

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1832**

State of Minnesota,
Respondent,

vs.

Vincent Joseph Myslajek,
Appellant.

**Filed February 18, 2025
Affirmed
Schmidt, Judge**

Anoka County District Court
File No. 02-CR-21-3649

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this direct appeal from convictions of first-degree possession of a controlled substance, possession of a firearm by an illegible person, and possession of a firearm with no serial number, appellant Vincent Joseph Myslajek challenges the district court's denial

of his motion to suppress, arguing that the search warrant lacked a sufficient nexus between drug activity and his residence. Because there was a sufficient nexus between the drug activity and the residence to support a finding of probable cause, we affirm.

FACTS

An Anoka County deputy sheriff conducted surveillance on Myslajek's house because the deputy had credible information that one or more burglary suspects may be staying there. Investigators believed one of the burglary suspects possessed several firearms taken during the burglary.

The deputy observed two individuals leave Myslajek's house in a car and followed them to a Kwik Trip. An Anoka County detective and other law enforcement officials arrived to assist. The detective was provided with pictures of the burglary suspects. After walking past the vehicle, the detective observed two individuals in the car. The detective and deputy were 95% sure that the driver was the burglary suspect. The detective noticed that the vehicle's passenger appeared to be under the influence of a narcotic.

After the car drove out of the Kwik Trip parking lot, law enforcement attempted to stop the vehicle. The car fled and the occupants "threw several bags from the vehicle." Law enforcement collected the bags and discovered three-fourths of a pound of a substance that field-tested positive for methamphetamine. Based on that amount, the detective believed the methamphetamine was for sale and not for individual use.

Because the car came from Myslajek's house and only stopped at the Kwik Trip, the detective suspected that methamphetamine was being sold from the residence. While continuing surveillance on Myslajek's house, law enforcement observed a vehicle make a

short-term stop at the residence and leave. Law enforcement stopped the vehicle and found a small amount of methamphetamine on an occupant of the vehicle. The detective then applied for a warrant to search the house. The detective believed that, based on the significant amount of drugs that were thrown from the vehicle after leaving the house and the subsequent discovery of a small quantity of drugs from the vehicle that briefly stopped at the residence, drugs were being trafficked from the house. A district court judge found the search warrant application was supported by probable cause and issued a warrant.

While executing the warrant, a canine alerted for narcotics on Myslajek's vehicle. Searching it, law enforcement found chemicals that can be used to make methamphetamine and two firearms. Law enforcement also found more chemicals that can be used to produce narcotics in a storage shed and recovered over 600 grams of dimethyltryptamine, an illegal schedule-I hallucinogenic drug. Law enforcement found other items used to make dimethyltryptamine and small amounts of the drug in the home. A detective also found a firearm with its serial number filed off in Myslajek's bedroom.

Respondent State of Minnesota charged Myslajek with: (1) first-degree possession of a controlled substance; (2) possession of a firearm by an ineligible person; and (3) possession of a firearm with no serial number. The defense moved to suppress the evidence, arguing the warrant lacked probable cause.¹ The state opposed the motion.

¹ At the district court, Myslajek argued the evidence should be suppressed because (1) there was no nexus between his home and alleged criminal activity, and (2) the informant was not reliable. Myslajek does not raise the argument regarding the informant on appeal.

The district court denied Myslajek’s motion. The court determined that the facts presented in the affidavit—including the presence of burglary suspects at the house, the large amount of methamphetamine thrown from the vehicle that had just left the home, and the recovery of a small quantity of methamphetamine from a person who briefly visited the house—provided probable cause to issue a search warrant.

Because the parties agreed that the suppression issue was dispositive, the prosecution and defense proceeded with a stipulated-facts trial. The district court found Myslajek guilty of all three charges. The court sentenced Myslajek to 115 months imprisonment for the first-degree controlled substance crime with a concurrent sentence of 60 months’ imprisonment for unlawful possession of a firearm.²

Myslajek appeals.

DECISION

Myslajek argues that the district court should have suppressed the evidence because the facts in the warrant application connecting his house to drug activity were too speculative. “When reviewing a pretrial order on a motion to suppress, [appellate courts] review the district court’s determination of probable cause de novo.” *State v. Holland*, 865 N.W.2d 666, 673 (Minn. 2015). We look to the totality of the circumstances to determine whether the district court had a substantial basis for finding probable cause. *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998).

² The district court imposed no sentence on the conviction for possessing a firearm without a serial number.

The state and federal Constitutions protect an individual's right "to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures[.]" Minn. Const. art. 1, § 10; *see also* U.S. Const. amend. IV. To issue a search warrant, a district court must find that the warrant application establishes probable cause that, based "on the totality of the circumstances, there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Holland*, 865 N.W.2d at 673 (quotations omitted). The court "must make a common-sense determination based on practical considerations of everyday life and the individual circumstances of each case." *State v. Ward*, 580 N.W.2d 67, 72 (Minn. App. 1998) (quotation omitted).

