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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA20-59

Filed: 6 October 2020

Catawba County, Nos. 18 CRS 5042, 55427

STATE OF NORTH CAROLINA

v.

ADRIAN JAMAR WELLS

Appeal by Defendant from Judgment entered 17 September 2019 by Judge Karen Eady-Williams in Catawba County Superior Court. Heard in the Court of Appeals 12 August 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Katherine M. McCraw, for the State.

Richard Croutharmel for defendant-appellant.

HAMPSON, Judge.

Factual and Procedural Background

Adrian Jamar Wells (Defendant) appeals from the trial court's Order denying his Motion to Suppress and from Judgment entered 17 September 2019 after

Defendant entered an *Alford*[1] plea for Possession of a Schedule II Controlled Substance. The Record before us tends to show the following:

On 19 September 2018, Investigator J.S. Rector (Investigator Rector) of the Long View Police Department filed an Application for Search Warrant (Application) for 242 21st Street Southwest, Hickory, North Carolina (the Residence). In support of the Application, Investigator Rector identified Defendant as the person to be searched. Investigator Rector averred:

> 1. This AFFIANT spoke with a "Confidential Source" who is assisting the Long View Police Department Narcotic's Division with a subject that is possibly involved in the usage/sales of controlled substance.
>
> 2. This AFFIANT shall refer to this "Confidential Source" as "Source One" . . . .
>
> 3. This AFFIANT knows that "Source One" has provided truthful and reliable information in the past. "Source One" has gave [sic] information on his/her free will about dealings in the past with [Defendant]. Source One was shown a picture of [Defendant] and was able to positively identify [Defendant].
>
> 4. This AFFIANT had received information from "Source One" that [Defendant] resides at [the Residence] and that subject(s) were thought to be selling controlled substances inside/outside the residence.
>
> 5. This AFFIANT was able to check a law enforcement information site where this AFFIANT saw that [Defendant] has listed [the Residence] as residency in the past.

[1] *See North Carolina v. Alford*, 400 U.S. 25, 37-39, 27 L. Ed. 2d 162, 171-72 (1970) (allowing a defendant to plead guilty while maintaining his factual innocence).

> 6. This AFFIANT along with "Source One" and within the past seventy two (72) hours were able to travel to the residence located at 242 21st Street Southwest, Hickory, NC, 28602. On the date that "Source One" traveled to the residence, "Source One" and this AFFIANT along with Investigator Jones from the Long View Police Department Narcotic's Division met with "Source One" prior for a briefing. At this briefing, this AFFIANT gave "Source One" a recording device and pre-recorded US Currency for "Source One" to travel to the residence of 242 21st Street Southwest, Hickory, NC, 28602. Once at the residence, "Source One" was able to purchase a suspected amount of cocaine base from [Defendant]. "Source One" was debriefed on what had taken place and gave the evidence that was purchased to Investigator Jones.

Based on the Application, the same afternoon, a Catawba County Magistrate issued a Search Warrant (Warrant).[2] On 21 September 2018, Investigator Rector and additional members of the Long View Police Department Narcotics Division executed the Warrant. The Long View Police Department seized from the Residence: a black and silver semiautomatic pistol with a magazine containing thirteen rounds of ammunition; a partial box of .40 caliber ammunition; a piece of "marijuana cigarette"; a multicolored smoking pipe with residue; several pieces of a hard, white-rock-like substance; a single round of ammunition; and $815.00 in U.S. currency. On 5 December 2018, a grand jury indicted Defendant on charges of Possession with Intent

[2] The Application and Warrant are actually contained on a single form (AOC-CR-119). In addition, there are approximately eight pages of attachments to the Warrant and Application specifically identifying the premises to be searched, items to be seized, and allegations supporting probable cause for issuance of the Warrant.

to Manufacture, Sell, or Deliver (PWIMSD) Cocaine and Possession of a Firearm by a Convicted Felon.

