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1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO,**

3           Plaintiff-Appellee,

4 v.

**NO. 34,358**

5 **DOUGLAS OAKES,**

6           Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8 **William C. Birdsall, District Judge**

9 Hector H. Balderas, Attorney General

10 Santa Fe, NM

11 for Appellee

12 Jorge A. Alvarado, Chief Public Defender

13 Nina Lalevic, Assistant Appellate Defender

14 Santa Fe, NM

15 for Appellant

16   **MEMORANDUM OPINION**

17 **WECHSLER, Judge.**

1 {1} Defendant appeals his misdemeanor convictions, pursuant to a conditional plea  
2 [RP 76, 77], for attempt to commit a felony, to wit possession of a controlled  
3 substance (methamphetamine) and for possession of drug paraphernalia. [RP 88] Our  
4 notice proposed to affirm, and Defendant filed a memorandum in opposition. We  
5 remain unpersuaded by Defendant's arguments and thus affirm.

6 {2} In issue (1), Defendant continues to argue that the search warrant was not  
7 supported by probable cause. [DS 3; RP 33, 45, 51, 60; MIO 3] *See generally State*  
8 *v. Evans*, 2009-NMSC-027, ¶ 10, 146 N.M. 319, 210 P.3d 216 (providing that  
9 probable cause exists when “there are reasonable grounds to believe that a crime has  
10 been committed in that place, or that evidence of a crime will be found there”); *State*  
11 *v. Williamson*, 2009-NMSC-039, ¶ 29, 146 N.M. 488, 212 P.3d 376 (reviewing the  
12 sufficiency of an affidavit submitted in support of the issuance of a search warrant  
13 under a substantial basis standard).

14 {3} In contesting the issuance of the warrant, Defendant asserts that the officer  
15 searched his vehicle “simply because he had a spoon hanging in his window [that] the  
16 officer believed was used to do drugs.” [MIO 1] However, the affidavit provided  
17 much more information than the officer's observation of the bent spoon. As detailed  
18 in our notice, the affidavit also recited the officer's observations of Defendant's  
19 actions, from which it could be reasonably inferred that Defendant was trying to

1 conceal items. [RP 52] We accordingly hold that the affidavit was supported by  
2 probable cause. *See generally State v. Gurule*, 2013-NMSC-025, ¶ 14, 303 P.3d 838  
3 (recognizing that “[p]robable cause determinations are not subject to bright line rules  
4 but rather are to be based on the assessment of various probabilities in a given factual  
5 context”).

6 {4} As related to issue (1), Defendant continues to argue in issue (2) that the  
7 affidavit for the search warrant failed to satisfy the particularity requirement on the  
8 asserted basis that the officer searched areas of the vehicle, including the trunk [MIO  
9 6, 8], that were not specifically described in the affidavit for search warrant. [DS 3;  
10 RP 34-35; MIO 6] *See generally State v. Sabeerin*, 2014-NMCA-110, ¶ 26, 336 P.3d  
11 990 (recognizing that both the federal and New Mexico constitutions require that a  
12 search warrant particularly describe the “things to be seized” and that “[t]he  
13 particularity requirement ensures that a search is confined in scope to particularly  
14 described evidence relating to a specific crime for which there is demonstrated  
15 probable cause” (internal quotation marks and citation omitted)).

16 {5} As we set forth in our notice, the affidavit described the vehicle to be searched  
17 as: “[a] red Cadillac passenger vehicle bearing NM 486RFP.  
18 VIN#1G6KD54Y03U117894. Registered to Douglas Oakes.” [RP 51] In addition, the  
19 affidavit set forth the officer’s belief – based on his observations as related in issue

1 (1)—that the vehicle concealed “[p]ossession of a controlled substance, and  
2 possession of drug paraphernalia.” [RP 51] Given the officer’s observation of  
3 suspected drug paraphernalia in the vehicle, together with Defendant’s subsequent  
4 concealing movements, we hold that the affidavit’s description of the specific vehicle  
5 to be searched for drug crimes satisfies the particularity requirement, without any  
6 additional requirement for specific places to be searched within the vehicle. *See State*  
7 *v. Evans*, 2009-NMSC-027, ¶ 10 (providing that probable cause exists when “there are  
8 reasonable grounds to believe that a crime has been committed in that place, or that  
9 evidence of a crime will be found there”). Thus, for purposes of satisfying the  
10 particularity requirement, it is enough that the specific vehicle and the suspected drug  
11 crimes as connected to the vehicle were identified. *Cf. State v. Jones*, 1988-NMCA-  
12 058, ¶ 5, 107 N.M. 503, 760 P.2d 796 (recognizing that “[t]he [F]ourth [A]mendment  
13 . . . prohibits states from using general search warrants that do not describe with  
14 particularity the things to be seized”); *State v. Hamilton*, 2012-NMCA-115, ¶ 13, 290  
15 P.3d 271 (recognizing that “when law enforcement wishes to search two houses or  
16 two apartments, it must establish probable cause as to each.” (internal quotation marks  
17 and citation omitted)).

18 {6} For the reasons above and fully discussed in our notice, we affirm.

19 {7} **IT IS SO ORDERED.**

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**JAMES J. WECHSLER, Judge**

3 **WE CONCUR:**

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5 **RODERICK T. KENNEDY, Judge**

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7 **J. MILES HANISEE, Judge**