

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

State of Indiana,
Appellant-Plaintiff,

v.

Caden Smith,
Appellee- Defendant

May 18, 2023

Court of Appeals Case No.
22A-CR-2424

Appeal from the Marion Superior
Court

The Honorable Jennifer P.
Harrison, Judge

Trial Court Cause No.
49D20-2112-MR-36708

Memorandum Decision by Judge Mathias
Judges May and Bradford concur.

Mathias, Judge.

[1] The Marion Superior Court granted Caden Smith's motion to suppress evidence obtained during a search of his home. The trial court found that the search warrant was not supported by probable cause. The State has filed this interlocutory appeal and argues that the trial court erred when it granted Smith's motion to suppress.

[2] Concluding that the warrant was supported by probable cause, we reverse and remand for proceedings consistent with this opinion.

Facts and Procedural History

[3] On October 12, 2021, Indianapolis Metropolitan Police Department officers found three bodies in a field near 4400 S. Meridian Street. The officers collected over fifty 9mm fired cartridge casings at the scene and unfired 9mm bullets. The victims died from multiple gunshot wounds and were later identified as Michael James, Abdullah Mubarak, and Joseph Thomas.

[4] After interviewing friends and relatives of the victims, IMPD began to focus its investigation on Smith. On October 26, law enforcement officers submitted a request for a search warrant for the residence at 165 Thompson Road, which belonged to Smith's grandmother. The affidavit accompanying request stated in pertinent part:

[On] Thursday October 14, 2021, Detective Torres took a statement from Hailey Vaughn, who was the girlfriend of Michael James. Vaughn told me the last time she spoke to James was on Monday October 11, 2021, at approximately 7PM, he was with Mubarak at his house. Vaughn also told me James had

mentioned to her previously he was he was going to meet with a person named Caden so he could get some “Switches” for a gun from him. According to the ATF a switch is a relatively simple, albeit illegal, device that allows a conventional semi-automatic Glock pistol to function as a fully automatic firearm. The switch is classified as a machine gun under federal law. Vaughn told me both James and Mubarak possessed semi-auto firearms.

Detective Torres asked if she had any information on Caden, she said he is a young W/M and he lives with his grandmother but not sure of the location of the house. Detective Torres also asked if James or Mubarak knew a B/M named Joseph Thomas.

Vaughn told me they did not know Thomas.

[On] Thursday October 14, 2021, Detective Torres took a statement from a juvenile. The juvenile told me he/she has known Michael James his/her entire life, James would live with his/her family over the years too, and he/she knew Abdullah Mubarak through James. The last time the juvenile spoke to James was at his/her house on Monday October 11, 2021, at approximately 3PM. The juvenile told Detective Torres James and Mubarak did not know Thomas but he/she did know Thomas she also knew a M/W named Caden. He/she used to be friends with Thomas and Caden in the past but had not seen Caden for at least a year but he/she would see him on his Snapchat profiles under lilswiperrr and yourmammassplug. The juvenile had been to Caden’s grandmother’s home and gave me the address of 165 W. Thompson Road. The juvenile also told Detective Torres the cell number he/she had for Caden was 317-414-4550.

After receiving the address and cell number information from the juvenile Detective Torres found a runaway report IP19084114. The report listed Opal Smith phone number as 317-414-4550, her address is 165 W. Thompson Road and the grandmother of Caden Smith.

[On] Sunday October 17, 2021, Detective Torres took a statement from Evelyn Nelson, who is Joseph Thomas' mother. Nelson told Detective Torres the last time she saw her son was on Sunday October 10, 2021, at approximately 6:45PM at her residence. Thomas told his mother he had to leave to take care of something and left the residence. Nelson remembered earlier in the day she and Thomas were at the Citgo Gas station at 3951 S. Meridian when she saw a W/M wearing a black hoodie, and mask and a B/M wearing a black hoodie. While in the gas station she noticed Thomas talking to the W/M, Nelson also recalled Thomas saying the W/M's name is Caden. After Thomas was located deceased and Nelson was notified she went to the Boost Mobile store near her residence and spoke to Amy Perocarpi, who is the Assistant District Manager for Boost Mobile. Since Nelson had the cell number and pin code for the account Perocarpi was able to obtain some of the phone records for Thomas' cell number 317-869-6919. The records showed the number 317-847-8163 was called by Thomas or received by Thomas several times on October 10, 2021. Sunday October 24, 2021, Detective Torres took a second statement from Evelyn Nelson. Nelson told me she forgot to tell me when Thomas was leaving the apartment he told her "I'm going to meet with Caden and take care of something". Nelson remembered meeting Caden approximately three years ago and meeting his grandmother who lives on Thompson Rd.