On 26 March 2019, Defendant filed a Motion to Suppress the evidence seized pursuant to the search, arguing the Warrant was not supported by probable cause. On 10 June 2019, the trial court heard Defendant's Motion and entered its written Order Denying Motion to Suppress (Order) on 12 June 2019. In its Order, the trial court made the following relevant Findings of Fact:

> 3. Investigator J.S. Rector set forth in his affidavit contained within the warrant that he had over 600 hours of basic law enforcement training which included the laws of arrest, search and seizure, criminal investigations, drug identification and recognition.
>
> 4. Investigator Rector had more than seven years law enforcement experience at the time of the state of probable cause. He was certified by the State of North Carolina as a law enforcement officer and was a sworn law enforcement officer with the Long View Police Department's Narcotics/Vice Division. Since being assigned to the Long View Police Department's patrol in the Narcotics/Vice Division, he had received further training in utilizing informants, interviewing informants, Defendants and witnesses and conducting narcotics investigations either overtly or covertly.
>
> 5. Investigator Rector had become familiar with the drug community and their methods of operation and had conducted investigations similar to the one in this case. Investigator Rector was familiar with the practices, methods and identification of individuals using and selling controlled substances. He was familiar in the areas of identification of drugs, use of informants, preparation of search warrants and drug interdiction.
>
> . . . .

13. In the present case Investigator Rector provided in his affidavit the arguably conclusory statement that "Source One" had provided truthful and reliable information in the past. However, this assertion is bolstered by the further statement that "Source One" had given information on his/her own free will about dealings in the past with [Defendant] and by the further statement that Source One was shown a picture of [Defendant] and was able to positively [identify] him. The statements by Source One in some ways amount to an admission against his own penal interest. In other words, Source One is advising police investigators that he has had past "dealings" with a suspect under investigation for usage/sales of controlled substances, which may, in turn, lead police to potentially develop Source One as a suspect in the same illegal activity.

14. Furthermore, Source One was willing to and did participate in a controlled buy with Investigators from the Long View Police Department, which would indicate to police that he was familiar with Defendant and the subject address. This fact tends to substantiate and corroborate Source One's statement that he/she had dealings with Defendant in the past, that Defendant was selling controlled substances inside/outside the residence, and further, that he/she had developed the necessary level of trust and was thereby able to engage in a purchase of cocaine from the residence where Defendant was located.

. . . .

17. This case is distinguishable from a case wherein the totality of the probable cause was based upon a Confidential Informant's hearsay information. This affidavit does not rest on hearsay alone to establish probable cause, and therefore the credibility and reliability of Source One is somewhat irrelevant. The information provided by Source One is of course supplemented by the controlled buy which "Source One" participated in within 72 hours prior to the issuance of the warrant.

18. The controlled buy as set forth in . . . the affidavit lacks the statement that "Source One" was searched prior to the buy and

> was searched after. Source One may have been searched before and after the controlled buy and although it would have been a better practice for Investigator Rector to state such in writing if it was the case, the lack of a statement regarding this before and after search is not fatal to the warrant. This finding is in accord with *State v. McLeod*, 36 N.C. App. 469 (1978).
>
> 19. The facts establishing probable cause in this search warrant far exceed those in *State v. Hamlin*, 36 N.C. App. 605 (1978), where the Court found that probable cause did exist and the search warrant was valid.
>
> . . . .
>
> 21. Source One's reliability and whether or not he/she had provided truthful and reliable information in the past is somewhat made unnecessary by the fact that these officers conducted a controlled purchase of cocaine from the Defendant using this Confidential Informant.
>
> 22. The statement of facts regarding the controlled buy did not contain every specific detail of what took place on that occasion, but it provided sufficient facts, especially in light of the other facts set forth in the affidavit, to support the magistrate's conclusion that probable cause existed.
>
> 23. This Court does not evaluate each fact set forth in the affidavit independently, but rather, takes them as a whole. Under such scrutiny and viewing these facts together with the training and experience of Investigator Rector using a totality of the circumstances test, it is clear that this warrant had the requisite probable cause.

Based upon its Findings, the trial court entered Conclusions of Law determining the Warrant and Investigator Rector's affidavit supporting the Application "provided the requisite probable cause justifying issuance of the search warrant." Specifically, the trial court concluded:

> 1. Sufficient detail was provided in the affidavit to assure the magistrate of Source One's reliability.
>
> 2. Even if there wasn't sufficient detail provided in the affidavit to assure the magistrate of Source One's reliability, the information provided in that regard, coupled with the remaining information provided, including, but not limited to, the facts regarding the controlled purchase of cocaine from Defendant and from the subject residence within the 72 hours preceding, was sufficient in this case and provided the requisite probable cause justifying issuance of the search warrant.
>
> 3. There was a substantial basis to believe that a fair probability existed that a controlled substance would be found in the residence identified in the search warrant.
>
> 4. Under the totality of the circumstances test the magistrate in this case made a practical, common sense decision given all the circumstances set forth in the affidavit.
>
> 5. None of the Defendant's constitutional rights were violated by the issuance of the search warrant in this case or the resulting search of Defendant and the residence in which he was located.
>
> 6. Defendant's motion to suppress should be denied.

