



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-18-00425-CR

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**MANSOOR ABDUL RASOOL AKA VINCENT BRYANT SIMS, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 121st District Court  
Terry County, Texas  
Trial Court No. 7394, Honorable John A. Didway, Presiding

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April 8, 2020

**MEMORANDUM OPINION**

Before **PIRTLE** and **PARKER** and **DOSS, JJ.**

Appellant, Mansoor Abdul Rasool, appeals his conviction following his plea of guilty to the offense of possession with intent to deliver cocaine.<sup>1</sup> In his sole issue on appeal, he contends the trial court erred when it denied his motion to suppress evidence. We disagree, and affirm the judgment of the trial court.

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<sup>1</sup> See TEX. HEALTH & SAFETY CODE ANN. § 481.112(a), (d) (West 2017).

## Background

On June 16, 2017, an investigator for the Brownfield Police Department signed an affidavit for a search warrant pertaining to a home located at 1015 North 2nd Street in Brownfield. In his affidavit, the officer alleged that it was suspected that appellant had possession of and was concealing at the premises cocaine and other controlled substances. The affidavit testimony also included the following information:

- The officer knew appellant to reside at the premises and knew appellant had a past conviction for possession of a controlled substance.
- In February of 2017, a Brownfield Police Department officer was contacted by a source who reported ongoing narcotic trafficking at 1015 North 2nd Street. The source advised that a woman named Tina lived at the premises, drove a red vehicle, and delivered narcotics to area users.
- In April of 2017, officers conducted a traffic stop of a vehicle that had been parked at 1015 North 2nd Street. The driver of the vehicle had crack cocaine, which the driver stated had been purchased from a black male at the address.
- In May of 2017, a Brownfield police officer contacted a second source, who advised the officer that the source had purchased crack cocaine from a man called "Ting-a-Ling" at the address.
- The affiant knew that one of appellant's aliases is Ting-a-Ling.
- In May of 2017, a Brownfield police officer contacted a third source, who advised the officer that the source and others had purchased crack cocaine from Ting-a-Ling in the past, both at the address and via delivery. The source stated that Ting-a-Ling sold crack cocaine and methamphetamine. According to the source, Ting-a-Ling had a girlfriend named Tina who drove a red car and helped Ting-a-Ling in his narcotics business.
- The affiant and other officers had conducted surveillance on the premises over the previous few months and had observed appellant at the location.
- On the evening of June 13, 2017, Brownfield police officers arrested Tina Guerrero, who lived at 1015 North 2nd Street, for manufacturing and delivery of cocaine, possession of methamphetamine, and possession of marijuana. Tina was driving a red vehicle registered to

appellant at the address of 1015 North 2nd Street. During the investigation, appellant arrived on the scene to check on Tina and the vehicle. Tina and appellant had established themselves as intimate partners.

Based on these facts, the officer believed that appellant and Tina were selling crack cocaine and methamphetamine at the premises in question. A magistrate signed the search warrant. Pursuant to the warrant, Brownfield police searched the residence on June 18, 2017, and found a quantity of cocaine.

Appellant was indicted for the felony offense of possession with intent to deliver cocaine in an amount of four grams or more but less than 200 grams, with enhancements for two prior felony convictions. Appellant filed a pretrial motion to suppress the evidence seized pursuant to the search warrant. In the motion, he argued that the affidavit in support of the search warrant relied on “hearsay statements of three unnamed, unverified informants about alleged past criminal activity in the house.” Appellant asserted that the search was not conducted pursuant to a sufficient warrant and was therefore unconstitutional.

After reviewing the evidence and hearing the arguments of counsel, the trial court denied appellant’s motion to suppress. The trial court entered findings of fact and conclusions of law, in which it stated, “Considering the totality of the circumstances within the four corners of the affidavit, there was probable cause to support the issuance of the search warrant.”

After the motion was denied, appellant entered a plea of guilty pursuant to a plea agreement with the State. Appellant also pleaded true to the two enhancement allegations. He was sentenced to serve twenty-five years in the Texas Department of

Criminal Justice. Appellant now appeals, challenging the trial court's denial of his motion to suppress.

### Standard of Review

Ordinarily, we review a trial court's ruling on a motion to suppress under a bifurcated standard, giving almost total deference to the facts found by the court and reviewing de novo its application of the law. *Amador v. State*, 221 S.W.3d 666, 673 (Tex. Crim. App. 2007). But when a trial court determines whether there was sufficient probable cause to support a search warrant, the court is constrained to the four corners of the affidavits, and there are no credibility determinations to be made. *State v. McLain*, 337 S.W.3d 268, 271 (Tex. Crim. App. 2011). Consequently, and because of the constitutional preference for searches to be conducted pursuant to a warrant as opposed to a warrantless search, we apply a highly deferential standard when we review a magistrate's decision to issue a warrant. *Id.* We will uphold the magistrate's probable cause determination as long as the magistrate had a substantial basis for concluding that probable cause existed. *Id.*

Under Texas law, "[n]o search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance." TEX. CODE CRIM. PROC. ANN. art. 18.01(b) (West Supp. 2019). To establish probable cause, the affidavit must show "(1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or

thing to be searched.” TEX. CODE CRIM. PROC. ANN. art. 18.01(c) (West Supp. 2019). “The facts stated in a search affidavit ‘must be so closely related to the time of the issuance of the warrant that a finding of probable cause is justified.’” *McLain*, 337 S.W.3d at 272 (quoting *Flores v. State*, 827 S.W.2d 416, 418 (Tex. App.—Corpus Christi 1992, pet. ref’d)).

