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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-423

Filed: 6 December 2016

Forsyth County, No. 13 CRS 55263-64

STATE OF NORTH CAROLINA

v.

TARE LAQUAN WALKER

Appeal by defendant from judgment entered 17 November 2015 by Judge L. Todd Burke in Forsyth County Superior Court. Heard in the Court of Appeals 3 October 2016.

Attorney General Roy Cooper, by Assistant Attorney General Kristine M. Ricketts, for the State.

Vitrano Law Offices, PLLC, by Sean P. Vitrano, for defendant.

DIETZ, Judge.

When Winston-Salem police officers executed a warrant on a suspected drug dealer, he turned informant and called his supplier to arrange a drug pickup while officers listened in. The suspect also provided a detailed description of his supplier, including that his name was “Tare” and what he looked like, where he would arrive, that he would be driving a rental car, and that he likely would be accompanied by a small child.

Officers waited at the arranged meeting location. A car arrived with an occupant matching the description from the informant, accompanied by a small child. The officers detained Defendant Tare LaQuan Walker, searched him, and found drugs and drug paraphernalia.

Walker moved to suppress all evidence resulting from his search and seizure on the ground that the informant's description was not sufficiently "corroborated" and thus did not establish probable cause. The trial court denied the motion, and Walker pleaded guilty while reserving his right to appeal the denial of his motion to suppress.

On appeal, Walker argues that the trial court order denying his motion to suppress lacked sufficiently detailed conclusions of law, and that the trial court's findings (which Walker does not challenge on appeal) are insufficient to establish probable cause. As explained below, we disagree. The trial court concluded that the informant's statements were sufficiently corroborated, which necessarily meant the court concluded that probable cause existed. The court's findings also readily support that conclusion. Accordingly, we affirm the trial court's judgment.

Facts and Procedural History

On 31 May 2013, a law enforcement officer executed a warrant at Sollie Benjamin's apartment to search for cocaine. During the search, Benjamin provided the officer with information about his drug supplier. He described a tall black male in his twenties named Tare. Benjamin told the officer that Tare drove rental cars to

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deliver cocaine to Benjamin's house and typically parked in Benjamin's driveway or on the street in front of the house. Benjamin also told the officer that Tare typically arrived with a small child accompanying him.

With his cellphone's speakerphone on, Benjamin called his supplier to request a delivery. The supplier responded "I'm on my way" without further discussion. Soon after, a tall black male in his twenties, later identified as Defendant Tare LaQuan Walker, pulled his SUV into Benjamin's driveway, accompanied by a small child in the rear seat. Law enforcement detained Walker in the driveway and searched him. They found cocaine, a digital scale, money, and two cellphones. The State indicted Walker for trafficking in cocaine, possession with intent to sell and deliver cocaine, and possession of drug paraphernalia.

Before trial, Walker moved to suppress all evidence obtained from his search and seizure. He argued that the informant's statements were not sufficiently "corroborated" and thus the officers lacked probable cause to detain and search him. The trial court denied the motion orally at the conclusion of the hearing. Walker then pleaded guilty but reserved his right to appeal the denial of his motion to suppress.¹

¹ Following his guilty plea and sentence, Walker gave oral notice of appeal "as relates to the pretrial motions" but did not specify that he was appealing from the judgment and commitment as required by N.C. R. App. P. 4. Walker later petitioned for a writ of certiorari asking this Court to review the judgment. The State does not oppose issuance of the writ. In our discretion, we allow the petition and review the merits of Walker's appeal. N.C. R. App. P. 21.

Analysis

Walker asserts two arguments on appeal. First, he argues the trial court's order denying his motion to suppress did not include the necessary conclusions of law required by N.C. Gen. Stat. § 15A-977(f). Second, he argues that, even if the trial court's conclusions were sufficient, the court erred by concluding that the officers had probable cause to detain and search him. As explained below, we reject these arguments.

