

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Demetrius Jamere Jackson,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*

August 17, 2022

Court of Appeals Case No.  
21A-CR-1838

Appeal from the Grant Superior  
Court

The Honorable Jeffrey D. Todd,  
Judge

Trial Court Cause No.  
27D01-1901-MR-4

**Pyle, Judge.**

## Statement of the Case

[1] Demetrius Jackson (“Jackson”) appeals his convictions, following a jury trial, for Level 3 felony conspiracy to commit armed robbery<sup>1</sup> and three counts of murder.<sup>2</sup> He argues that the trial court abused its discretion in admitting evidence because the warrant authorizing his arrest was not supported by probable cause. Concluding that the trial court did not abuse its discretion, we affirm Jackson’s convictions.

[2] We affirm.

## Issue

Whether the trial court abused its discretion in admitting evidence.

## Facts

[3] At approximately 1:00 p.m. on December 30, 2019, Rebecca Jones (“Rebecca”) arrived at her son Javon Blackwell’s (“Blackwell”) home in Marion to pick up her two grandsons, twelve-year-old Javon, Jr. (“Javon, Jr.”), and eleven-year-old Jayson. When she walked into the dark living room, Rebecca noticed Blackwell sitting in a recliner and the two young men sitting in chairs next to each other where they usually sat to play video games. Rebecca initially

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<sup>1</sup> IND. CODE §§ 35-42-5-1 and 35-41-5-2.

<sup>2</sup> I.C. § 35-42-1-1.

believed that her son and grandsons were sleeping, but when she was not able to wake them, she called 911. Law enforcement officers arrived on the scene and discovered that Blackwell and his sons had been shot in the head and were deceased. The officers noticed 9 mm spent shell casings on the living room floor.

[4] The ensuing law enforcement investigation revealed that Javon, Jr., had texted his mother at 10:12 a.m. to tell her that he loved her. In addition, a handyman (“the handyman”) had arrived at Blackwell’s home at 11:30 a.m. to work on the bathroom. When the handyman had entered the home with a key, the handyman had seen Blackwell and his sons in the living room. The handyman had assumed that they were all sleeping because the room was so quiet and dark. In addition, law enforcement officers had learned that Blackwell’s neighbor had recently installed a video surveillance system that had recorded vehicles in the neighborhood the morning that Blackwell and his sons had been murdered. When watching videos from the surveillance system, law enforcement officers noticed a white Chevrolet Impala (“the white Impala”) in front of Blackwell’s residence between 10:41 and 10:52 a.m. Law enforcement officers determined that the vehicle belonged to Jasmine Drake (“Drake”).

[5] Also, during the course of the investigation, law enforcement officers had learned that a blue Michael Kors bag (“the Michael Kors bag”) was missing from the home. Blackwell’s wife had last seen the Michael Kors bag in the living room where the bodies had been found. In addition, Blackwell’s cell phone was missing from the home. Further, although law enforcement officers

had found in the home an empty gun case for a 40-caliber handgun, the officers had not found the handgun.

- [6] The continuing investigation led Marion Police Department Detective Mark Stefanatos (“Detective Stefanatos”) to Lemere Jones (“Jones”), who was involved in a romantic relationship with Drake. Detective Stefanatos had already obtained surveillance video of Jones and Jackson arriving at Drake’s mother’s Norman Manor apartment at 11:38 a.m. on the day of the Blackwell murders.
- [7] Detective Stefanatos interviewed Jones regarding the murders “multiple times” over the course of several days. (Supp. Ex. Vol. 5 at 11). During those interviews, Jones denied being involved in the murders and gave Detective Stefanatos the names of people who might have killed Blackwell and his sons.
- [8] On the evening of January 20, 2020, Jones, who was incarcerated in the Grant County Jail on a charge unrelated to the murders, asked to speak again with Detective Stefanatos. The detective immediately went to the jail to interview Jones, who told Detective Stefanatos specific details about several crimes that Jones had committed, including the murders of Blackwell and his sons.<sup>3</sup>

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<sup>3</sup> Regarding the additional crimes, Jones gave Detective Stefanatos specific information about a murder, which he alleged that he and Jackson had committed before the Blackwell murders. Jones specifically explained that the victim had been Drake’s former boyfriend. Drake had told Jones and Jackson where to find the victim and that he would have money and drugs on his person. Jones told the detective that Jones and Jackson had approached the victim on the street, Jones had patted down the victim while Jackson had held a 9 mm gun on the victim, and Jackson had shot the victim when the victim had reached for the gun. Jones and Jackson had run back to Drake’s car and had fled the scene. Jones’ account of the murder was