The Minnesota Supreme Court has "required a direct connection, or nexus, between the alleged crime and the particular place to be searched, particularly in cases involving the search of a residence for evidence of drug activity." *Souto*, 578 N.W.2d at 747-48. The nexus factors "include the nature of the crime, the nature of the items sought, the extent of the suspect's opportunity for concealment, and the normal inferences as to where the suspect would normally keep the items." *State v. Brennan*, 674 N.W.2d 200, 204 (Minn. App. 2004) (quotation omitted), *rev. denied* (Minn. Apr. 20, 2004). A district court deciding whether to issue a search warrant may consider "[i]nformation linking the crime to the place to be searched and the freshness of the information[.]" *Id.*

Myslajek argues the lack of nexus between drug activities and his residence is comparable to the circumstances in *State v. Souto*, in which the Minnesota Supreme Court concluded the search warrant lacked a nexus between the defendant's residence and the suspected criminal activity. 578 N.W.2d at 751. We disagree.

The defendant in *Souto* argued the search warrant application failed to demonstrate “a nexus between her alleged drug activities and her residence[.]” *Id.* at 745. The affidavit included no assertion that the defendant received drugs at her residence and there was nothing to support an inference she was dealing drugs from her residence. *Id.* at 748-49. The Minnesota Supreme Court reversed the district court’s denial of the defendant’s motion to suppress because there was no nexus between the alleged drug activities and the defendant’s residence. *Id.* at 749-51.

Myslajek argues that the warrant application here, like in *Souto*, “did not allege specific facts establishing a direct, rather than speculative, connection between [his] house, shed, and truck and drug dealing[.]” But the search warrant application in *Souto* did not connect *any* of the defendant’s suspected illegal activity to her residence. *Id.* at 748-49. Unlike in *Souto*, the warrant application here linked all the drug-related activity to Myslajek’s residence.

The affidavit in support of the application for a warrant here alleged that law enforcement observed a vehicle leave Myslajek’s residence. When law enforcement attempted to stop the vehicle—believing the driver to be a suspect in a burglary—the occupants threw three-fourths of a pound of methamphetamine from the vehicle. The affiant averred that the amount of drugs recovered was indicative of an intent to sell. Given that the individuals and the vehicle were under continuous surveillance between leaving Myslajek’s house and before the drugs were thrown from the vehicle, the detective suspected that the drugs came from Myslajek’s residence. Based on the substantial amount of drugs recovered, the detective reasonably suspected more drugs would be found at the

residence. As the supreme court has concluded, “[i]t may be reasonable to infer that drug wholesalers keep drugs at their residences[.]” *State v. Yarbrough*, 841 N.W.2d 619, 623 (Minn. 2014). And the detective’s “training and experience”—believing additional drugs will be in Myslajek’s residence—was “a proper factor [for the court] to consider in making a probable-cause determination.” *Brennan*, 674 N.W.2d at 204.

Law enforcement then continued their investigation by conducting additional surveillance on Myslajek’s residence. They observed a vehicle make a short term stop at the residence. Law enforcement stopped the vehicle and recovered a small amount of methamphetamine from the occupant of the vehicle. The additional investigation provided another link between the drugs—and suspicion of drug trafficking—to the house.

The circumstances here linked a substantial amount of drugs—indicative of trafficking—and a small amount of drugs—indicative of a sale of a personal-use amount having just occurred—to Myslajek’s residence. The district court did not err in concluding that, based on the totality of the circumstances, there was a fair probability that evidence of a crime would be found at Myslajek’s residence.

Myslajek also contends that nothing supported a probable-cause determination that his residence would have stolen firearms from the burglary. But the detective’s affidavit stated that a burglary suspect believed to be in possession of stolen firearms had been at Myslajek’s residence. After conducting surveillance on his house, a deputy observed an individual leaving Myslajek’s residence that the deputy believed, with 95% certainty, was the suspect from the burglary. The issuing judge did not err in finding there was probable cause to search Myslajek’s residence for firearms from the burglary.

Finally, Myslajek argues that even if probable cause existed to search his house, there was not probable cause to search the shed or his vehicle. To support his argument, Myslajek quotes the United States Supreme Court's conclusion that "probable cause to believe that a stolen lawnmower may be found in a garage will not support a warrant to search an upstairs bedroom[.]" *United States v. Ross*, 456 U.S. 798, 824 (1982). But a stolen lawnmower in an upstairs bedroom is easily distinguishable from the detective's belief that instrumentalities of drug trafficking will be found in a vehicle or in a shed on the same property that law enforcement suspects "is being used as an outlet for drug use and trafficking." Law enforcement had recovered three-fourths of a pound of drugs and a small amount of drugs, both of which were connected to Myslajek's property. As such, the district court did not err in determining that there was probable cause to search Myslajek's house, shed, and vehicle.

Affirmed.