When ruling on a motion to suppress, the trial court must “make findings of fact and conclusions of law which shall be included in the record.” N.C. Gen. Stat. §§ 15A-974(b), 15A-977(f). “The standard of review in evaluating the denial of a motion to suppress is whether competent evidence supports the trial court's findings of fact and whether the findings of fact support the conclusions of law.” *State v. Biber*, 365 N.C. 162, 167-68, 712 S.E.2d 874, 878 (2011). Where, as here, the trial court's findings of fact are not challenged on appeal, those findings “are deemed to be supported by competent evidence and are binding on appeal.” *Id.* at 168, 712 S.E.2d at 878. This Court reviews the trial court's conclusions of law *de novo*. *Id.*

Walker first argues that the trial court's conclusions of law fail to satisfy the statutory requirement to “set forth in the record . . . conclusions of law” because the court did not expressly conclude that the officers had probable cause to detain and search him. N.C. Gen. Stat. § 15A-977(f). We disagree.

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In its order denying the motion, the trial court made detailed findings of fact and then concluded “as a matter of law, that the indicia of information as provided by the subject whom the search warrant was executed upon was corroborated. It was detailed and specific enough, even unique enough.” Walker argues that the trial court’s conclusions of law are defective because the court did not further state that, as a result of this conclusion, the officers had probable cause to detain and search him.

Our Supreme Court has rejected this argument. *See Biber*, 365 N.C. at 168, 712 S.E.2d at 878-79. In *Biber*, the defendant argued that the officers lacked probable cause to arrest him. The court’s conclusions of law never explicitly mentioned probable cause, but concluded that “none of [defendant’s] constitutional rights were violated.” *Id.* The Supreme Court held that “[i]n concluding that none of defendant’s constitutional rights were violated, the trial court implicitly concluded that the officers had probable cause to arrest defendant.” *Id.* at 168, 712 S.E.2d at 879.

Likewise, in this case, Walker argued that the officers lacked probable cause to detain and search him because the informant’s statements were not sufficiently corroborated. The trial court made findings on this issue (not challenged on appeal) and then concluded that the information was “detailed and specific enough, even unique enough” for the officers to rely upon it in detaining and searching him. In this conclusion of law, the trial court necessarily, if implicitly, concluded that the officers

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therefore had probable cause. Accordingly, under *Biber*, the trial court's conclusions were sufficient to satisfy the requirements of N.C. Gen. Stat. § 15A-974(b) and N.C. Gen. Stat. § 15A-977(f).

Walker next argues that the trial court's conclusions were erroneous because, on the facts found by the court, the officers lacked probable cause. Again, we disagree.

“Probable cause refers to those facts and circumstances within an officer's knowledge and of which he had reasonably trustworthy information which are sufficient to warrant a prudent man in believing that the suspect had committed or was committing an offense.” *State v. Williams*, 314 N.C. 337, 343, 333 S.E.2d 708, 713 (1985). When relying on information from an informant, “probable cause is determined using a totality-of-the-circumstances analysis which permits a balanced assessment of the relative weights of all the various indicia of reliability (and unreliability) attending an informant's tip.” *State v. Earhart*, 134 N.C. App. 130, 133, 516 S.E.2d 883, 886 (1999). “[I]n making the probable cause determination, independent police corroboration of the facts given by the informant are important in evaluating the reliability of the informant's tip.” *Id.* at 134, 516 S.E.2d at 886.

Here, in the presence of a law enforcement officer and with the speakerphone on, the informant called his drug supplier and requested a delivery. The informant then told officers that a man named Tare (Walker's first name) would arrive in a rental vehicle, provided a description of Tare, explained that Tare would park in the

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informant's driveway or in front of the house, and stated that Tare likely would have a child with him.

Walker later arrived and parked in the informant's driveway. He fit the informant's description of the drug supplier and he had a small child with him. These details matching the informant's description provided sufficient indicia of reliability to establish probable cause and permit the officers to detain and search Walker. *See Earhart*, 134 N.C. App. at 133-34, 516 S.E.2d at 886-87. Accordingly, the trial court properly denied the motion to suppress.

Conclusion

We affirm the trial court's judgment.

AFFIRMED.

Chief Judge McGEE and Judge TYSON concur.

Report per Rule 30(e).