STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0906

State of Minnesota,
Respondent,

vs.

Oscar Barrios-German,
Appellant.

Filed April 16, 2018
Affirmed
Halbrooks, Judge

Ramsey County District Court
File No. 62-CR-16-7906

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, Maggie M. Gibson (certified student attorney), St. Paul, Minnesota (for respondent)

Mark D. Kelly, Law Offices of Mark D. Kelly, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Connolly, Judge; and Reilly, Judge.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Following his convictions of first-degree controlled-substance possession and first-degree controlled-substance sale, appellant argues that the district court abused its discretion by denying his motion to suppress evidence obtained through an allegedly

unlawful search warrant and that the circumstantial evidence is insufficient to support his convictions. We affirm.

FACTS

Agent John Mott, from the Dakota County Sheriff's Department, investigates the illegal possession, manufacture, and distribution of controlled substances. In September 2016, a confidential reliable informant (CRI) contacted Agent Mott and reported two brothers known as "Rafael" and "Oscar" who were selling large quantities of methamphetamine. The CRI provided Agent Mott with Facebook pages for a "Rafael Quintero" and an "Oscar Barrios." Agent Mott retrieved photographs from those pages, and the CRI confirmed that the male the CRI knew as "Rafael" matched the photograph from the Rafael Quintero Facebook account. Agent Mott identified Rafael Quintero by his actual name—C.H.-Z.—but he could not identify Oscar Barrios.

The CRI participated in three controlled buys of methamphetamine from C.H.-Z. during September and October 2016 using pre-documented currency provided by the Dakota County Drug Task Force (DTF). During one purchase, C.H.-Z. displayed a handgun, told the CRI that he worked directly with Mexican drug kingpin "El Chapo," and said that he would soon be making a trip to Sinaloa, Mexico.

During another purchase, C.H.-Z. advised the CRI that he did not have enough methamphetamine to fill the CRI's order. But C.H.-Z. told the CRI that he could go to another location, get the remaining methamphetamine, and return. The CRI agreed to buy the rest of the methamphetamine later, but he purchased one-half of the amount he wanted and left C.H.-Z.'s apartment.

After the CRI left C.H.-Z.'s apartment, DTF agents observed C.H.-Z. get into a pick-up truck. C.H.-Z. then called a phone number listed to a "Carme Hernandez" and drove to a secured apartment building at 2318 Silver Lane NE in New Brighton. Through cell-phone analysis, the agents also determined that a female, C.C., was in a relationship with an "Oscar Barrios."

That same day, the agents obtained the New Brighton apartment rental list, learned that C.C. rented unit 206, and retrieved a lock-box key to enter the building. After entering, and while standing in the common hallway, the agents collected a swab specimen from unit 206's door using a model 400B Smith Ion Detection Narcotics unit. The swab later tested positive for cocaine.

During his investigation, Agent Mott discovered that C.C.'s Facebook page contained photographs of the "Santa Muerte" shrine, which he knew to be a shrine commonly displayed by those involved in drug trafficking, prostitution, smuggling, and other serious criminal activities. Agents had also observed multiple Facebook photographs in which C.H.-Z. and Oscar Barrios posed with firearms. Based on the foregoing information, Agent Mott applied for a nighttime, no-knock search warrant for apartment 206, and a district court judge authorized it.

Agents executed the search warrant at approximately 3:45 a.m. on November 4, 2016. C.C. and appellant Oscar Barrios-German were present in the apartment. Inside a hallway closet, underneath a cut-out floor section, DTF commander James Gabriel found a candy bag. Inside the candy bag, he found methamphetamine. Inside a different closet, he found a duffel bag containing a Mexican passport in Barrios-German's name.

In a different hallway closet, Agent Kyle Linscheid found two stuffed animals, both of which contained large amounts of money. He also found a box containing a large amount of money and documents in a bedroom closet in Barrios-German's name.

Agent Phil Windschitl searched one of the apartment's two bedrooms. He found the following items in the top drawer of a dresser: four individual bags of suspected methamphetamine enclosed inside one larger bag, clothing, underwear, boxer briefs, a Wisconsin driver's license issued to Barrios-German, and a large bundle of cash.

Agents also recovered cash used in the controlled buys between the CRI and C.H.-Z. In total, agents found and seized more than 400 grams of methamphetamine and $14,000.