When we review a search warrant affidavit under the “substantial basis” standard, we interpret the affidavit in a commonsensical and realistic manner, and we defer to all reasonable inferences that a magistrate could have drawn. *Rodriguez v. State*, 232 S.W.3d 55, 61 (Tex. Crim. App. 2007); *Jones v. State*, 338 S.W.3d 725, 733 (Tex. App.—Houston [1st Dist.] 2011) (op. on reh’g), *aff’d*, 364 S.W.3d 854 (Tex. Crim. App. 2012). We must determine whether there are sufficient facts stated within the four corners of the affidavit, coupled with inferences from those facts, to establish a “fair probability” that contraband or evidence of a particular crime will likely be found at a specified location. *Jones*, 338 S.W.3d at 733 (citing *Rodriguez*, 232 S.W.3d at 62). We consider the totality of the circumstances, which include whether anonymous tips have been corroborated by independent police work. *Illinois v. Gates*, 462 U.S. 213, 238, 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983); *Rodriguez*, 232 S.W.3d at 62.

### Analysis

Appellant contends that the search warrant affidavit was not enough to show probable cause. He bases his argument, in part, on the assertions that the three unnamed sources of information are not shown to be credible or reliable, that the information they provided was not sufficiently corroborated by the police, and that the information was stale.

The State contends that, while the information from each source may not be enough to establish probable cause on its own, the three sources taken together, along with the independent work done by the Brownfield Police Department, combine to create sufficient probable cause.

Although information from an unnamed informant alone may not establish probable cause, an informant's tip, combined with independent police investigation, may provide a substantial basis for the probable-cause finding. *Elardo v. State*, 163 S.W.3d 760, 767-68 (Tex. App.—Texarkana 2005, pet. ref'd). Corroboration by independent police investigation means that, "in light of the circumstances, the officer confirms enough facts to reasonably conclude that the information provided is reliable and a detention is justified." *Jones v. State*, 949 S.W.2d 509, 515 (Tex. App.—Fort Worth 1997, no pet.). However, corroboration of only innocent details is usually insufficient. *Elardo*, 163 S.W.3d at 768 (citing *Davis v. State*, 144 S.W.3d 192, 200 (Tex. App.—Fort Worth 2004, pet. ref'd)).

Here, the Brownfield police began an investigation following the first tip received in February. In April, police stopped a vehicle after it left the premises in question. During this stop, the driver admitted purchasing the crack cocaine discovered in his possession at the premises, an admission which tended to corroborate the first source's statement that drugs were being sold at the house. Then, in June, Tina was stopped. Drugs were found in her possession, which tended to corroborate the sources' statements that Tina was involved in selling drugs. In addition, the investigators established that appellant lived at the house, appellant owned the car Tina was driving, and appellant and Tina were in a relationship. Both stops, when combined with this knowledge, substantiated the

statements that the house was a site of drug activity. Because the affidavit sets out independent observations supporting the reliability of the sources' statements, the magistrate could have reasonably credited the sources. See *State v. Duarte*, 389 S.W.3d 349, 357 (Tex. Crim. App. 2012) (stating that "tips from anonymous or first-time confidential informants of unknown reliability must be coupled with facts from which an inference may be drawn that the informant is credible or that his information is reliable.").

Moreover, the magistrate could have deemed the second and third sources of information to be reliable because their knowledge came about through personal observations. See *Lockett v. State*, 879 S.W.2d 184, 188 (Tex. App.—Houston [14th Dist.] 1994, pet. ref'd). These two informants both admitted to personally buying crack cocaine from the premises, giving them firsthand knowledge that drugs were sold there.

As to appellant's complaint that the information was stale, we note that the affidavit in question refers to a series of events, beginning with a tip in February of 2017 and culminating with the arrest of appellant's girlfriend, Tina, in June of 2017. The information related in the affidavit pointed to an active, ongoing drug enterprise, not to isolated criminal infractions. We have recently observed that "time is a less important consideration when the observations recited within the affidavit depict ongoing or continuing drug activity at a suspect's residence." *State v. Janssen*, 592 S.W.3d 530, 536 (Tex. App.—Amarillo 2019, no pet.); see *Jones v. State*, 364 S.W.3d 854, 860 (Tex. Crim. App. 2012). Therefore, we are not persuaded that the information relied on was too stale to support a finding of probable cause.

Appellant also alleges that the only matter in the affidavit meeting general standards of temporal proximity is the stop and arrest of Tina Guerrero, but that the stop

provided no physical nexus to appellant, his residence, and the contraband sought. If viewed in isolation, the information gathered from this stop would not support probable cause. However, we do not view the pieces of evidence in isolation. In reviewing a magistrate's determination as to the adequacy of the probable-cause affidavit, we review the totality of the facts and circumstances presented in a commonsensical and realistic manner, all while deferring to reasonable inferences that the magistrate could have made. *Rodriguez*, 232 S.W.3d at 61.

By the time of Tina's arrest in June, the Brownfield police had spoken to three different sources of information who indicated ongoing drug activity by appellant and Tina, conducted surveillance of the premises, and stopped a driver who had just purchased crack cocaine at the premises. Given the totality of the circumstances, the affidavit established a fair probability that evidence relating to the possession or sale of narcotics would be found there. See *Janssen*, 592 S.W.3d at 536.

We conclude that the magistrate had a substantial basis to determine that probable cause existed. Therefore, the trial court did not err in denying appellant's motion to suppress the evidence obtained pursuant to the search warrant.

#### Conclusion

Having overruled appellant's sole issue, we affirm the judgment of the trial court.

Judy C. Parker  
Justice

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