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1214**

State of Minnesota,
Respondent,

vs.

Lakisha Sharman Ellis,
Appellant.

**Filed July 5, 2011
Affirmed
Schellhas, Judge**

Hennepin County District Court
File No. 27-CR-08-63282

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

Michael O. Freeman, Hennepin County Attorney, Paul R. Scoggin, Assistant County
Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Theodora K. Gaitas, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Peterson, Presiding Judge; Minge, Judge; and
Schellhas, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges her conviction of second-degree controlled-substance crime, arguing that the district court erred by denying her motion to suppress evidence. We affirm.

FACTS

On September 16, 2008, a confidential reliable informant (CRI) informed Officer Matthew Olson of the Minneapolis Police Department that an African-American female drug dealer known as “Kiki” would be in possession of a large quantity of crack cocaine, that she would be driving a black Ford Expedition with a license plate containing the numbers 008, that she would arrive at a specific address near 25st Street and Portland Avenue with her sister from a specific direction at a specific time, and that she was known to store cocaine inside her vagina. Officer Olson organized a surveillance team and positioned himself “approximately 35 to 40 feet away from the stop location, with a clear view of the intersection.” He testified that the specified address near 25st Street and Portland Avenue was a well-known crack house.

Other officers observed a black Ford Expedition with a license plate containing the numbers 008 traveling eastbound on Franklin Avenue. The Expedition turned southbound on Portland towards 25th, which was “consistent with where [Officer Olson] had been told the vehicle would be coming from.” The Expedition parked at the southwest corner of the intersection of and Portland. The CRI identified the driver as “Kiki” and the front passenger as her sister. Officer Olson observed “Kiki,” later

identified as appellant Lakisha Ellis, “make several movements toward her waist area before exiting the vehicle.” Officer Olson testified that, based on his training and experience, he concluded that Ellis “was reaching into her crotch area.”

After Ellis exited the vehicle, the officers arrested her on probable cause for drug possession. The officers transported Ellis to a Minneapolis precinct police station where Officer Olson asked Officer Rebecca Novak to search Ellis’s vaginal area for narcotics. Before Officer Novak conducted the search, Ellis voluntarily retrieved from her vagina suspected narcotics and gave them to Officer Novak. Drug analysis showed that the suspected narcotics consisted of 9.06 grams of cocaine. Respondent State of Minnesota charged Ellis by amended complaint with one count of second-degree controlled-substance crime (possession) in violation of Minn. Stat. § 152.022, subd. 2(1) (2008).

Ellis moved to suppress the narcotics evidence, arguing that the police lacked probable cause to arrest her. At the suppression hearing, Officer Olson testified that an informant becomes a CRI after providing reliable information on a certain number of cases. And Officer Olson testified that the CRI in this case had provided information numerous times, the information was always reliable, and the information led to narcotics arrests and convictions.

The district court denied Ellis’s suppression motion, concluding “that corroboration of the information provided by the CRI, together with the past reliability of the information this CRI provided, established probable cause to effect the arrest of [Ellis].” (Footnote omitted.) Ellis waived her right to a jury trial, and the parties submitted the case to the court on stipulated facts to preserve evidentiary issues for

appeal in accordance with Minn. R. Crim. P. 26.01, subd. 4, and *State v. Lothenbach*, 296 N.W.2d 854 (Minn. 1980). The district court convicted Ellis of second-degree controlled-substance crime and sentenced her to a 50-month term of imprisonment.

This appeal follows.

D E C I S I O N

“When reviewing pretrial orders on motions to suppress evidence, we 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). This court accepts the district court’s underlying factual determinations unless they are clearly erroneous. *State v. Lemieux*, 726 N.W.2d 783, 787 (Minn. 2007). “Findings of fact are not clearly erroneous if there is reasonable evidence to support them.” *State v. Colvin*, 645 N.W.2d 449, 453 (Minn. 2002).

“A warrantless arrest is reasonable if supported by probable cause.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011). “Probable cause to arrest exists when the objective facts are such that under the circumstances a person of ordinary care and prudence would entertain an honest and strong suspicion that a crime has been committed.” *State v. Loving*, 775 N.W.2d 872, 881 (Minn. 2009) (quotation omitted).