Agent Windschitl used a K9 officer to sniff the exterior of two vehicles—one belonging to C.C. and the other to Barrios-German—that were parked in the apartment parking lot. The K9 officer indicated a presence of controlled substances inside C.C.'s vehicle but not in Barrios-German's.

The state charged Barrios-German with first-degree controlled-substance possession and first-degree controlled-substance sale. Barrios-German moved to suppress all evidence on the ground that the swab of the apartment door constituted an unlawful search. The district court agreed that the swab of the door was unlawful and suppressed the evidence of cocaine obtained from it. But the district court examined the search-warrant application in its entirety and determined that it stated sufficient facts to establish probable cause. Therefore, the district court denied the suppression motion.

Barrios-German subsequently moved for a *Franks* hearing after his attorney discovered that law enforcement had executed a search warrant at C.H.-Z.'s Minneapolis

residence on the same day that the search of the New Brighton apartment was accomplished. The application for the Minneapolis residence search warrant contained facts that were not present in the application for the New Brighton apartment—specifically that C.H.-Z. resided at an address that was different from the New Brighton apartment. Barrios-German argued to the district court that the omission of this information "weaken[ed] the probable cause to believe that drugs would be located in Apartment 206." The district court disagreed, determining that the differences between the two search-warrant applications did not weaken the probable cause to issue the New Brighton apartment warrant. The district court denied Barrios-German's motion for a *Franks* hearing.

Following a bench trial, the district court convicted Barrios-German on both charges. This appeal follows.

D E C I S I O N

I.

Barrios-German contends that the district court abused its discretion by denying his suppression motion because the apartment search-warrant application lacked sufficient facts to establish probable cause and to support a no-knock, nighttime search.

A. Probable Cause

Oscar-Barrios argues that the search warrant lacked probable cause because the affidavit did not provide sufficient facts to establish a reasonable nexus between the methamphetamine and the New Brighton apartment, the informant was not reliable, and the affidavit supporting the warrant omitted the fact that C.H.-Z. lived in Minneapolis.

A search warrant cannot issue without a showing of probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. We review a district court's probable-cause determination under the deferential, substantial-basis standard. *State v. Fawcett*, 884 N.W.2d 380, 384-85 (Minn. 2016). A substantial basis in this context means a "fair probability that contraband or evidence of a crime will be found in a particular place." *State v. Zanter*, 535 N.W.2d 624, 633 (Minn. 1995) (quotation omitted). We determine whether the issuing judge had a substantial basis for finding probable cause by examining the "totality of the circumstances." *State v. Wiley*, 366 N.W.2d 265, 268 (Minn. 1985).

1. Object-Place Nexus

Relying on *State v. Kahn*, Barrios-German argues that the affidavit supporting the apartment search warrant did not provide sufficient facts from which to infer a reasonable nexus between the sale of methamphetamine and that location. 555 N.W.2d 15, 18 (Minn. App. 1996). In *Kahn*, the issuing judge granted a search warrant based on the following facts:

> (1) respondent was arrested for possession of one ounce of cocaine in Minneapolis; (2) the affiant, an expert in the field of drug enforcement, stated that he knew "through training and experience that an ounce of cocaine is considered more [than] that for personal use and indicates that the person possessing that quantity normally sells the drug in smaller quantities"; and (3) that respondent resided at the residence to be searched.

Id. On that record, we determined that there was no probable cause linking the "[defendant's] possession of one ounce of cocaine in Minneapolis to possible evidence or contraband at his residence 75 to 85 miles away in Elgin," reasoning that "[m]ore than

mere possession of an ounce of cocaine is required to demonstrate probable cause that an individual is a dealer and that his home contains evidence or contraband." *Id.*

In *State v. Souto*, the supreme court determined that a search warrant lacked a sufficient nexus between the sale of drugs and the defendant's residence. 578 N.W.2d 744, 749 (Minn. 1998). There, the affidavit supporting the warrant described numerous phone calls between the defendant's residence and a suspected drug dealer's residence and indicated that someone mailed a package containing drugs to the defendant's residence. *Id.* The supreme court concluded that there was not a sufficient nexus because there was "no information as to [the calls'] content" and "no substantive information indicating that [the defendant] in fact received and stored drugs for [the drug dealer] at her home." *Id.*

