STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1476

State of Minnesota,
Respondent,

vs.

Deavion Ladell Beasley, Sr.,
Appellant.

Filed July 22, 2024
Affirmed
Slieter, Judge

Beltrami County District Court
File No. 04-CR-22-35

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

David L. Hanson, Beltrami County Attorney, Michael V. Mahlen, Assistant County Attorney, Bemidji, Minnesota (for respondent)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Bjorkman, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Following a court trial on stipulated evidence, appellant was found guilty of third-degree controlled-substance crime and obstructing legal process. This appeal from the final judgment of conviction concerns the denial of appellant's motion to suppress

evidence obtained pursuant to two warrants: a warrant authorizing the tracking of appellant's cellphone, dated November 23, 2021 (the tracking warrant), and a warrant authorizing the search of his person and vehicles, dated December 30, 2021 (the search warrant). The events from which appellant's controlled-substance conviction arose occurred on January 3, 2022, when appellant was making a drug-supply trip from the Twin Cities to Bemidji. Appellant argues that the warrants are not supported by probable cause. Because the district court reasonably evaluated the warrant affidavits based on the totality of the circumstances and properly found them to be supported by probable cause, we affirm.

FACTS

In November 2021, a special agent applied for a "Tracking Warrant authorizing the installation and use of: an electronic tracking device, and/or cellular tower location and service information, including services such as Global Positioning System (GPS) technology, precision location related technologies, and/or a tracking warrant" on the cellphone number assigned to appellant Deavion Ladell Beasley Sr. The tracking-warrant application requested GPS information for Beasley's cellphone for 60 days, including all "cellular tower location and service information, and call detail or toll records."

The district court granted the tracking warrant as requested on November 23, citing Minn. Stat. §§ 626A.37, .42 (2020). The agent, and the Paul Bunyan Drug Task Force he was working with, proceeded to execute the tracking warrant for about one month.

As part of its surveillance, the task force first observed Beasley travel from the Twin Cities to Bemidji on December 22, 2021. The task force followed Beasley, who was

traveling with D.A.-R., as they drove around Bemidji in Beasley's vehicle and visited the residence of "a known user of controlled substances." The task force then observed a "hand to hand transaction between [D.A.-R.] and a male through the passenger side window of [Beasley's] vehicle." That same night, a confidential reliable informant (CRI) "advised that Beasley and [D.A.-R.] were in the Bemidji area and distributing cocaine." This trip was the only time the task force observed Beasley travel between the Twin Cities and Bemidji, although D.A.-R. was observed making this trip four other times.

In part based on data obtained through execution of the tracking warrant, the agent applied for an anticipatory search warrant of Beasley. The agent's search-warrant affidavit, in addition to repeating facts supporting the tracking warrant, added details about the transaction the task force observed on December 22, and some additional information provided by the CRI, including "that [D.A.-R.] will hide controlled substances on his body in his genital area when he is transporting controlled substances." The search-warrant affidavit requested authorization for a search of Beasley's person for controlled substances and paraphernalia and for the use of a body scanner at the Beltrami County Jail "to assist in the search of persons." The agent described the "triggering event" for executing the anticipatory search warrant as occurring when agents "are able to identify through electronic surveillance that Beasley and/or [D.A.-R.] are traveling northbound towards Bemidji, and agents are able to articulate a vehicle in which they are traveling in, and the vehicle arrives into Beltrami County." The district court granted the search warrant as requested the same day, on December 30, authorizing a search of Beasley's person using

the body scanner, three vehicles associated with him, and "[a]ny other vehicle" he was found to be utilizing, at any time of day.

On January 3, 2022, officers executed the search warrant. Early in the afternoon at around 1:30 p.m., the agent "observed through electronic surveillance that Beasley and [D.A.-R.] were traveling north bound to Bemidji from the [Twin Cities] area." The officers started physically following Beasley's vehicle while it traveled northbound. After continued visual monitoring of the vehicle as it traveled north through Beltrami County, officers conducted a "felony traffic stop" in Bemidji at about 4:30 p.m. D.A.-R. was driving, and Beasley was the passenger. Beasley cooperated with officers as they asked him to exit the vehicle, walk backwards, and then was handcuffed and frisked for weapons before officers placed him in the back of a squad car for transport to the jail.

Upon arrival, jail staff conducted an x-ray scan of Beasley's person using the body scanner. The scan showed a "discrepancy in the genital or groin area" that concerned officers, and Beasley was strip searched in a private cell. During the strip search, officers noticed Beasley was trying to hold something between his legs near his groin—a plastic baggie with white powder in it. Beasley grabbed the baggie and tried to get rid of it, spilling some of the white powder on the floor and flushing some down the toilet in the cell before officers restrained him. The white powder tested positive for cocaine. Officers recovered 20 grams of cocaine.