Accordingly, the trial court denied Defendant's Motion to Suppress.

On 17 September 2019, Defendant entered an *Alford* plea to one count of Possession of a Schedule II Controlled Substance. Pursuant to Defendant's plea, the trial court dismissed the charges of Possession of a Firearm by a Felon and PWIMSD Cocaine. The trial court sentenced Defendant to five to fifteen months imprisonment; however, the trial court suspended Defendant's active sentence and imposed thirty-six months of supervised probation with special conditions. As part of the written

Transcript of Plea, Defendant specifically reserved his right to appeal the denial of his Motion to Suppress. Defendant gave oral Notice of Appeal upon entry of judgment against him. Defendant also filed written Notice of Appeal on 26 September 2019 from the denial of the Motion to Suppress.

Appellate Jurisdiction

"An order finally denying a motion to suppress evidence may be reviewed upon an appeal from . . . a judgment entered upon a plea of guilty." N.C. Gen. Stat. § 15A-979(b) (2019). To preserve the right to appeal, the defendant must notify his intent to appeal to both the State and trial court before plea negotiations are finalized. *State v. Reynolds*, 298 N.C. 380, 397, 259 S.E.2d 843, 853 (1979). Here, Defendant preserved his right to appeal the Order by properly noticing his intent to appeal prior to entering the plea agreement and by his subsequent, timely Notice of Appeal from the Judgment itself pursuant to N.C.R. App. P. 4.

Issue

The sole issue on appeal is whether the trial court properly denied Defendant's Motion to Suppress based on its conclusion issuance of the Warrant was supported by probable cause.

Analysis

I. Standard of Review

When reviewing the denial of a motion to suppress, "the reviewing court must determine whether competent evidence supports the trial court's findings of fact and whether the findings of fact support the conclusions of law." *State v. Williams*, 366 N.C. 110, 114, 726 S.E.2d 161, 165 (2012) (citations and quotation marks omitted). "The trial court's findings of fact on a motion to suppress are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting." *Id.* (citations and quotation marks omitted). The trial court's conclusions of law are reviewed de novo. *Id.* (citation omitted).

II. Motion to Suppress

Defendant challenges several of the trial court's Findings of Fact and contends through the challenged Findings there is not competent evidence to establish (1) Source One's reliability and (2) the purchase of suspected cocaine was in fact a "controlled buy." Defendant then argues the challenged Findings of Fact do not support any of the trial court's Conclusions of Law.

A. Findings of Fact

Defendant specifically challenges the trial court's Findings 13, 14, 17, 18, 19, and 21, as not supported by competent evidence. Defendant also challenges Findings 22 and 23, yet contends they are ultimately Conclusions of Law. We agree and review Findings 22 and 23 as such.

Finding 13 states, in challenged part:

> "Source One" had given information on his/her own free will about dealings in the past with [Defendant] . . . The statements by Source One in some ways amount to an admission against his own penal interest. In other words, Source One is advising police investigators that he has had past "dealings" with a suspect under investigation for usage/sales of controlled substances, which may, in turn, lead police to potentially develop Source One as a suspect in the same illegal activity.

Defendant argues the four corners of the Warrant do not support the portion of Finding 13 stating Source One provided statements against his/her penal interest, contending Investigator Rector's use of the word "dealings" in his Affidavit is not specific enough for the trial court to conclude Source One had prior involvement in purchasing drugs from Defendant.

We disagree and conclude in its totality Finding 13 is supported by competent evidence. First, the trial court did not purport, as Defendant argues, to unequivocally find Source One provided a statement against penal interest. The trial court's Finding expressly recognized this—stating "[t]he statements by Source One *in some ways* amount to an admission against his own penal interest." (emphasis added). Our courts have recognized "statements against an informant's penal interests and statements given by an informant with a history of providing reliable information to law enforcement carry greater weight for purposes of establishing reliability." *State v. Benters*, 367 N.C. 660, 665, 766 S.E.2d 593, 598 (2014) (citation omitted). We agree with Defendant's contention Source One's statements were not expressly against Source One's penal interest; however, we disagree with Defendant's proffered

argument that Finding 13 found Source One provided a statement against penal interest. To conclude Finding 13 is not supported by competent evidence on the basis that "dealings" is too vague a term to support an inference Source One had purchased drugs from Defendant before or because the trial court found Source One's statements to only "*in some ways* amount to an admission against his own penal interest" would amount to a hypertechnical reading of the affidavit—a method of review we are cautioned against applying. *State v. Allman*, 369 N.C. 292, 294, 794 S.E.2d 301, 303 (2016) ("Reviewing courts should not invalidate warrant[s] by interpreting affidavit[s] in a hypertechnical, rather than a commonsense, manner." (citation and quotation marks omitted) (alterations in original)).