[9] Regarding those murders, Jones told Detective Stefanatos that he had met Jackson while the two men were serving time together in the Department of Correction (“the DOC”). Following their release from the DOC, Jones and Jackson had come to Marion to stay with Drake. When Jones had learned that Blackwell “had just got a load of drugs at his residence[,]” Jones, Jackson, and Drake had devised a plan to “rob Javon Blackwell of the drugs and any money he had in the residence.” (Supp. Ex. Vol. 5 at 17). According to Jones, Drake had driven the white Impala to the back of Blackwell’s house and dropped off Jones, Jackson, and Brittany Drake (“Brittany”). Drake had then driven the white Impala to the front of Blackwell’s home. Jones, who knew Blackwell, had walked around to the front of the home, knocked at the door, and asked Blackwell for a glass of water. After Blackwell had told Jones that he knew where the kitchen was, Jones had walked past Blackwell’s sons, who were playing video games in the living room, unlocked the back door, and let Jackson into Blackwell’s home.

[10] According to Jones, Jackson had entered Blackwell’s home and had shot Blackwell and his sons in the head with a 9 mm gun. Jones further told Detective Stefanatos that he and Jackson had then taken from Blackwell’s

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corroborated by details provided by the victim before he had died and witnesses at the scene. Jones also admitted that he had stolen a custom car in Marion and had sold it in South Bend. Detective Stefanatos had located the vehicle, which had been stripped of its custom parts, in South Bend. Jones also told Detective Stefanatos about two armed robberies that he had committed with Jackson. Specifically, Jones told the detective that Jones and Jackson had stolen a night deposit bag when a clerk was depositing it at a bank and had robbed a Family Dollar clerk at gunpoint and taken money out of the cash register.

home a 40-caliber handgun that Jones had found under the couch in the living room, a Michael Kors bag, and Blackwell's cell phone and watch. Jones, Jackson, Drake, and Brittany had subsequently gone to Drake's home, where they had burned their clothing in a burn barrel behind the home before going to Drake's mother's home at Norman Manor. In addition, Jones showed Detective Stefanatos social media messages that he had exchanged with Jackson between 9:30 and 10:30 on the morning of the Blackwell murders. Specifically, at 9:30 a.m., Jackson had sent Jones a message asking Jones if he was ready, and at 10:30, Jones had sent Jackson a message telling Jackson that he was about ready to arrive to pick up Jackson.

[11] The following day, Detective Stefanatos provided this information to the trial court during an oral probable cause hearing. Detective Stefanatos told the trial court that the information provided by Jones had been corroborated by evidence that law enforcement officers had already obtained during the course of their investigation. Specifically, law enforcement officers knew that the murders had occurred between 10:12 a.m. when Javon, Jr., had sent a text to his mother and 11:30 a.m. when the handyman had arrived at Blackwell's home. Drake's vehicle had been seen sitting in front of Blackwell's home at 10:41 a.m. Law enforcement officers also knew that the Blackwells had been shot with a 9 mm weapon and that a Michael Kors bag and a cell phone had been reported missing from the home. In addition, law enforcement officers had found an empty box for a 40-caliber handgun. Law enforcement officers also had also obtained video surveillance of Jones and Jackson arriving at

Drake's mother's apartment at 11:38 a.m. According to Detective Stefanatos, Jones could not have known the information that he had given to the detective if Jones had not been at the scene of the Blackwell murders because Jones knew information that had not been released to the public. Based on the information provided by Detective Stefanatos, the trial court found probable cause to support the issuance of an arrest warrant for Jackson.

[12] Law enforcement officers subsequently located Jackson in his car and arrested him. During the arrest, law enforcement officers found Jackson's cell phone in his car. After obtaining Jackson's consent to search his cell phone, officers found photographs of the Michael Kors bag in text messages that Jackson had sent attempting to sell the bag.

[13] During Jackson's four-day trial in June and July 2021, Jackson objected when the State offered into evidence his cell phone and the photographs of the Michael Kors bag that had been found on the cell phone. According to Jackson, the warrant for his arrest had not been supported by probable cause and, therefore, the cell phone that had been found at the time of his arrest was not admissible.