Here, in contrast to *Kahn* and *Souto*, the district court granted the apartment search warrant based on the following facts that linked the sale of methamphetamine to the apartment: (1) a CRI reported that two brothers, known as "Rafael" and "Oscar," were selling large quantities of methamphetamine; (2) the CRI and Agent Mott identified Rafael as C.H.-Z.; (3) the CRI participated in three controlled buys with C.H.-Z.; (4) C.H.-Z. drove to the New Brighton apartment after telling the CRI during one controlled buy that he could retrieve more methamphetamine from another location; (5) C.H.-Z., while on his way to get additional methamphetamine, called a number listed to a "Carme Hernandez"; (6) C.C. rented apartment 206 in the New Brighton apartment building; (7) law enforcement, using cell-phone analysis, learned that C.C. had a romantic relationship with "Oscar Barrios"; (8) C.C.'s Facebook account displayed the Santa Muerte shrine; and

(9) C.H.-Z. displayed a handgun during one controlled buy and told the CRI that he had ties to Mexican drug kingpin "El Chapo."

Considering the totality of these circumstances, the district court properly concluded that there was a sufficient nexus between the sale of methamphetamine and the New Brighton apartment to support a search warrant. *See State v. Yarbrough*, 841 N.W.2d 619, 622-24 (Minn. 2014) (determining that search warrant affidavit established a sufficient nexus based on "three factual allegations," including that the defendant "previously had been arrested for possession of a controlled substance with intent to distribute," that the defendant was a "crack cocaine dealer," and that the defendant "had brandished a handgun . . . because someone had stolen 'a large amount of crack cocaine from him'"); *Novak v. State*, 349 N.W.2d 830, 833 (Minn. 1984) (determining that there was a sufficient nexus where the affidavit established that the defendant was "involved in the drug business as a wholesaler, that he lived in a residence in Austin, that he had two cars, and that after arranging on the telephone to sell a large amount of marijuana to an undercover officer he left his house, drove around Austin, then drove to Albert Lea and made the sale"); *State v. Yaritz*, 287 N.W.2d 13, 15 (Minn. 1979) (concluding that there was a sufficient nexus because the supporting affidavit for the search warrant indicated that "two controlled sales were arranged by telephone, defendant's house was under surveillance[,] and defendant was observed going straight from his house to the place where the sale took place").

2. Confidential Reliable Informant

In challenging the probable cause underlying the warrant, Barrios-German also attacks the CRI's reliability, reasoning that law enforcement did not corroborate "any

allegations of drug possession or sale by the 'brother' known as 'Oscar'" and the supporting affidavit did not state that the CRI had provided reliable information in the past. If a probable-cause determination is based on an informant's tip, "the informant's veracity and the basis of his or her knowledge are considerations under the totality test." *State v. Ward*, 580 N.W.2d 67, 71 (Minn. App. 1998). Minnesota caselaw provides six factors in reviewing the reliability of an informant who is confidential but not anonymous to police, including: (1) a first-time informant who has not been involved in the criminal underworld is presumed to be reliable so long as the affidavit states that the informant is not involved in criminal activity; (2) the informant has previously given police correct information and the affidavit explicitly states that; (3) there is sufficient police corroboration of the information supplied; (4) the CRI voluntarily comes forward; (5) the affidavit refers to a "controlled purchase," permitting the reviewing judge to presume that law enforcement searched the informant before and after the controlled purchase and surveilled the controlled purchase to the extent feasible; and (6) the CRI makes a statement against his or her penal interest. *Id.*

An issuing magistrate is not required to determine that all six factors are present. For example, in *State v. Demry*, an informant provided the name of an individual transporting drugs, the vehicle's description, and the unique location of the drugs, and the police corroborated these details. 605 N.W.2d 106, 107 (Minn. App. 2000). Citing *Ward*, 580 N.W.2d at 74, we concluded that the informant's information supported a finding of probable cause even though there was no indication that the informant was a first-time

informant not involved in the criminal underworld and no indication of having previously given law enforcement correct information. *Demry*, 605 N.W.2d at 107.

Here, the affidavit supporting the warrant did not state that the CRI was a first-time informant not involved in the criminal underworld or that the CRI had provided correct information in the past. But, as the district court noted, other considerations were satisfied that supported a conclusion that the CRI was reliable. First, the CRI contacted Agent Mott unprompted to report that two brothers known as Rafael and Oscar were selling large amounts of methamphetamine. Second, the CRI participated in three separate controlled buys of methamphetamine using pre-documented U.S. currency, which corroborated the information the CRI provided with respect to C.H.-Z. Third, agents corroborated the CRI's information about Oscar when they observed C.H-Z. leave his Minneapolis apartment and go to the New Brighton apartment to get more drugs and discovered through cell-phone analysis that the woman who rented the New Brighton apartment was in a relationship with an Oscar. Based on our review of the considerations provided in *Ward*, the district court properly concluded that the CRI was reliable.