Further, Defendant did not challenge the portion of Finding 13 finding Source One positively identified Defendant. Instead Defendant contends it is "irrelevant that Source One could identify [Defendant] in a photo because Source One failed to tell Investigator Rector that she had actually purchased drugs from [Defendant]." In his affidavit, Investigator Rector averred " 'Source One' has [given] information on his/her own free will about dealings in the past with [Defendant,]" and Source One positively identified Defendant from a picture. Both of those statements contained in Finding 13 are supported by competent evidence and Defendant does not challenge them on appeal. We conclude Finding 13, therefore, is supported by competent evidence.

In Finding 14, the trial court found:

> Source One was willing to and did participate in a controlled buy with Investigators from the Long View Police Department, which would indicate to police that he was familiar with Defendant and the subject address. This fact tends to substantiate and corroborate Source One's statement that he/she had dealings with Defendant in the past, that Defendant was selling controlled substances inside/outside the residence, and further, that he/she had developed the necessary level of trust and was thereby able to engage in a purchase of cocaine from the residence where Defendant was located.

Defendant contends Finding 14 was not supported by competent evidence because it "assumes as a premise" a controlled drug buy occurred at the Residence and there is not competent evidence the purchase was "controlled."

Investigator Rector's affidavit detailed: (1) He, along with Source One, "within the past seventy two (72) hours were able to travel to the [R]esidence . . . ."; (2) Source One, Investigator Rector, and Investigator Jones from the Long View Police Department Narcotics Division "met with 'Source One' for a prior briefing" where Investigator Rector "gave 'Source One' a recording device and pre-recorded US Currency for 'Source One' to travel to the [R]esidence . . . ."; (3) "[A]t the residence, 'Source One' was able to purchase a suspected amount of cocaine base from [Defendant]"; (4) " 'Source One' was debriefed on what had taken place and gave the evidence that was purchased to Investigator Jones." These same facts are set forth, moreover, in Finding 20, which Defendant does not challenge on appeal. Finding 14 is supported by competent evidence.

Defendant also challenges the portions of the trial court's Finding 17 finding Source One participated in a "controlled buy" for the same reasons set forth in his challenge to Finding 14—"the controlled drug buy was not really controlled." For the reasons set forth in our analysis of Finding 14, *supra*, we also conclude Finding 17 is supported by competent evidence.

Defendant contends the trial court erred in Finding 18: "Source One *may* have been searched before and after the controlled buy . . . ." (emphasis added). Defendant argues the trial court improperly inferred facts not contained in the four corners of the Affidavit. However, looking at *all* of Finding 18, the trial court expressly states: "The controlled buy as set forth in Paragraph 6 of the affidavit lacks the statement that 'Source One' was searched prior to the buy and was searched after." The trial court proceeded to find, however, "the lack of a statement regarding this before and after search is not fatal to the warrant." To the extent the trial court found the Affidavit did not describe a before and after search of Source One, this is supported by competent evidence and by Defendant's own arguments.

The portion of Finding 18 finding the lack of such statement was not fatal to the warrant operates more of a conclusion of law and will be analyzed as such. *See In re Helms*, 127 N.C. App. 505, 510, 491 S.E.2d 672, 675 (1997) ("As a general rule, . . . any determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law." (citations omitted)). In

State v. McLeod, this Court explained "it would be a better practice for officers conducting 'controlled buys' of narcotics to search the individual making the purchase prior to its actually being made and to specifically set forth this fact in the affidavits by which they seek search warrants[,]" but the Court held "[f]ailure to do so in this case was not, however, fatal." 36 N.C. App. 469, 475, 244 S.E.2d 716, 720 (1978). Further, the *McLeod* Court also determined although the affiant did not aver to personally observing the sale of the controlled substances, the warrant sufficiently alleged facts from which a magistrate could determine there was probable cause. *Id.*