Respondent State of Minnesota charged Beasley with third-degree controlled-substance crime in violation of Minn. Stat. § 152.023, subd. 2(a)(1) (2020), and obstruction of legal process in violation of Minn. Stat. § 609.50, subd. 1(2) (2020).

In March 2022, Beasley moved to suppress evidence obtained from the November 23, 2021 tracking warrant, and from the December 30, 2021 search warrant and associated stop of his vehicle. The district court determined that the warrants were supported by probable cause and therefore denied the suppression motion.

On April 5, 2023, a stipulated-evidence trial proceeded pursuant to Minn. R. Crim. P. 26.01, subd. 3(a).[1] The district court found Beasley guilty and entered judgment of conviction for third-degree possession of a controlled substance and obstruction of legal process. The district court then stayed execution of Beasley's prison sentence and placed him on probation for five years. Beasley appeals.

DECISION

Beasley challenges the district court's denial of his motion to suppress evidence obtained through (1) the tracking warrant and (2) the search warrant authorizing a search of his person using a body scanner at the county jail. Appellate courts review the district court's factual findings in a suppression-motion denial for clear error and its legal conclusions *de novo*. *State v. Milton*, 821 N.W.2d 789, 798 (Minn. 2012).

Individuals have a reasonable expectation of privacy in the location information generated by their cellphone, or in their cell-site location information (CSLI), pursuant to the Fourth Amendment of the U.S. Constitution. *Carpenter v. United States*, 585 U.S. 296, 313 (2018). A search of a person's CSLI is therefore only authorized upon issuance of a

[1] We note that the stipulated-evidence trial was pursuant to rule 26.01, subdivision 3, despite Beasley's written stipulation to the prosecution's case pursuant to subdivision 4. This discrepancy is not raised on appeal.

warrant supported by probable cause. *Id.* at 316. "If a search warrant is not supported by probable cause, then it is unreasonable." *State v. Wiggins*, 4 N.W.3d 138, 145 (Minn. 2024).

To determine whether a warrant is supported by probable cause, this court reviews whether "the issuing judge had a substantial basis for concluding that probable cause existed." *State v. Zanter*, 535 N.W.2d 624, 633 (Minn. 1995) (quotation omitted). Our review is limited to "the warrant application and supporting affidavits." *Wiggins*, 4 N.W.3d at 145; *State v. Hill*, 918 N.W.2d 237, 242 (Minn. App. 2018) (reviewing a challenge to the "four corners" of the warrant affidavit). Issuing judges must "make a practical, common-sense decision, whether, given all the circumstances set forth in the affidavit . . . , 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). We afford "great deference" to a judge's probable-cause finding. *State v. Harris*, 589 N.W.2d 782, 787 (Minn. 1999) (quoting *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998)). We also recognize "doubtful or marginal cases should be largely determined by the preference accorded to warrants." *Wiggins*, 4 N.W.3d at 145-46 (quotation omitted). Whether probable cause exists is based on the totality of the circumstances. *State v. Jenkins*, 782 N.W.2d 211, 223 (Minn. 2010).

Tracking Warrant

In contesting the district court's probable-cause determination, Beasley mainly challenges the confidential informants' reliability. When assessing whether there is sufficient probable cause to support a warrant, issuing judges consider the "veracity," or reliability of the confidential informant, the informant's "basis of knowledge," and whether

law enforcement sufficiently corroborated the informant's tip. *Gates*, 462 U.S. at 238; *State v. Mosley*, 994 N.W.2d 883, 892 (Minn. 2023). These considerations are not a rigid "two-prong test" but are based upon the totality of the circumstances. *Gates*, 462 U.S. at 233.

At issue is information from two different informants, a confidential informant (CI) and the CRI. The CI provided names of individuals suspected to be involved in controlled-substance crimes and advised that Beasley sold the CI controlled substances over 100 times. The information from the CI was from September 2018. Because this tip is from 2018, it is stale as of the date the tracking warrant was issued in November 2021. *See Souto*, 578 N.W.2d at 750 (stating that facts must be "closely related to the time of the issue of the warrant [] to justify a finding of probable cause at that time" (quotation omitted)); *see also State v. Jannetta*, 355 N.W.2d 189, 193 (Minn. App. 1984), *rev. denied* (Minn. Jan. 14, 1985).

