

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20060291-CA
v.)	
)	F I L E D
Todd Dixon,)	(May 24, 2007)
)	
Defendant and Appellant.)	2007 UT App 179

Fourth District, Provo Department, 041404092
The Honorable Samuel D. McVey

Attorneys: Margaret P. Lindsay and Julia Thomas, Orem, for
Appellant
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake
City, for Appellee

Before Judges Bench, McHugh, and Thorne.

PER CURIAM:

Defendant Todd Dixon appeals his convictions of theft and burglary. Defendant challenges the search warrant issued by a magistrate to search his residence, claiming that the magistrate did not have sufficient probable cause to issue the warrant and that all evidence obtained thereby must be suppressed.

The district court determined that the magistrate had sufficient probable cause and denied Defendant's motion to quash the search warrant. In our review of the magistrate's decision to issue a search warrant, we consider only whether the magistrate had "a substantial basis for his probable cause determination," and "in so doing, we must afford the magistrate great deference and consider the affidavit relied upon by the magistrate in its entirety and in a common sense fashion." State v. Saddler, 2004 UT 105, ¶7, 104 P.3d 1265 (quotations and citations omitted). In reviewing the validity of a search warrant, "excessive technical dissection of an informant's tip or of the nontechnical language in the officer's affidavit is ill-suited to this task." Id. (quotations and citation omitted).

A magistrate may issue a search warrant only upon a determination of probable cause supported by an oath or affirmation. See U.S. Const. amend. IV; Utah Const. art. I, § 14. In determining whether probable cause exists, a magistrate must make "a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." Illinois v. Gates, 462 U.S. 213, 238 (1983) (quotations omitted).

Defendant argues that the warrant to search his residence should not have been issued because the supporting affidavit contained uncorroborated information from a confidential informant. We recognize that "an informant's reliability and basis of knowledge are but two relevant considerations, among others," but such considerations "are not strict, independent requirements to be rigidly exacted in every case." Saddler, 2004 UT 105 at ¶11 (quotations and citation omitted). Rather, we consider whether the affidavit, "viewed in its entirety and in a common sense fashion, . . . sets forth sufficient underlying circumstances to support the reliability and credibility of the confidential informant and [the police's] corroborative efforts." Id. at ¶16.

Here, the affidavit supporting the warrant relied upon a confidential informant who claimed that Defendant possessed stolen property.¹ The informant had actually observed several items, including certain license plates, on Defendant's premises that the informant believed to be stolen. The affidavit also details the information obtained through the subsequent police investigation, which corroborates and develops the claims of the informant. Using an actual license plate provided by the

¹Defendant places much emphasis on the argument that the information relied upon in this case came from a "confidential informant" rather than a "citizen informant." Defendant does not offer much detail in regard to why the informant in this case should be characterized as one or the other. Moreover, Defendant ignores the district court's express determination that, "[a]ssuming for the sake of argument that the [c]ourt adopts these assertions, the court still finds that [the magistrate] had a substantial basis to find that the officer's affidavit sets forth facts sufficient to establish probable cause." While we also hesitate to apply a presumption of reliability or veracity "where we are provided with little background information about the informan[t]," State v. Poulson, 2006 UT App 77, n.1 (mem.), this does not alter the outcome of Defendant's appeal.

informant, the officer was able to determine that the license plate had in fact been stolen. The officer also determined that another license plate the informant described had been stolen. The officer then confirmed the location of Defendant's residence.

The police investigation tended to support the essence of the informant's claims regarding the possession of stolen property. Accordingly, we hold that the magistrate had a basis to conclude that from a practical, common sense view of these circumstances, there would be a "fair probability that contraband or evidence of a crime [would] be found" in Defendant's residence. Gates, 462 U.S. at 238.

We affirm.

Russell W. Bench,
Presiding Judge

Carolyn B. McHugh, Judge

William A. Thorne Jr., Judge