[On] Sunday October 17, 2021, Detective Torres when to the Citgo gas station at 3951 S. Meridian and met with the manager Lavdeep Singh. We reviewed the surveillance footage for October 10, 2021, Detective Torres was able to see at approximately 6:10PM Thomas was interacting with a W/M and B/M in the store, as Nelson described in her statement. Detective Torres also saw while Thomas was interacting with the W/M and B/M, Thomas gave his cell phone to the W/M and the W/M typed information in the cell phone then gave it back to Thomas.

[On] Sunday October 24, 2021, Detective Torres took a statement from a juvenile. The juvenile told Detective Torres he/she has been friends with Joseph Thomas AKA “Jo-Jo” for approximately five years. The juvenile recalled being at the Citgo gas station with Thomas, his mother, in her vehicle on Sunday October 10, 2021. The juvenile stayed in the vehicle when Thomas went into the gas station with a W/M, who was wearing a mask, hoodie and a dark-skinned B/M. Eventually all three exited the gas station together, and Thomas continued talking to the W/M, eventually the W/M and B/M walked away. When Thomas went back to the vehicle the juvenile asked Thomas who was the W/M, Thomas told him it was Caden. Thomas entered the vehicle they left and returned to his residence. Later in the afternoon/evening the juvenile was with Thomas at this residence when Thomas told him/her he was leaving to meet with Caden and he would be back later. Thomas also said he was going to ask Caden about a gun. Detective Torres asked the juvenile if he knew Caden and he/she told me yes. Detective Torres showed the juvenile a photo of Caden Smith, and he/she confirmed it was the same Caden.

On October 26, 2021, at approximately 9:30 pm, IMPD Violent Crimes Detectives were conducting surveillance in the area of 165 W Thompson Rd. Detective McDonald observed a gray Pontiac G6 west bound on Thompson slowing down as it approached 165 W Thompson. The Pontiac turned into the driveway at 165 W Thompson and stopped. Detective McDonald observed a thin built male approximately 6’0” tall exit the passenger front seat. The male was carrying a backpack and walked to the front porch of 165 W Thompson Rd. The male then entered the front western door. The Pontiac then backed out of the driveway and drove east bound on Thompson Rd to Meridian.

Ex. Vol., State’s Ex. 1, pp. 6-11.

[5] The affidavit included a discussion of the officer following the Pontiac, witnessing traffic violations, and initiating a traffic stop. The affidavit concluded:

Det. Patton approached the passenger side of the vehicle and asked the driver why he was in such a big hurry and the driver stated he needed air in his tire not denying that he was driving fast. Det. Patton immediately observed what he knew to be a short barreled AR15 style pistol laying under the passenger seat with the barrel exposed and in plain view. Det. Patton kept talking to the Driver and requested backup. Det. Patton was assisted by Det. Chappell and the driver was ordered out of the vehicle so that the weapon could be separated from the Driver.

The Driver was identified through Indiana Learners Permit as Jaylen Starks, b/m, [birthdate omitted].

Det. Patton asked Jaylen where he was coming from and all he would say is a friend. Jaylen eventually stated his friend was named "DAY". Jaylen Starks was detained for further investigation.

Id.

[6] The magistrate issued the warrant and IMPD officers executed the warrant in the early hours of October 27. The officers found several incriminating items during their search of Smith's bedroom, including two firearms, one with a "switch" attached, ammunition, and six cell phones.

[7] Thereafter, the State charged Smith with several felonies, including three counts of murder. Smith filed a motion to suppress the evidence obtained during the

search of his bedroom. Smith argued that the affidavit failed to provide facts that the particular items sought to be seized were sufficiently connected with criminal activity and that the items would be found at the residence on Thompson Road. The trial court agreed with Smith and granted his motion to suppress. The State then filed a motion to reconsider, which the trial court denied.

- [8] The State now appeals the trial court’s order granting Smith’s motion to suppress.

Standard of Review

- [9] A trial court’s ruling granting a motion to suppress is reviewed to determine whether “substantial evidence of probative value . . . supports the trial court’s decision.” *State v. Renzulli*, 958 N.E.2d 1143, 1146 (Ind. 2011) (quoting *State v. Quirk*, 842 N.E.2d 334, 340 (Ind. 2006)).

We do not reweigh the evidence[] but consider conflicting evidence most favorably to the trial court’s ruling. When the State is appealing a negative judgment, it must show that the trial court’s ruling on the suppression motion was contrary to law. We, of course, review such questions of law de novo.

