This opinion is nonprecedential except as provided by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
A23-1932

State of Minnesota,
Respondent,

vs.

Megan Alyce Dueck,
Appellant.

Filed December 16, 2024
Affirmed
Segal, Chief Judge

Koochiching County District Court
File No. 36-CR-22-639

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Jeffrey S. Naglosky, Koochiching County Attorney, International Falls, Minnesota (for respondent)

Peter Dahlquist, Edina, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Segal, Chief Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

In this appeal from the final judgment of conviction for first-degree controlled-substance crime (sale), appellant challenges the district court's order denying her motion

to suppress evidence found during the search of her residence, arguing that the search warrant was not supported by probable cause. We affirm.

FACTS

On September 13, 2022, law enforcement applied for and obtained a warrant to search the residence of appellant Megan Alyce Dueck. Law enforcement executed the search warrant that day and discovered over 300 grams of methamphetamine, packing material, a digital scale, and $28,662 in cash at Dueck's residence, among other items.

Respondent State of Minnesota charged Dueck with one count of first-degree controlled-substance crime (sale). Dueck moved to suppress the evidence discovered during the search, arguing that the search warrant was not supported by probable cause. Dueck asserted that the information in the search-warrant affidavit was based largely on hearsay statements from a person designated by law enforcement as a "confidential reliable informant" (CRI), and that the search-warrant affidavit contained insufficient information to corroborate the CRI or establish the veracity of the CRI. The district court denied the motion to suppress, concluding that the information in the search-warrant affidavit established that there was a fair probability controlled substances would be found at Dueck's residence.

At the start of trial, the state moved to amend the complaint to add a count of first-degree controlled-substance crime (possession). The district court granted the motion. Dueck then waived her right to a jury trial and agreed to proceed with a court trial based

on stipulated evidence pursuant to Minn. R. Crim. P. 26.01, subd. 3.[1] The district court found Dueck guilty of both counts and sentenced her to 90 months in prison for first-degree controlled-substance crime (sale).

DECISION

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Generally, a search is lawful only if it is executed pursuant to a valid search warrant issued by a neutral and detached magistrate after a finding of probable cause. *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014). No warrant shall issue absent a showing of probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10.

When determining whether a search warrant is supported by probable cause, appellate courts do not engage in de novo review. *State v. McGrath*, 706 N.W.2d 532, 539 (Minn. App. 2005), *rev. denied* (Minn. Feb. 22, 2006). Our review is limited to analyzing whether the issuing magistrate had a substantial basis for concluding that probable cause existed. *Yarbrough*, 841 N.W.2d at 622. In doing so, appellate courts consider the "totality of the circumstances." *State v. Wiley*, 366 N.W.2d 265, 268 (Minn. 1985). And appellate courts are to "defer to the issuing magistrate, recognizing that doubtful or marginal cases

[1] The rules of criminal procedure allow the parties to submit the determination of a defendant's guilt to the trial court based on stipulated facts or evidence, while preserving the defendant's right to "appeal from the judgment of conviction and raise issues on appeal as from any trial to the court." Minn. R. Crim. P. 26.01, subd. 3.

should be largely determined by the preference to be accorded to warrants." *State v. Wiggins*, 4 N.W.3d 138, 145-46 (Minn. 2024) (quotation omitted).

"The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the [search-warrant] affidavit . . . , there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Wiley*, 366 N.W.2d at 268 (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)).

The search-warrant affidavit here contained the following information. An agent with the Minnesota Bureau of Criminal Apprehension (BCA) received information from a CRI that Dueck was involved in selling controlled substances out of her residence in International Falls. The BCA agent relayed the CRI's information to a special agent with the International Falls Police Department assigned to the Paul Bunyan Drug Task Force. The International Falls special agent spoke with the CRI on the phone, and then passed the information along to another member of the International Falls Police Department assigned to the Internal Narcotics Task Force. It was the latter officer who prepared the application for the search warrant and submitted a supporting affidavit. The application was based in large part on the CRI's information.

As set out in the search-warrant affidavit, the CRI informed law enforcement that Dueck "obtains amounts of methamphetamine that are more than personal use" and "then sells the methamphetamine to numerous individuals in the area." The CRI also indicated that "Dueck provides larger amounts of methamphetamine to certain individuals who then sell the methamphetamine for her and receive a profit from the sales," and that the CRI was

"in the presence of Dueck within the past 72 hours in her residence and has observed her with an unknown amount of suspected methamphetamine in her possession."

The search-warrant affidavit also addressed the CRI's reliability. Specifically, the application stated:

> This CRI has been proven reliable through providing information against her/his own penal interest, has conducted controlled purchases under law enforcement direction and control, has provided information that has been proven to be true and accurate through different corroboration techniques and has provided information that has led to felony level arrests.

In addition to the information from the CRI, the search-warrant affiant stated that he was aware "Dueck has been arrested for controlled substance violations in the past" and that the affiant had previously "received information that Dueck has kept controlled substances in her garage." Finally, the search-warrant affidavit averred: "During this investigation law enforcement officers have noticed come and go traffic at Dueck's residence. This traffic includes known drug users and or dealers."