Defendant challenges Finding 19 as not supported by competent evidence on the basis the Affidavit did not establish the controlled buy was witnessed by Investigators Rector and Jones. Finding 19 states: "The facts establishing probable cause in this search warrant far exceed those in *State v. Hamlin*, 36 N.C. App. 605 (1978), where the Court found that probable cause did exist and the search warrant was valid." In *Hamlin*, this Court determined "the initial hearsay statement in the affidavit, that the Special Operations Division (SOD) had received information of the sale of PCP, [was] not the focal point of the sworn statement." 36 N.C. App. 605, 607, 244 S.E.2d 481, 482 (1978) (alterations in original). Instead, the Court continued: "Information contained in the officer's affidavit describes a controlled purchase at the premises to be searched. Two SOD officers observed the operative go into the place and come out with PCP of which one of the officers took custody." *Id.*

Hamlin is distinguishable, as Defendant contends, on the basis that the affidavit averred two officers observed the operative enter the premises. However, *Hamlin* is also distinguishable on the basis the initial hearsay statements provided to the officers in that case were not accompanied by additional, corroborating facts supporting indicia of reliability as those in the present case. Thus, the trial court's finding here is not erroneous. Comparing the facts in this case to the facts set forth in *Hamlin*, where this Court determined probable cause existed, we agree with the trial court the facts exceed those in *Hamlin*, particularly considering the case *sub judice* is supported by substantially more facts—unchallenged on appeal—that support the reliability of Source One and his/her familiarity with Defendant.

Defendant next challenges Finding 21, which states "Source One's reliability and whether or not he/she had provided truthful and reliable information in the past is somewhat made unnecessary by the fact that these officers conducted a controlled purchase of cocaine from the Defendant using this Confidential Informant." Defendant contends this Finding is error because Source One's reliability was "established solely based on Investigator Rector's conclusory statement he/she was reliable" and therefore that Finding 21 fails to establish probable cause. We disagree that Source One's reliability was established solely from conclusory statements. The trial court found, again unchallenged, Source One positively identified Defendant and "Investigator Rector also independently corroborated Source One's information that

[Defendant] resided at the [Residence.]" Thus, the trial court's Finding the conclusory statements in the Affidavit were "somewhat made unnecessary" by other, subsequent corroboration is supported by competent evidence.

B. Conclusions of Law

Defendant challenges Findings 22 and 23 and contends they should be reviewed as Conclusions of Law. We agree. Defendant also asserts a blanket challenge to "all of the trial court's conclusions of law," contending it was error for the trial court to determine as the basis for probable cause that Source One was, in fact, reliable and the controlled buy was, in fact, controlled. We review the trial court's conclusions of law de novo. *Williams*, 366 N.C. at 114, 726 S.E.2d at 165. In doing so, we conclude the established facts were sufficient for a magistrate to determine probable cause existed at the time of the issuance of the Warrant, and the trial court did not err in denying Defendant's Motion to Suppress.

In accordance with the United States Supreme Court, North Carolina has adopted the totality-of-the-circumstances test to determine whether there is probable cause to issue a search warrant. *State v. Caddell*, ___ N.C. App. ___, ___, 833 S.E.2d 400, 406 (2019) ("A court determines whether probable cause exists under the Fourth Amendment of the U.S. Constitution and Article 1, Section 20, of the Constitution of North Carolina with a totality-of-the-circumstances test."). Under the totality-of- the-circumstances test, "[a] single piece of evidence may not necessarily be conclusive; as

long as the pieces fit together well and yield a fair probability that a police officer executing the warrant will find contraband or evidence of a crime at the place to be searched, a magistrate has probable cause to issue a warrant." *Allman*, 369 N.C. at 294, 749 S.E.2d at 303. "To determine whether probable cause exists under the totality of the circumstances, a magistrate may draw reasonable inferences from the available observations." *Id.* (alterations, citations and quotation marks omitted). Therefore, as the reviewing court, we are again cautioned "not [to] invalidate warrant[s] by interpreting affidavit[s] in a hypertechnical, rather than a commonsense, manner." *Id.* (citations and quotation marks omitted) (second and third alterations in original).