State v. W.R., 148 N.E.3d 306, 311 (Ind. 2020) (citations and quotations omitted).

Probable Cause

- [10] The [Fourth Amendment to the United States Constitution](#) and [Article 1, Section 11 of the Indiana Constitution](#) require probable cause for the issuance of a search warrant.¹ Probable cause is a fluid concept incapable of precise definition and must be decided based on the facts of each case. *State v. Shipman*, 987 N.E.2d 1122, 1126 (Ind. Ct. App. 2013). In deciding whether to issue a search warrant, a judge’s task is “simply to make a practical, commonsense decision whether, given all the circumstances set forth in the affidavit, there is a fair probability that evidence of a crime will be found in a particular place.” *Id.*; see also *State v. Spillers*, 847 N.E.2d 949, 952-53 (Ind. 2006).
- [11] In this appeal, the State argues that Detective McDonald’s application for the search warrant provided a substantial basis from which the trial court should have concluded that probable cause to search existed. As we consider this issue, we are required to give significant deference to the trial court’s initial determination and “focus on whether reasonable inferences drawn from the totality of the evidence support the determination of probable cause.” *State v. Stone*, 151 N.E.3d 815, 181 (Ind. Ct. App. 2020) (quoting *Spillers*, 847 N.E.2d at 953), *trans. denied*.

¹ Smith urges us to apply the test promulgated by our supreme court in *Litchfield v. State*, 824 N.E.2d 356 (Ind. 2005), in our consideration of whether the warrant was supported by probable cause. But our courts apply the *Litchfield* test to determine whether a search is reasonable under the totality of the circumstances. See *Watkins v. State*, 85 N.E.3d 597, 600 (Ind. 2017). Smith’s claim is not that the search was unreasonable, but that the warrant was not supported by probable cause. Therefore, we decline to apply the *Litchfield* test in this case.

[12] The State contends that the information recited in the affidavit established a fair probability that Smith murdered or participated in the murders of Michael James, Abdullah Mubarak, and Joseph Thomas. We agree. The affidavit established that Thomas was murdered after 9:00 p.m. on October 10, 2021, and James and Mubarak were murdered after 9:00 p.m. on October 11. Michael James's girlfriend reported that James and Mubarak were at Mubarak's house on October 11 at approximately 7:00 p.m. James had previously told his girlfriend that he was going to get some "switches" for a gun from "Caden." Ex. Vol. p. 8. James's girlfriend described Caden as a young white male who lives with his grandmother.

[13] Thomas's mother stated that she saw her son meet with a white male and a black male at a gas station on the day he was murdered, and Thomas reported that the white male's name was Caden. Later that day, Thomas told his mother he was going to meet Caden and "take care of something." *Id.* at 9. The detective confirmed Thomas's mother's account of her son's meeting with a white male at the gas station on October 10 after viewing the gas station's surveillance video. Another juvenile was with Thomas in his vehicle on October 10 at the gas station but stayed in the car while Thomas met with the white male. When Thomas returned to the vehicle, the juvenile asked who the white male was and Thomas replied, "Caden." *Id.* at 9. Later that day, Thomas told the juvenile he was going to meet Caden and would return later. He also stated he was going to ask Caden about a gun. The detective showed the

juvenile a photo of Caden Smith, and the juvenile confirmed that the photo depicted the white male the juvenile saw with Thomas.

[14] Under the totality of these circumstances, the affidavit established a fair probability that Smith participated in Thomas's murder, if not the murder of James and Mubarak.

[15] But that does not end our inquiry. In particular, Smith further asserts that the State's search warrant failed to establish a fair probability that evidence of the murders would be found in his grandmother's home. We disagree.

[16] As recounted in the affidavit, the detective spoke to a juvenile who knew all three victims and Caden. The juvenile, who had not seen Caden in at least a year, gave Caden's cell phone number and grandmother's address to the detective. The detective found a runaway report after receiving this information. The report confirmed Caden's grandmother's address and listed the phone number the juvenile provided as belonging to Caden's grandmother. James's girlfriend also said that Caden lived with his grandmother but she did not know the address of the home.

[17] On October 26, 2021, IMPD detectives were conducting surveillance near Caden's grandmother's home. A gray Pontiac turned into the driveway of the home and a thin male, approximately six-feet-tall, exited the front passenger side of the vehicle. He was carrying a backpack and entered the home.