[14] After the trial court had recessed the trial and excused the jury, the trial court took judicial notice of Detective Stefanatos' testimony during the oral probable cause hearing and allowed Jackson to question Detective Stefanatos about what he had told the trial court during that hearing. Jackson asked Detective Stefanatos if, during the probable cause hearing, he had told the trial court

about the multiple interviews wherein Jones had denied being involved in the murders. Detective Stefanatos responded that although he had told the trial court that he had interviewed Jones multiple times, the detective had not told the trial court that Jones had initially denied involvement and implicated others in the crimes. According to Detective Stefanatos, he had not felt that Jones' prior statements were relevant because Jones had contacted him and asked to talk to him at the county jail. In addition, Detective Stefanatos explained that he had believed that Jones "had been lying to [him] in the other interviews." (Tr. Vol. 3 at 38). Detective Stefanatos further explained that he had not intended to mislead the trial court and had not intentionally left anything out of his testimony that would have diminished the finding of probable cause to support the issuance of an arrest warrant for Jackson.

[15] Thereafter, Jackson argued that Detective Stefanatos had engaged in a deliberate falsehood or reckless disregard for the truth when he had omitted information that during multiple interviews, Jones had denied being involved in the Blackwell murders and had implicated others. The gravamen of this argument appeared to be that the trial court would not have found probable cause for the issuance of the arrest warrant if the trial court had considered the omitted information.

[16] After hearing Detective Stefanatos' testimony, the trial court reviewed the transcript of the oral probable cause hearing and "[did] not find, as argued by [Jackson], that Detective Stefanatos [had] engaged in deliberate falsehood or reckless disregard for the truth by omitting certain information from the



hearing.” (Tr. Vol. 3 at 47-48). The trial court concluded that there had been probable cause to support the issuance of Jackson’s arrest warrant and admitted into evidence Jackson’s cell phone and the photographs of the Michael Kors bag, which were on the cell phone.

[17] After hearing the evidence, the jury convicted Jackson of Level 3 felony conspiracy to commit armed robbery and three counts of murder. The trial court sentenced Jackson to an aggregate term of 180 years.

[18] Jackson now appeals his convictions.

## **Decision**

[19] Jackson argues that the trial court abused its discretion in admitting into evidence his cell phone and photographs of the Michael Kors bag found on his cell phone because the warrant authorizing his arrest was not supported by probable cause. Specifically, he contends that Detective Stefanatos’ testimony at the probable cause hearing was based on uncorroborated hearsay.

[20] At the outset, we note that Jackson has waived appellate review of this issue. As set forth in the FACTS section, Jackson argued at trial that the warrant authorizing his arrest had not been supported by probable cause because Detective Stefanatos had engaged in a deliberate falsehood or reckless disregard for the truth. A party may not add to or change his grounds for objection in the reviewing court. *Treadway v. State*, 924 N.E.2d 621, 631 (Ind. 2010). Any ground not raised at trial is not available on appeal, and the issue is waived. *Id.*

[21] Waiver notwithstanding, we find no error. The decision to admit or exclude evidence at trial is within the trial court’s discretion, and we afford it great deference on appeal. *VanPatten v. State*, 986 N.E.2d 255, 260 (Ind. 2013). We review the trial court’s decision regarding the admissibility of evidence for an abuse of discretion. *King v. State*, 985 N.E.2d 755, 757 (Ind. Ct. App. 2013), *trans. denied*. An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before it. *Id.* We further note that we review de novo the trial court’s determination regarding the existence of probable cause. *Smith v. State*, 982 N.E.2d 393, 405 (Ind. Ct. App. 2013), *trans. denied*.

[22] Under the Fourth Amendment to the United States Constitution, “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” U.S. Const. Amend. IV.<sup>4</sup> To preserve that right, a judicial officer may issue a warrant only “upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” *Id.* Probable cause turns on a “practical, common-sense decision whether, given all

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<sup>4</sup> We note that although Jackson’s brief mentions that Article 1, Section 11 of the Indiana Constitution “contains nearly identical language” to the Fourth Amendment of the federal constitution, Jackson does not present any claim or argument that Section 11 requires a different analysis or yields a different result than that produced under the federal Fourth Amendment. (Jackson’s Br. 7). “Where a party, though citing Indiana constitutional authority, presents no separate argument specifically treating and analyzing a claim under the Indiana Constitution distinct from its federal counterpart, we resolve the party’s claim on the basis of federal constitutional doctrine and express no opinion as to what, if any, differences there may be under the Indiana Constitution.” *Myers v. State*, 839 N.E.2d 1154, 1158 (Ind 2005) (internal quotation marks and citation omitted).

the circumstances set forth in the affidavit . . . there is a fair probability that the subject has committed a crime or evidence of a crime will be found.” *Shotts v. State*, 925 N.E.2d 719, 723 (Ind. 2010) (internal quotation marks and citation omitted).