Dueck argues that the search warrant was unsupported by probable cause because it was based on hearsay and the search-warrant affidavit lacked sufficient information to establish the CRI's basis of knowledge for the information provided. We are not persuaded.

Dueck's hearsay argument is based on the fact that the affiant did not personally speak with the CRI—the information was communicated to the affiant by other law-enforcement officials. But Minnesota adheres to the "collective knowledge principle." Under that principle, a law-enforcement officer is imputed with the knowledge of all

officers involved in an investigation. *State v. Conaway*, 319 N.W.2d 35, 40 (Minn. 1982). Dueck acknowledges that the collective knowledge principle is "well-established" in Minnesota law. She argues, nevertheless, that the CRI's information should be treated as inherently less reliable because of the levels of hearsay. We reject this argument for several reasons. First, as the state notes, it is inconsistent with the collective knowledge principle. Second, while the affidavit cites information from a BCA agent, the affidavit also states that an agent of the same department as the affiant personally spoke with the CRI. Thus, there was direct communication with the CRI by an officer within the same law-enforcement agency who then relayed that information to the affiant. Third, the affidavit contains adequate indicia of the CRI's reliability to establish probable cause under the totality-of-the-circumstances test as set out below.

On the issue of veracity, the search-warrant affidavit indicates that the CRI has provided reliable information in the past, including information against their penal interest, and that the information led to felony-level arrests. "Having a proven track record is one of the primary indicia of an informant's veracity." *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999). When an officer indicates that a CRI has previously given reliable information that led to an arrest, "further elaboration concerning the specifics of the CRI's veracity is not typically required." *Id.* Accordingly, the search-warrant affidavit set forth sufficient information to establish the CRI's veracity.

Turning to the question of the CRI's basis of knowledge, the affidavit states that the CRI reported "being in the presence of Dueck within the past 72 hours in her residence" and "observ[ing] her with an unknown amount of suspected methamphetamine in her

possession." The affidavit thus establishes that the CRI provided recent, firsthand knowledge of incriminating conduct by Dueck—the possession of methamphetamine. *See Wiley*, 366 N.W.2d at 269 ("Recent personal observation of incriminating conduct has traditionally been the preferred basis for an informant's knowledge.").

The affidavit also connects the suspected possession of methamphetamine not only to Dueck, but to Dueck's house—which is the place to be searched. *State v. Jenkins*, 782 N.W.2d 211, 223 (Minn. 2010) (noting that to satisfy the probable-cause standard, a search-warrant application must "include information establishing a nexus between the crime, objects to be seized and the place to be searched").

Finally, the affidavit notes that law enforcement independently observed "come and go traffic at Dueck's residence," and that the "traffic includes known drug users and or dealers." *See Wiggins*, 4 N.W.3d at 147 ("If part of an informant's tip may be corroborated by police as truthful, that tends to suggest that the entire tip may be truthful."); *State v. Ward*, 580 N.W.2d 67, 71 (Minn. App. 1998) (noting that corroboration "of even minor details can lend credence to the informant's information where the police know the identity of the informant" (quotation omitted)). The search-warrant affidavit thus established the existence of several significant factors that support probable cause—recent, firsthand observations of criminal conduct; a nexus between the criminal conduct, the defendant, and the place to be searched; and independent observations by law enforcement that corroborated the CRI's information, at least in part.

Dueck argues, however, that the warrant application was nevertheless insufficient because it satisfied only three of the six factors known as the "*Ross* factors." In *State v.*

Ross, this court articulated six factors that are relevant for evaluating the reliability of a CRI. 676 N.W.2d 301, 304 (Minn. App. 2004) (citing *Ward*, 580 N.W.2d at 71).[2] But the law does not require that all six factors must be satisfied to establish probable cause. In fact, the Minnesota Supreme Court recently commented that, while a probable-cause assessment "could include the factors listed in *Ross*," it has never "specifically endorsed" the six-factor *Ross* test.[3] *State v. Mosley*, 994 N.W.2d 883, 887 n.4 (Minn. 2023). The court stressed in its opinion in *Mosley*, that reliability is to be assessed in the same manner as other factors—under the totality of the circumstances. *Id.* Accordingly, the *Ross* factors are merely examples of relevant circumstances to be evaluated by the issuing magistrate, not a prerequisite to a finding of probable cause.

On this record, we conclude that the totality of the circumstances set forth in the search-warrant affidavit provided the issuing magistrate with a substantial basis for

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[2] Specifically, the six factors are:

> (1) a first-time citizen informant is presumably reliable; (2) an informant who has given reliable information in the past is likely also currently reliable; (3) an informant's reliability can be established if the police can corroborate the information; (4) the informant is presumably more reliable if the informant voluntarily comes forward; (5) in narcotics cases, "controlled purchase" is a term of art that indicates reliability; and (6) an informant is minimally more reliable if the informant makes a statement against the informant's interests.

Ross, 676 N.W.2d at 304.

[3] We also note that the *Ross* opinion relied on this court's opinion in *Ward*. 676 N.W.2d at 304. The *Ward* opinion did not establish a six-factor balancing test, but rather articulated circumstances in which a CRI has been determined to be reliable for purposes of establishing probable cause. 580 N.W.2d at 71.

determining that probable cause existed. The district court therefore did not err in denying Dueck's motion to suppress.

Affirmed.