“Whether the information provided by a confidential informant is sufficient to establish probable cause is determined by examining the totality of the circumstances, particularly the credibility and veracity of the informant.” *State v. Ross*, 676 N.W.2d 301, 303–04 (Minn. App. 2004) (quotation omitted). Courts consider various factors to determine the reliability of confidential, but not anonymous, informants, of which two are

pertinent here: (1) “an informant who has given reliable information in the past is likely also currently reliable”; and (2) “an informant’s reliability can be established if the police can corroborate the information.” *Id.* at 304. The fact that an informant has given reliable information in the past “is fulfilled by a simple statement that the informant has been reliable in the past because this language indicates that the informant had provided accurate information to the police in the past and thus gives the magistrate reason to credit the informant’s story.” *Id.* (quotations omitted). Law-enforcement officers need not provide specifics of the informant’s past veracity. *Id.*

But “[r]ecitation of facts establishing a CRI’s reliability by his proven ‘track record[]’ . . . does not by itself establish probable cause.” *State v. Cook*, 610 N.W.2d 664, 668 (Minn. App. 2000) (citing 2 Wayne R. LaFare, *Search & Seizure* § 3.3(b), at 121 (3d ed. 1996)), *review denied* (Minn. July 25, 2000). “The information obtained from the CRI must still show a basis of knowledge.” *Id.* The basis of knowledge may “be supplied indirectly 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 circulating in the criminal underworld.” *Id.*

In *State v. Munson*, a CRI with a proven track record informed police that within one-and-one-half to two hours a rented 1996 green Bronco or jeep-type vehicle with Minnesota license plates would arrive at a specific St. Paul address. 594 N.W.2d 128, 132 (Minn. 1999). The CRI stated that three African-American males would be in the vehicle, two of whom would be Kirk Munson and Roosevelt Curtis, the vehicle would contain crack cocaine, and the occupants might be armed. *Id.* The police went to the

vicinity of the address, and a Blazer matching the CRI's general description drove past the officers. *Id.* at 132–33. The police confirmed that the vehicle was registered to a rental agency. *Id.* at 133. When the Blazer pulled to the curb in front of the specific address, the police activated their emergency lights, pulled behind the Blazer, approached with weapons drawn, and ordered the three African-American male occupants to raise their hands. *Id.* The police then ordered the men out of the vehicle. *Id.* They frisked the men and found no weapons. *Id.* Two of the men identified themselves as Munson and Curtis. *Id.* The police then searched the vehicle and found marijuana and cocaine. *Id.*

Because the police had “corroborated the type, year, and color of the vehicle, the fact that it was registered to a rental agency, its destination, the timing of its arrival, and the identity of its occupants,” and because of the CRI's past reliability, the supreme court concluded that the police had probable cause to believe that the Blazer contained illegal drugs.¹ *Id.* at 136–37.

Similarly, in this case, the CRI was reliable because he or she had provided information numerous times, the information was always reliable, and the information led to narcotics arrests and convictions. And the CRI's level of information and ability to predict Ellis's future behavior allows an inference that the tip was based on the CRI's firsthand knowledge. The police corroborated the type, partial plate number, and color of the vehicle; the expected direction of its travel; its destination; the timing of its arrival;

¹ “Probable cause to search a vehicle is basically the same as that necessary to support an arrest, with the exception that the focus is on the vehicle, not on the person to be arrested.” *Cook*, 610 N.W.2d at 668 n.2 (citing *In re Welfare of G.M.*, 560 N.W.2d 687, 695 (Minn. 1997)).

and the identity of its occupants. Officer Olson also testified that the destination was a known crack house and, when Ellis parked the Expedition, Officer Olson observed movements indicating that she “was reaching into her crotch area.”

Based on the totality of the circumstances, we conclude that the district court did not err by determining that the officers had probable cause to arrest Ellis and that the cocaine was validly seized when Ellis gave it to Officer Novak. We therefore affirm.

Affirmed.