3. Omission in the New Brighton Apartment Warrant

Barrios-German argues that the omission in the New Brighton apartment search-warrant application concerning the fact that C.H.-Z. lived in Minneapolis and not New Brighton weakened the probable-cause basis to support the warrant. But as the district court noted in denying Barrios-German's *Franks* motion, that omission did not overcome all the other facts supporting issuance of the warrant. Therefore, the district court properly determined that there was a substantial basis for finding probable cause to issue the warrant.

B. Unannounced, Nighttime Entry

Barrios-German also contends that the content of the search-warrant application did not support a no-knock, nighttime entry under Minn. Stat. § 626.14 (2016).

Under Minn. Stat. § 626.14, a district court may authorize a search warrant outside the hours of 7:00 a.m. and 8:00 p.m. if the "court determines on the basis of facts stated in the affidavits that a nighttime search . . . is necessary to prevent the loss, destruction, or removal of the objects of the search or to protect the searchers or the public." The standard for determining if an unannounced entry is necessary is reasonable suspicion, and when the material facts are not in dispute, we independently determine whether evidence obtained during the execution of an unannounced warrant should be suppressed. *State v. Goodwin*, 686 N.W.2d 40, 43 (Minn. App. 2004), *review denied* (Minn. Dec. 14, 2004). We give great deference to the issuing judge's determination of whether a nighttime search warrant should be authorized under Minn. Stat. § 626.14. *State v. Bourke*, 718 N.W.2d 922, 928 (Minn. 2006).

The reasonable-suspicion standard is not high. *Id.* at 927 (citing *Richards v. Wisconsin*, 520 U.S. 385, 394, 117 S. Ct. 1416, 1422 (1997)). But reasonable suspicion must be supported by "a particularized showing of dangerousness, futility, or likelihood of destruction of evidence." *State v. Botelho*, 638 N.W.2d 770, 778 (Minn. App. 2002); *see Garza v. State*, 632 N.W.2d 633, 638 (Minn. 2001) ("[A] generalized showing of drug trafficking is not sufficient justification for an unannounced entry because evidence of drug trafficking does not, *ipso facto*, equate to a conclusion that an announced entry would be dangerous or futile, or that it would result in the destruction of evidence."); *State v. Wasson*,

615 N.W.2d 316, 320 (Minn. 2000) ("[B]oilerplate language in the search warrant affidavit does not satisfy the requirement for a showing, particular to the search at issue, that announcing would be dangerous or allow the destruction of evidence.").

In arguing that the affidavit does not support an unannounced, nighttime warrant, Oscar-Barrios relies on *Wasson*. There, a search warrant affidavit stated that weapons were likely present inside a house because several weapons had been seized from the same house three months earlier. 615 N.W.2d at 320-21. The supreme court determined that that information, combined with the knowledge that the homeowner "had been willing to facilitate the sale of drugs at his residence to at least the CRI and perhaps others," provided more than "an unarticulated hunch" and objectively supported "a reasonable suspicion that knocking and announcing police presence would be dangerous." *Id.* at 321. The supreme court also determined that in the unannounced-search context, appellate courts "may accept evidence of a threat to officer safety of a less persuasive character when the officer presents the request for a no-knock warrant to a magistrate." *Id.* To that end, the supreme court concluded that the officer presented the issuing magistrate "the particular circumstances justifying an unannounced entry, and the magistrate approved of that method of entry." *Id.*

Oscar-Barrios attempts to distinguish *Wasson* from the facts here because, unlike the weapons in *Wasson*, drugs had not been seized from the New Brighton apartment before. *See id.* We disagree with this argument. The affidavit here provided particularized reasons for authorizing an unannounced, nighttime entry at the New Brighton apartment. As the district court recognized, the affidavit stated that the individuals linked to the New Brighton apartment were known to carry firearms and were suspected to have ties to the