[18] The vehicle backed out of the driveway and proceeded eastbound on Thompson Street. A detective followed the vehicle and observed the vehicle speeding. An assisting detective initiated a traffic stop. The detective saw a short-barreled AR15 style pistol underneath the passenger seat of the vehicle but in plain view. The driver, a black male, stated that he was coming from “a friend” and said his friend’s name was “Day.” *Id.* at 10.

[19] The only physical description of Caden in the affidavit is a young, white male. According to the affidavit, the detective who viewed the surveillance footage from the gas station and obtained a photo of Caden Smith was not one of the detectives performing surveillance on Smith’s grandmother’s home on October 26. Detective McDonald described the male who entered Caden’s grandmother’s Thompson Road residence as thin and approximately six feet tall. The affidavit does not describe the male’s age or skin color. However, the driver who dropped the male off at the Thompson Road residence identified the male as “Day,” which the officers could reasonably conclude is a nickname for Caden.

[20] The information contained in the affidavit also established a fair probability that Caden Smith lived with his grandmother at 165 West Thompson Road. Victim James’s girlfriend, victim Thomas’s friend, and Thomas’s mother told the

officers that Caden lived with his grandmother.² The officers confirmed Smith's grandmother's Thompson Road address and confirmed that her cell phone number was a number that at least one individual also had for Caden Smith.

[21] Finally, the affiant also requested authorization to search the Thompson Road residence for cell phones. In the affidavit accompanying the search warrant, the officers provided information and witnesses' observations establishing a fair probability that victim Thomas was communicating with Smith via cellphone. After considering the totality of these circumstances, we agree with the State that the information in the affidavit sufficiently established a nexus between the items to be seized and the Thompson Road residence.

[22] Still, Smith directs our attention to *Hensley v. State*, 778 N.E.2d 484, 488 (Ind. Ct. App. 2002), where we concluded that there was not probable cause to support the search warrant because there was no connection between the described premises to be searched and the defendant's alleged dealing in methamphetamine. But in that case, the affidavit did not "indicate that Hensley owned the premises described . . . , that she lived there, or even that she had any connection with the described premises." *Id.*; see also *Merritt v. State*, 803 N.E.2d 257, 260-61 (Ind. Ct. App. 2004) (concluding that the search warrant

² Twelve days before the search warrant was issued, James's girlfriend told the officers that Caden "lives" with his grandmother. Ex. Vol. p. 6. And on the date the search warrant was issued, a man nicknamed "Day" entered the residence. *Id.* at 9-10. The detectives received other information that Caden lived with his grandmother previously. While that information was arguably stale, the information provided by James's girlfriend and the detective's personal observation was not.

was not supported by probable cause because the information provided did not establish that the unidentified black male in possession of the cocaine frequented or resided at the premises to be searched). Here, the affidavit contained information establishing a fair probability that Smith recently participated in a murder and still lived in his grandmother's home.

[23] To determine whether the affidavit contains facts establishing a fair probability that evidence of a crime will be found in a particular place, the facts are not to be considered in isolation. *United States v. Aljabari*, 626 F.3d 940, 944 (7th Cir. 2010) (citing *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). Rather, “this common-sense, non-technical determination is based [] on . . . the totality of the circumstances known at the time a warrant is requested.” *Id.* Moreover, “an affidavit need only contain facts that, given the nature of the evidence sought and the crime alleged, allow for a reasonable inference that there is a fair probability that evidence will be found in a particular place.” *Id.* (citing *Gates*, 462 U.S. at 238).

[24] It is reasonable to conclude that evidence of a crime will likely be found in a suspect's home, unless there is information indicating that it will not be. *Id.* at 945. The Seventh Circuit has adopted the following principle concerning the search of a suspect's home: “the less readily apparent the connection between a criminal suspect and a particular place, the greater the factual support necessary to establish probable cause to search that place.” *Id.* Therefore,

[w]hen probable cause exists to believe an individual has committed a crime involving physical evidence, and when there

is no articulable, non-speculative reason to believe that evidence of that crime was not or could not have been hidden in that individual's home, a magistrate will generally be justified in finding probable cause to search that individual's home.

Id. at 946.