First, Defendant argues the trial court's conclusion Source One was sufficiently reliable is not supported by the Findings. "It is well established that probable cause may be shown through the use of information provided by informants." *State v. Brody*, 251 N.C. App. 812, 816, 796 S.E.2d 384, 388 (2017). As the parties note, North Carolina courts have generally employed two standards for analyzing an informant's hearsay information as a basis for establishing probable cause: the anonymous-tip standard and the confidential informant standard. "[T]he difference in evaluating an anonymous tip as opposed to a reliable, confidential informant's tip is that the overall reliability is more difficult to establish, and thus some corroboration of the information or greater level of detail is generally necessary." *Id.* at 817, 796 S.E.2d

at 388 (citations and quotation marks omitted) (alteration in original). "An anonymous tip, standing alone, is rarely sufficient, but 'the tip combined with corroboration by the police could show indicia of reliability that would be sufficient to [pass constitutional muster].' " *Benters*, 367 N.C. at 666, 766 S.E.2d at 598-99 (citation omitted). Thus, "[u]nder this flexible inquiry, when a tip is less reliable, law enforcement officers carry a greater burden to corroborate the information." *Id.* at 666, 766 S.E.2d at 599. In contrast, a confidential informant often has established reliability. *See State v. Arrington*, 311 N.C. 633, 642, 319 S.E.2d 254, 260 (1984) ("The fact that statements from the informants in the past had led to arrests is sufficient to show the reliability of the informants."). Regardless of the specific standard for the initial tip, however, the magistrate's probable cause determination is reviewed under the totality of the circumstances. *Caddell*, ___ N.C. App. at ___, 833 S.E.2d at 406.

Here, the Findings of Fact establish the information provided by Source One was more than an anonymous tip. The trial court found Source One provided Investigator Rector with the information on his/her own free will, and Source One was known to Investigator Rector. Source One positively identified Defendant from a photograph as the individual he/she had prior "dealings" with. Furthermore, Source One provided Investigator Rector the address for the Residence from which Defendant operated—a fact Investigator Rector independently corroborated. *See*

Brody, 251 N.C. App. at 816, 796 S.E.2d at 388 ("The indicia of reliability of an informant's tip may include (1) whether the informant was known or anonymous, (2) the informant's history of reliability, and (3) whether information provided by the informant could be independently corroborated by the police." (citations and quotation marks omitted)). Thus, the information provided by Source One was not "an anonymous tip, standing alone[.]" *Benters*, 367 N.C. at 666, 766 S.E.2d at 598. The trial court's Findings establish indicia of reliability; therefore, the trial court's conclusion Source One was reliable is supported by the Findings.

Defendant also challenges the trial court's conclusion regarding the controlled buy of cocaine from Defendant at the Residence.

Defendant asserts the same argument regarding the lack of "control" of the controlled buy as he did in challenging the above Findings of Fact. Again, we disagree. This Court has emphasized it is "better practice for officers conducting 'controlled buys' of narcotics to search the individual making the purchase prior to its actually being made and to specifically set forth this fact in the affidavits by which they seek search warrants." *McLeod*, 36 N.C. App. at 475, 244 S.E.2d at 720. However, like the *McLeod* Court, we conclude the "[f]ailure to do so in this case was not . . . fatal." *Id.* The controlled buy was not the sole basis for the trial court's determination probable cause existed.

The trial court's findings, conclusive on appeal, established Investigator Rector "had more than seven years law enforcement experience at the time of the statement of probable cause[ ]" and that Investigator Rector "was familiar in the areas of identification of drugs, use of informants, preparation of search warrants and drug interdiction." Investigator Rector had personal knowledge "that 'Source One' has provided truthful and reliable information in the past[,]" and " 'Source One' has given information on his/her own free will about dealing in the past with [Defendant]." Moreover, Investigator Rector independently corroborated Source One's information pertaining to Defendant's residence. Investigator Rector and Investigator Jones initiated a controlled buy at the Residence pursuant to Source One's information. Although the Affidavit did not reflect whether Investigators Rector and Jones searched Source One before and after the purchase or observed the transaction, Source One was "briefed" and "debriefed," given a recording device and a prerecorded amount of U.S. Currency, and purchased suspected cocaine, which Source One turned over to Investigator Jones.

Applying a common-sense reading to the Application and Warrant and considering the totality of the circumstances, "the magistrate in this case had a substantial basis to conclude that probable cause existed[.]" *Allman*, 369 N.C. at 298, 794 S.E.2d at 306. We conclude, therefore, the preceding facts as established by the

trial court are supported by the evidence, conclusive on appeal, and support the trial court's denial of Defendant's Motion.

Conclusion

Accordingly, based on the foregoing reasons, we affirm the trial court's denial of Defendant's Motion to Suppress and Judgment entered pursuant to Defendant's *Alford* plea.

AFFIRMED.

Judge YOUNG concurs.

Judge MURPHY concurs in result only.

Report per Rule 30(e).