Sinaloa Drug Trafficking Organization. In addition, C.H.-Z. and Oscar-Barrios had been seen in multiple Facebook photographs posing with firearms, the CRI informed law enforcement that C.H.-Z. displayed a black nine-millimeter handgun during a controlled purchase of methamphetamine, Agent Mott observed the Santa Muerte shrine on C.C.'s Facebook page, and other individuals residing in the New Brighton apartment building would be less likely to be outside the building or in the hallways during a nighttime execution of the warrant. *See Goodwin*, 686 N.W.2d at 43 (concluding that affidavit facts established reasonable suspicion when no-knock warrant contained information that an individual selling drugs from the apartment was involved in gang activity, a confidential informant feared for their safety, and a concerned citizen observed someone in the apartment with a handgun). As the district court explained, "[s]everal reasonable inferences can be drawn from these facts." Barrios-German and/or C.H.-Z. could have been in apartment 206 and may have destroyed evidence if the officers announced their presence. And knowing that both individuals possessed guns, there were concerns about "a safety hazard for both law enforcement and the other residents of the apartment building."

These particularized facts provide more than the mere boilerplate language that we have determined insufficient in the past. *See State v. Anhalt*, 630 N.W.2d 658, 661 (Minn. App. 2001) (determining that general observations in affidavit regarding "what drug dealers are known to do and how drugs may be discarded easily, none of which were specific to [the defendant]" did not justify an unannounced entry); *State v. Martinez*, 579 N.W.2d 144, 147-48 (Minn. App. 1998) (concluding that warrant-affidavit language that

drug traffickers "are often armed with firearms and other dangerous weapons and will use these weapons" did not justify an unannounced entry), *review denied* (Minn. July 16, 1998). As in *Wasson*, Agent Mott presented "particular circumstances justifying an unannounced entry, and the magistrate approved of that method of entry." 615 N.W.2d at 321. We therefore conclude that the district court properly determined that there was reasonable suspicion of a threat to officer safety or a threat of destruction of evidence to authorize an unannounced, nighttime entry.

C. The Swab of the Apartment Door

Barrios-German argues that the swab of C.C.'s apartment door constitutes an unlawful search. To date, no Minnesota appellate court has addressed this question. Nevertheless, we do not reach it in this case because, as the district court found, even if the evidence of cocaine obtained from the swab of the apartment door is excluded, there was still a substantial basis in the record to establish probable cause for the apartment search warrant.

II.

Barrios-German contends that the circumstantial evidence was insufficient to establish that he constructively possessed the methamphetamine because the state "produced no substantive evidence that [Barrios-German] was ever present at any drug transactions, or in actual possession of any drugs."

"We review the sufficiency of the state's circumstantial evidence de novo." *State v. Sam*, 859 N.W.2d 825, 830 (Minn. App. 2015). In doing so, "we thoroughly review the

record to determine whether the evidence establishes guilt beyond a reasonable doubt." *Id.* at 832.

Barrios-German was convicted of first-degree methamphetamine (sale) and first-degree methamphetamine (possession). *See* Minn. Stat. § 152.021, subds. 1(1), 2(a)(1) (2016). A person is guilty of the former if "on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 17 grams or more containing . . . methamphetamine." Minn. Stat. § 152.021, subd. 1(1); *see* Minn. Stat. § 152.01, subd. 15a (2016) ("'Sell' means: (1) to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or . . . (3) to possess with intent to perform an act listed in clause (1)."). A person is guilty of possession if "the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing . . . methamphetamine." Minn. Stat. § 152.021, subd. 2(a)(1).

There is sufficient circumstantial evidence to sustain a conviction if "no other reasonable, rational inferences [exist] that are inconsistent with guilt." *Sam*, 859 N.W.2d at 831 (alteration in original) (quotation omitted); *see State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013); *State v. Al-Naseer*, 788 N.W.2d 469, 474 (Minn. 2010). To determine if the circumstantial evidence is consistent with an appellant's guilt, we apply a two-step analysis. *Sam*, 859 N.W.2d at 833 (citing *Silvernail*, 831 N.W.2d at 598). "First, we determine the circumstances proved, giving due deference to the fact-finder and construing the evidence in the light most favorable to the verdict." *Id.* Second, we determine if "the circumstances proved are consistent with guilt and inconsistent with any other rational or reasonable hypothesis." *Id.* We must look at the circumstances proved not as isolated facts

but rather as a "complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude . . . any reasonable inference other than guilt," *Al-Naseer*, 788 N.W.2d at 473 (quotation omitted), while giving "no deference to the fact finder's choice between reasonable inferences," *Silvernail*, 831 N.W.2d at 599 (quotation omitted).

