IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. JOHN DAVID HOUCK, Appellant.	No. 38706-9-II UNPUBLISHED OPINION

Armstrong, J. — John Houck appeals his Jefferson County convictions of possession of marijuana with intent to deliver and second degree possession of stolen property. He contends that the trial court should have suppressed the evidence seized during a search of his residence because the affidavit supporting the warrant did not show that the officer had the ability to recognize the odor of marijuana. We affirm.

FACTS

On April 18, 2008, Jefferson County Sheriff's Deputy Mark L. Apeland requested a warrant to search John Houck's trailer. In the supporting affidavit, Deputy Apeland stated that he had received information that Houck was dealing marijuana from the trailer. He said that he went to the trailer to make a "knock and talk" contact. Clerk's Papers at 27. As he stood at the

door, he detected the odor of marijuana coming from the trailer. When he knocked and identified himself, a person inside latched the deadbolt and refused to come out. He spoke to Della Lowe, Houck's grandmother, who informed him that she was the land owner and that Houck owned the trailer.

Deputy Apeland also listed his professional background and training, stating that he had been responsible for, or assisted with, investigations and arrests of suspects in a broad range of crimes including violations of the uniform controlled substances act, chapter 69.50 RCW. Many of his investigations included search warrants, and he had been present during the preparation and execution of search warrants relating to violations of the uniform controlled substances act, including possession of marijuana. He had completed training at the Washington State Criminal Justice Training Commission's Basic Law Enforcement Academy, and he had also received training in crime scene investigations, K-9 narcotics investigation, and Drug Enforcement Agency (DEA) basic drug investigations.

A Jefferson County judge issued a telephonic warrant, and the search turned up marijuana, drug paraphernalia, a ledger, scales, and stolen catalytic converters.[1] The possession charges followed. When the court denied Houck's motion to suppress the evidence found in the trailer, he waived his right to a jury trial, and the court found him guilty as charged.

ANALYSIS

A trial court's legal conclusion regarding whether evidence meets the probable cause

[1] The deputy requested and received an expanded search warrant for the catalytic converters.

standard is reviewed de novo. *In re Det. of Peterson*, 145 Wn.2d 789, 799, 42 P.2d 952 (2002). An affidavit is sufficient to support a search warrant if it recites objective facts and circumstances, which if believed, would lead a neutral and detached person to conclude that more probably than not, evidence of a crime will be found if a search takes place. *Peterson*, 145 Wn.2d at 797. The concept of probable cause requires the existence of reasonable grounds for suspicion supported by circumstances sufficiently strong to warrant a man of ordinary caution to believe the accused is guilty of the indicated crime. *State v. Clark*, 143 Wn.2d 731, 748, 24 P.2d 1006 (2001).

An affidavit supporting probable cause must be based on more than mere suspicion or personal belief. *State v. Neth*, 165 Wn.2d 177, 183, 196 P.2d 658 (2008). However, the affidavit should be evaluated in a commonsense manner, rather than hyper-technically. *Neth*, 165 Wn.2d at 182. And the magistrate or judge evaluating the request is entitled to make reasonable inferences from the facts and circumstances set out in the affidavit. *State v. Maddox*, 152 Wn.2d 499, 505, 98 P.3d 1199 (2004).

When an officer who is trained and experienced in marijuana detection actually detects the odor of marijuana, this by itself provides sufficient evidence to constitute probable cause justifying a search. *State v. Olson*, 73 Wn. App. 348, 356, 869 P.2d 110 (1994). Houck argues that Deputy Apeland's affidavit is insufficient to establish such training and experience. He asserts that the only reference to marijuana concerns the preparation of warrants and provides no evidence of direct contact with the drug. That is not an accurate description of the affidavit. Deputy Apeland also said that he had participated in the execution of warrants involving

marijuana. Moreover, it was reasonable for the judge who issued the warrant to infer that the deputy's K-9 and DEA training included the detection of marijuana.

The warrant was properly issued, and the trial court correctly denied the motion to suppress. The judgment is affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Armstrong, J.

We concur:

Bridgewater, J.

Penoyar, J.