Dated June 2021, the CRI's information is closer in time to the issuance of the warrant and is therefore not stale. The CRI "advised that [Beasley] is selling methamphetamine and fentanyl in Bemidji." The CRI also stated that Beasley had recently asked if the CRI knew anyone who wanted to buy "Perc 30's pills," which the affiant stated he knew to contain fentanyl, and "advised that Beasley has been transporting controlled substances to Bemidji from the [Twin Cities] area since Beasley got out of prison."

The agent explained why the CRI was considered reliable in the tracking-warrant application. The CRI had a proven track record of reliability because they previously provided "names of individuals suspected to be involved in controlled substance crimes,"

which has "led to the seizure of controlled substances and multiple arrests for controlled substances in the past." *See State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) ("Having a proven track record is one of the primary indicia of an informant's veracity.").

There was also a sufficient basis for the CRI's knowledge, which law enforcement corroborated. Beasley argues that the basis for the CRI's knowledge was not established, as the CRI never personally observed Beasley buy, possess, or sell drugs, and law enforcement did not corroborate the CRI's information. But law enforcement did corroborate the CRI's tip, even though they had no need to because the CRI was presumed reliable. *Mosley*, 994 N.W.2d at 892 ("[W]hen an informant gives police information based on the informant's personal knowledge, police do not need to corroborate significant details in the tip for the tip to be sufficient to support probable cause."). The agent knew Beasley had a criminal history involving controlled substances and attested to his personal observations that Beasley and an associate of his, D.A.-R., both posted photographs of "a green leafy substance" to their respective Facebook accounts and were seen together in a video with large stacks of U.S. currency. The affiant also included information from another law-enforcement officer, who observed "Beasley and [D.A.-R.] conduct a hand to hand transaction in the window of a vehicle" on November 16, 2021, and recovered controlled substances after searching the vehicle. Based on the reliability of the CRI and law enforcement's corroboration, the warrant affidavit provided a substantial basis for concluding that tracking Beasley through his cellphone, which is likely near to him at most times, would yield information about controlled-substance trafficking. *See id.*

The search was also limited to Beasley's location information and did not involve other cellphone data like Beasley's text messages. *Cf. State v. Holland*, 865 N.W.2d 666, 674-75 (Minn. 2015) (using defendant's cellphone data to determine whether he was near his wife when she was murdered). And there is no stretch in logic to conclude that a person's cellphone is likely indicative of their location. *See Carpenter*, 585 U.S. at 311. There was therefore a "fair probability" that tracking Beasley's CSLI would lead to information about his transport of controlled substances between the Twin Cities and Bemidji. *State v. Yarbrough*, 841 N.W.2d 619, 622-24 (Minn. 2014).

Beasley further challenges the tracking warrant as overbroad. A warrant is overbroad and lacks particularity if it does not specify the area, things, or persons for which there is probable cause to search. *State v. Fawcett*, 884 N.W.2d 380, 386-87 (Minn. 2016); *State v. Contreras-Sanchez*, 5 N.W.3d 151, 166 (Minn. App. 2024), *rev. granted* (Minn. May 29, 2024). We acknowledge the tracking warrant was broad in its duration because it permitted two months of surveillance. But the tracking warrant did specify the individual to be searched—Beasley—and the things and area to search—Beasley's CSLI, particularly for any evidence of travel between the Twin Cities and Bemidji. *See State v. Harvey*, 932 N.W.2d 792, 796-97 (Minn. 2019) (affirming a search warrant tracking the defendant's CSLI); *Contreras-Sanchez*, 5 N.W.3d at 155, 167 (affirming use of a geofence warrant to gather CSLI for about one month). We also note that Minnesota Statutes section 626A.42, subdivision 2, allows law enforcement to utilize electronic surveillance to track a person's CSLI if there is probable cause to believe a person "is committing, has committed, or is about to commit a crime." Based upon the CRI's information, law enforcement had reason

to believe Beasley was about to commit a crime, and the tracking warrant was sufficiently particularized as to Beasley's CSLI. Any incidental intrusion on Beasley's privacy was reasonable.

In sum, when considering the totality of the circumstances set forth in the warrant application and the circumstances supporting the CRI's tip, there was sufficient probable cause to support the issuance of the tracking warrant. The district court, therefore, did not err in denying Beasley's motion to suppress.

Search Warrant

Turning to the search warrant, we similarly conclude that there was a substantial basis to support the issuing judge's probable-cause determination. Beasley argues that there is an insufficient nexus between the crime investigated and the search of his person using the jail's body scanner, that the warrant was overbroad and lacking in particularity, and that the CRI did not provide reliable information.