[23] In assessing the validity of an issued warrant, the reviewing court is to determine whether the trial court had a “substantial basis” for concluding that probable cause existed. *Id.* Substantial basis requires the reviewing court, with significant deference to the trial court’s determination, to focus on whether reasonable inferences drawn from the totality of the evidence support the determination of probable cause. *Id.*

[24] When seeking an arrest warrant, law enforcement must follow the warrant statute, INDIANA CODE § 35-33-5-2, which specifies the minimum information necessary to establish probable cause. *Esquerdo v. State*, 640 N.E.2d 1023, 1029 (Ind. 1994). Pursuant to the warrant statute, an affidavit based on hearsay must contain reliable information establishing the credibility of the source and a factual basis for the hearsay statements or information that, in the totality of the circumstances corroborates the hearsay. I.C. § 35-33-5-2(b)(1) and (2).

Uncorroborated hearsay from a source whose credibility is unknown, standing alone, cannot support a finding of probable cause. *Jaggers v. State*, 687 N.E.2d 180, 182 (Ind. 1997).

[25] The trustworthiness of hearsay for the purposes of proving probable cause can be established in a number of ways, including demonstrating that: (1) the

informant has given correct information in the past; (2) independent police investigation corroborates the informant's statements; (3) some basis for the informant's knowledge is shown; or (4) the informant predicts conduct or activities by the suspect that are not ordinarily easily predicted. *State v. Spillers*, 847 N.E.2d 949, 954 (Ind. 2006). These examples, however, are not exclusive. *Id.*

[26] “Depending on the facts, other considerations may come into play in establishing the reliability of the informant or the hearsay.” *Id.* (internal quotation marks and citation omitted). For example, one such additional consideration is whether the informant has made declarations against penal interest. *Id.* Our Indiana Supreme Court has explained that “admissions of crime . . . carry their own indicia of credibility – sufficient at least to support a finding of probable cause[.]” *Id.* at 955 (internal quotation marks and citation omitted). The underlying thread that binds cases of statements against penal interest together is that “an informant, after arrest or confrontation by police, admit[s] committing criminal offenses under circumstances in which the crimes otherwise would likely have gone undetected.” *Id.* at 956.

[27] Another additional consideration is whether the informant relates the information to a law enforcement officer in a face-to-face manner. *Robinson v. State*, 888 N.E.2d 1267, 1271 (Ind. Ct. App. 2008), *trans. denied*. In such cases, the officer has an opportunity to assess the informant's credibility and demeanor. *Id.* Further, an informant who relates information to a law enforcement officer in a face-to-face manner has surrendered his anonymity.

*Id.* “Citizens who personally report crimes to the police thereby make themselves accountable for lodging false complaints.” *Id.* (internal quotation marks and citation omitted).

[28] Here, our review of Detective Stefanatos’ testimony at the probable cause hearing reveals that the information provided by Jones had been corroborated by evidence that law enforcement officers had already obtained during the course of their investigation. Specifically, law enforcement officers knew that the murders had occurred between 10:12 a.m. when Javon, Jr., had sent a text to his mother and 11:30 a.m. when the handyman had arrived at Blackwell’s home. Drake’s vehicle had been seen sitting in front of Blackwell’s home at 10:41 a.m. Law enforcement officers also knew that the Blackwells had been shot with a 9 mm weapon and that a Michael Kors bag and a cell phone had been reported missing from the home. In addition, law enforcement officers had found an empty box for a 40-caliber handgun. Law enforcement officers had also obtained video surveillance of Jones and Jackson arriving at Drake’s mother’s apartment at 11:38 a.m. Indeed, according to Detective Stefanatos, Jones could not have known the information that he had given to the detective if Jones had not been at the scene of the Blackwell murders because Jones knew information that had not been released to the public. We further note that Jones made numerous statements against penal interest when he gave Detective Stefanatos information about other crimes that he had committed, including another murder, two armed robberies, and the theft of a custom car. Lastly, we note that Jones’ statements were given in a face-to-face interview with Detective

Stefanatos. The detective, therefore, had the opportunity to assess Jones' credibility and demeanor. The totality of these circumstances corroborated Jones' statements, and the warrant authorizing Jackson's arrest was supported by probable cause. Accordingly, the trial court did not abuse its discretion in admitting into evidence Jackson's cell phone, which had been seized at the time of Jackson's arrest, and the photograph of the Michael Kors bag, which law enforcement officers found on the cell phone.

[29] Affirmed.

Robb, J., and Weissmann, J., concur.