[25] Here, again, the officers had information sufficient to establish probable cause to believe that Caden Smith was involved in the murders, which occurred approximately two weeks before the officers applied for the search warrant. The affidavit also contained facts establishing a fair probability that Smith lived with his grandmother on Thompson Road. Finally, the detective applied for the search warrant shortly after observing a man, identified as “Day,” enter the Thompson Road residence. The detective reasonably concluded that “Day” was a nickname for “Caden.” These facts establish a fair probability that evidence of the murders would be found in the Thompson Road home. *Cf. Figert v. State*, 686 N.E.2d 827, 830-31 (Ind. 1997) (holding a warrant issued to search three homes situated closely to each other did not establish probable cause to search one of the three homes because the facts alleged in the affidavit only established a fair probability that drugs were being sold from the other two homes and by the persons who lived in those two homes).³

³ Smith claims that the affidavit did not establish the credibility and reliability of the source of the information or facts corroborating the hearsay statements recounted in the affidavit. *See Ind. Code § 33-35-5-2(b)* (requiring the affidavit accompanying the warrant to contain reliable information or information corroborating hearsay statements). The statements in the affidavit relied on in this case were not made by confidential or anonymous informants. The detective identified each person in the affidavit by name and their relationship to the case. Many of the statements in the affidavit were corroborated by similar statements

[26] For all of these reasons, we conclude that the affidavit was supported by probable cause, and therefore, the trial court erred when it granted Smith’s motion to suppress.

Electronic Signature

[27] Finally, we address Smith’s claim that the magistrate’s electronic signature did not comply with the requirements of [Indiana Code section 35-33-5-8\(h\)](#).⁴ That statute provides:

The affiant and the judge may use an electronic signature on the affidavit and warrant. An electronic signature may be indicated by “s/Affiant’s Name” or “s/Judge’s Name” or by any other electronic means that identifies the affiant or judge and *indicates that the affiant or judge adopts the contents of the document to which the electronic signature is affixed.*

(Emphasis added.) Smith argues that the affidavit and warrant do not meet the requirement of the italicized portion of the quoted statute.

[28] Underneath the judicial officer’s electronic signature, the warrant quotes the language from [Indiana Code section 35-33-5-8\(h\)](#), including the italicized portion. Smith claims that the judge’s signature above the statutory language quoted on the warrant is not an explicit “indication” that the judge “adopted

or law enforcement officers’ personal observations. For these reasons, Smith has not established that the statements recounted in the affidavit were not reliable or credible.

⁴ “In addition to conforming with the prohibition on unreasonable searches and seizures under the [Fourth Amendment](#) and [Article 1, Section 11 of the Indiana constitution](#), a valid warrant must comply with the additional statutory requirements implemented by our General Assembly.” *State v. W.R.*, 148 N.E.3d 306, 311-12 (Ind. 2020) (citing *Gray v. State*, 758 N.E.2d 519, 521 (Ind. 2001)).

the contents of the documents.”⁵ Appellee’s Br. at 29-30. But the search warrant signed by the judge also provides:

An Affidavit for a Search Warrant has been submitted to me, a duly authorized Judicial Officer of Marion County, Indiana. I have examined the Affidavit and being duly advised in the premises, FIND and DETERMINE that PROBABLE CAUSE exists for the issuance of this Search Warrant.

Ex. Vol. p. 13. The warrant also provides that the warrant, list of items to be seized, “along with the Affidavit are a part of this Search Warrant; and are watermarked with my electronic signature, the Court Cause Number and Transaction ID.” *Id.*

[29] Contrary to Smith’s argument, when the entirety of the warrant is considered, we conclude the Judge adopted the contents of the application for the warrant and the affidavit when she signed the warrant electronically. We are not persuaded that the warrant is defective because the quoted statutory language is set forth below the judge’s signature. The statute does not require the judge to personally type his or her verification before signing the warrant. Moreover, our supreme court has observed that “Indiana courts routinely hold parties to the terms of ‘boilerplate’ contractual language because our legal system relies on the assumption that an individual would not agree to these terms if they did not reflect reality.” *State v. W.R.*, 148 N.E.3d 306, 314 (Ind. 2020) (citations

⁵ Detective McDonald electronically swore and affirmed “under the penalties for perjury that the foregoing representations [in the affidavit] are true.” Ex. Vol. p. 11. Therefore, the detective adopted the contents of the affidavit. *See Abd v. State*, 120 N.E.3d 1126, 1133 (Ind. Ct. App. 2019).

omitted). For these reasons, we do not agree with Smith's claim that the warrant is defective.

Conclusion

[30] The warrant to search the Thompson Road residence was supported by probable cause, and therefore, the trial court erred when it granted Smith's motion to suppress. Moreover, the warrant was not defective because the record supports the conclusion that the Judge adopted the contents of the application for the warrant and the accompanying affidavit when she signed the warrant electronically.

[31] We reverse and remand for proceedings consistent with this opinion.

May, J., and Bradford, J., concur.