The search warrant was supported by the same information from the CRI that is reflected in the tracking-warrant affidavit. In the search-warrant affidavit, law enforcement added two more tips from the CRI. First, a tip about D.A.-R.:

> In November of 2021, Your Affiant spoke with CRI who advised that [D.A.-R.] is selling cocaine and other controlled substances around Bemidji. . . . CRI said that they were in [D.A.-R.'s] residence the day prior, and observed ounces of cocaine in [D.A.-R.]'s possession. CRI then observed a controlled substance transaction between [D.A.-R.] and another person for an amount of cocaine. CRI said that [D.A.-R.] supplies several individuals with controlled substances in Bemidji, and travels to the [Twin Cities] area often to re-stock his controlled substance supply. . . . CRI also advised that [D.A.-R.] will hide controlled substances on his

> body in his genital area when he is transporting controlled substances.

Second, the "CRI advised [law enforcement] that Beasley and [D.A.-R.] were in the Bemidji area and distributing cocaine" on December 22, 2021.

As stated above, the CRI's information is presumed reliable and corroboration is not, therefore, required. *Munson*, 594 N.W.2d at 136 ("Having a proven track record is one of the primary indicia of an informant's veracity . . . [and] further elaboration concerning the specifics of the CRI's veracity is not typically required."). But on the same night reported by the CRI, law enforcement also independently observed D.A.-R. conduct a hand-to-hand controlled-substance transaction from the passenger side of Beasley's vehicle, which Beasley was driving, and also travel to the residence of "a known user of controlled substances." Law enforcement thus sufficiently corroborated the CRI's information.

Besides a reliable tip from law enforcement's CRI, the search-warrant affidavit provided a sufficient nexus between the property searched—Beasley's person and vehicles—and the crime investigated. Law enforcement observed that D.A.-R. and Beasley were associated with each other in a manner related to controlled-substance sales through Facebook photos and surveillance. It was thus reasonable to conclude that Beasley, like D.A.-R., might also "hide controlled substances on his body in his genital area," and that a body-scan search of Beasley would yield evidence of a controlled-substance crime. And although Beasley's relationship to other individuals involved in controlled-substance sales is likely insufficient to establish probable cause, the

circumstances here present more than mere propinquity. *Cf. Ybarra v. Illinois*, 444 U.S. 85, 88-91 (1979) (concluding a search of all individuals frequenting a bar was not supported by probable cause based merely upon the persons' proximity to others independently suspected of criminal activity and presence at a known controlled-substance-trafficking location). In the search-warrant affidavit, law enforcement attested to their personal observations of suspected controlled-substance transactions linked to Beasley in November and December 2021. Based on the totality of the circumstances, there was a substantial basis for the district court to conclude that probable cause existed to support issuing the search warrant. *See Wiggins*, 4 N.W.3d at 145-46.

We also disagree with Beasley that, given the nature of the crime, the search warrant was overbroad and lacked particularity. The scope of the search warrant was admittedly expansive, as it allowed officers to search any vehicle Beasley was found to be utilizing without specifying a date or time for that search. But the search warrant specified a triggering event appropriate for an anticipatory search warrant—when Beasley entered the county traveling northbound from the Twin Cities—and it was likely that contraband or evidence of a crime would be found on Beasley's person or in the vehicle he was in, should law enforcement conduct a search. *See State v. Hansen*, No. A09-1700, 2010 WL 2572521, at *3-4 (Minn. App. June 29, 2010) (persuasively analyzing probable cause based on appellant's assertion that the triggering condition of an anticipatory search warrant was not met); *see also United States v. Grubbs*, 547 U.S. 90, 94 (2006) (articulating the

requirements for anticipatory warrants). And a warrant is not overbroad if it specifies the place to search. *Fawcett*, 884 N.W.2d at 386-87.

We must grant the issuing judge "considerable deference" in its consideration of the controlled-substance crime under investigation. *Contreras-Sanchez*, 5 N.W.3d at 167 (quotation omitted). Accordingly, the district court did not err in holding the search warrant valid and in denying Beasley's motion to suppress.

Finally, Beasley argues that law enforcement's execution of the search warrant amounted to a "*de facto* arrest." Law enforcement did effectively arrest Beasley as they conducted a felony stop of Beasley at gun point, handcuffed him, and detained him in the back of a squad car for transport to the jail. Beasley, however, fails to cite to any authority stating that it is unconstitutional to detain an individual to execute a legally obtained search warrant. *See State v. Palmer*, 803 N.W.2d 727, 741 (Minn. 2011) (stating we do not consider arguments lacking a citation to support legal authority). We discern no error in how law enforcement executed the search warrant.

Affirmed.