To prove constructive possession, the state must prove either that "the methamphetamine was in a place under [Barrios-German's] exclusive control to which other people do not normally have access" or that there is a strong probability that he was, at the time of discovery, "consciously exercising dominion and control over the methamphetamine." *Sam*, 859 N.W.2d at 833. Here, it is undisputed that Barrios-German did not have exclusive control of the closet or dresser drawer in which the agents found methamphetamine; the areas were not secured by locks, and C.C. is listed as the renter of the New Brighton apartment. Therefore, we consider whether the state proved beyond a reasonable doubt that Barrios-German "exercised dominion and control over the methamphetamine found in the [closet and dresser drawer]." *Id.*

When taken in the light most favorable to the verdict, the circumstances proved include: (1) Agent Mott started investigating the case after a CRI told him that brothers Oscar and Rafael were involved in large-scale methamphetamine distribution; (2) the CRI conducted three controlled buys at C.H.-Z.'s residence using pre-documented currency; (3) during one purchase, the CRI requested four ounces of methamphetamine, but C.H.-Z. told him that he only had two ounces; (4) C.H.-Z. told the CRI that he could go to another location and return with the additional two ounces to complete the order; (5) in a bedroom

dresser drawer, Agent Windschitl found four individual bags of methamphetamine inside a larger bag and a large amount of cash next to a Wisconsin driver's license in Oscar Barrios-German's name; (6) in a closet in the same bedroom, Agent Linscheid found letters and documents in Barrios-German's name; (7) in the hallway closet, Agent Linscheid found bags of methamphetamine hidden inside two stuffed animals; (8) in a duffel bag in a different closet, Commander Gabriel found a Mexican passport in Oscar Barrios-German's name; (9) Barrios-German stayed with C.C. at least one night a week; (10) he and C.C. were in a romantic relationship; and (11) he met C.H.-Z. while working for the roofing company.

Barrios-German testified that he had been employed by a commercial roofing company for approximately eight or nine years and that he worked every day of the week, including weekends. He met C.H.-Z. through working for the roofing company. He stated that he did not know why his driver's license was found in a drawer next to methamphetamine. He also testified that he is in a romantic relationship with C.C., but that he only stayed with her one night a week.

Barrios-German maintains that he was in the wrong place at the wrong time and that C.C. and C.H.-Z. "were conspiring to possess and sell methamphetamine." But we have affirmed convictions based on constructive possession when a defendant's personal effects were found in close proximity to drugs. *See, e.g.*, *Wiley*, 366 N.W.2d at 270 (concluding that defendant constructively possessed drugs when box containing the marijuana displayed the defendant's name); *State v. Colsch*, 284 N.W.2d 839, 841 (Minn. 1979) (concluding that defendant constructively possessed drugs when papers identifying the

defendant and the defendant's checkbook were found near the drugs); *State v. Carr*, 311 Minn. 161, 163, 249 N.W.2d 443, 445 (1976) (concluding that defendant constructively possessed drugs when information identifying him was found in the same drawer as the drug paraphernalia); *State v. Wiley*, 295 Minn. 411, 422, 205 N.W.2d 667, 675 (1973) (concluding that defendant constructively possessed drugs when drawer where the drugs were found contained items displaying the defendant's name).

"A person may constructively possess drugs jointly with another person." *State v. Barnes*, 618 N.W.2d 805, 811 (Minn. App. 2000), *review denied* (Minn. Jan. 16, 2001); *see Sam*, 859 N.W.2d at 834 (explaining that constructive possession "need not be exclusive, but may be shared"). Here, agents found methamphetamine inside a dresser drawer next to Barrios-German's Wisconsin driver's license, documents in his name inside a closet, and his passport inside a duffel bag. *See Sam*, 859 N.W.2d at 834 ("Proximity is an important consideration in assessing constructive possession." (quotation omitted)). The only reasonable inference is that Barrios-German exercised dominion and control of the methamphetamine. After a thorough review of the record, we conclude that the state proved beyond a reasonable doubt that Barrios-German exercised dominion and control over the methamphetamine found in C.C.'s apartment such that Barrios-German is guilty of first-degree controlled-substance sale and first-degree controlled-substance possession.

Affirmed.