

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellant,)		
)	Case No. 20080946-CA	
v.)		
)	F I L E D	
Jesse Valdez,)	(March 18, 2010)	
)		
Defendant and Appellee.)	<table border="1"><tr><td>2010 UT App 63</td></tr></table>	2010 UT App 63
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Fourth District, Provo Department, 081402004
The Honorable James R. Taylor

Attorneys: Mark L. Shurtleff and Christine F. Soltis, Salt Lake City, for Appellant
Margaret P. Lindsay, Spanish Fork; and Richard P. Gale and Michael S. Brown, Provo, for Appellee

Before Judges Davis, McHugh, and Orme.

ORME, Judge:

Even if we disregard the hearsay statement by the testifying officer describing the exact location where the large baggie of methamphetamine was discovered, the remaining evidence presented at the preliminary hearing was sufficient to establish probable cause to bind Defendant over given the very unique circumstances of this case. Simply stated, the prosecution presented sufficient evidence "to support a reasonable belief that [Defendant] committed the charged crime." State v. Virgin, 2006 UT 29, ¶ 17, 137 P.3d 787. Viewing the evidence "in a light most favorable to the prosecution" and drawing all reasonable inferences "in the prosecution's favor," State v. Schroyer, 2002 UT 26, ¶ 10, 44 P.3d 730 (citation and internal quotation marks omitted), the statement in question was simply not needed to establish probable cause given the peculiar facts at hand.

Because we determine that the other evidence presented was sufficient to bind Defendant over, we do not reach the argument that the magistrate erred in his interpretation of the "reliable hearsay" rule. See Utah R. Evid. 1102. The magistrate's decision is reversed, and the case is returned to the magistrate

with instructions to reinstate the information and bind Defendant over for trial.

Gregory K. Orme, Judge

WE CONCUR:

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge