

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Terrence W. Isaacs,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 19, 2021

Court of Appeals Case No.
20A-CR-1167

Appeal from the Franklin Circuit
Court

The Honorable J. Steven Cox,
Judge

Trial Court Cause No.
24C01-1809-F2-956

Altice, Judge.

Case Summary

- [1] Terrence Isaacs appeals his conviction for dealing in methamphetamine, a Level 2 felony, claiming that evidence seized from his residence pursuant to a search warrant was improperly admitted at trial. Isaacs argues that there was no probable cause for the search because the application for the warrant was based solely on uncorroborated hearsay.
- [2] We affirm.

Facts and Procedural History

- [3] On September 6, 2018, Franklin County Sheriff's Deputy Ryan Geiser applied for and was granted a search warrant to search Isaacs's residence in Franklin County for methamphetamine. Deputy Geiser's application and affidavit in support of probable cause stated:

On July 17, 2018 at approximately 3:15 p.m., your affiant executed a search warrant at the residence belonging to Ashley Williams located in Laurel, Franklin County, Indiana. Upon executing the search warrant, your affiant located drug paraphernalia and a substance identified to be Marijuana. Of the drug paraphernalia discovered, your affiant located a clear glass smoking device consistent with the consumption of Methamphetamine. Ms. Williams explained she and her boyfriend, Tevin Pope, have used Methamphetamine in the past, but it has been a couple of months since they have used. Ms.

Williams proceeded to explain she has never purchased the Methamphetamine, rather Mr. Pope purchases it for them. *Mr. Pope purchases the Methamphetamine from an individual identified as Terrence Isaacs, in Laurel, Franklin County.* Ms. Williams described the residence to be the second trailer on W. Edgerton Street on the north side of the roadway. *She described the residence to be on the road next to Pavey's Gas Station with a number of vehicles on the property.*

On July 20, 2018, your affiant was contacted by Macy Ross, with the Indiana Department of Child Services, Franklin County. Ms. Ross requested information pertaining to an investigation with Mrs. Whipple. Ms. Ross proceeded to explain they received a complaint of Ms. Whipple living in a tent behind the residence located at 317 W Edgerton Street, Laurel, Franklin County, Indiana. *Reportedly, the residence located at that address is their drug dealer by the name of Terrence.* Ms. Ross was unable to provide a last name for the individual but wanted to relay the information to your affiant due to the drug complaint.

On August 20, 2018, at approximately 9:30 a.m., your affiant and Deputy Jason Robinson *interviewed an individual whom requested they not be named for personal safety reasons, at the Franklin County Security Center. The individual was being interviewed for an ongoing investigation for auto theft.* The individual proceeded to state they have a drug problem, specifically with Methamphetamine. *They purchased their Methamphetamine from a TERRENCE ISAACS, who lives on Edgerton Street. They described the residence to be the second trailer on W Edgerton Street on the north side of the road. They advised the road is right next to Pavey's Gas Station. The individual stated they typically purchase two 8 balls, also known as 7 grams, of Methamphetamine from suspect TERRENCE ISAACS every two to three days. They stated they would drive to the residence, and a friend would walk to the front door to make a purchase of Methamphetamine. The individual advised they stayed in the vehicle parked in front of Pavey's to watch the transaction transpire. The*

individual advised suspect ISAACS consistently has Methamphetamine in the residence, and immediately resupplies when he runs out.

On September 1st, 2018, your affiant interviewed [a] Confidential Informant with information pertaining to suspect ISAACS dealing and possessing Methamphetamine in Laurel, Franklin County, Indiana. *The informant explained suspect TERRENCE ISAACS resides at 317 W Edgerton Street, Laurel, Franklin County. During the interview, the informant advised they purchase Methamphetamine from suspect TERRENCE ISAACS on a regular basis. The informant proceeded to inform your affiant the last time they purchased Methamphetamine from ISAACS was approximately two days ago at the above listed address. They advised ISAACS purchases his Methamphetamine from Dayton, Ohio in large quantities. They bring the Methamphetamine back to his residence on W. Edgerton Street, where he proceeds to weigh the methamphetamine and place into separate small bags. The informant explained ISAACS places the Methamphetamine in a safe located in the residence. He also stated ISAACS is building a door in the residence which leads to the crawl space for an easy exit in case of a police raid.*

On September 1st, 2018 at approximately 12:00 p.m., your affiant was contacted by [a second] CI to report the presence of Methamphetamine at the ISAACS residence on W Edgerton Street. According to the informant, they stayed the night with ISAACS on 08/31-2018. While inside the residence, the informant observed approximately a gram of Methamphetamine, which was ISAACS[s] personal use. ISAACS informed the informant he did not have any to sell at the moment, however he was going . . . to Dayton, Ohio [09/01/2018] to purchase a bulk amount of Methamphetamine for distribution. The informant further advised your affiant ISAACS consistently has Methamphetamine in the residence and deals throughout Laurel, Indiana. The informant stated every time they are in the residence, there is Methamphetamine present. They further explained ISAACS keeps all of his drugs and

money in a safe, which is located in the master bedroom under a nightstand.

On September 5, 2018, your affiant was contacted by Deputy Arin Bowers with the Franklin County Sheriff's Department with information pertaining to TERRENCE ISAACS possessing and possibly dealing drugs in Franklin County, Indiana. *Deputy Bowers explained he conducted a traffic stop on ISAACS on 09/04/2018 at approximately 10:00 p.m., which resulted in ISAACS['] arrest for possession of Marijuana. Deputy Bowers further stated after reading him his Miranda Rights, ISAACS informed him he resides at the trailer located at 317 W Edgerton Street, Laurel, Franklin County Indiana. ISAACS further stated he was the only person who resides at the residence. He informed Deputy Bowers he did not purchase the Marijuana from Laurel, rather it came from his residence. Deputy Bowers informed me there were two separate bags of Marijuana seized from the traffic stop, and he believes ISAACS was dealing the Marijuana throughout Laurel on the night of the stop. The traffic stop conducted by Deputy Bowers was audio/video recorded through the Sheriff's Department's watch guard vehicle camera system. Your affiant proceeded to watch the traffic stop to corroborate the information provided by Deputy Bowers.*

Based upon the information gathered throughout this investigation, your affiant has reason to believe Methamphetamine will be located at TERRENCE ISAACS['] residence [317 W Edgerton Street, Laurel, Franklin County]. Your affiant knows through training and experiences as a law enforcement officer, persons involved in the consumption/distribution of Methamphetamine typically conceal their Methamphetamine in small spaces in residences, outbuildings and vehicles. Your affiant has conducted surveillance on the residence and has observed ISAACS at the residence on multiple occasions. Your affiant also received information from Deputy John Roberts concerning ISAACS

residing at the residence through previous encounters as a law enforcement officer.

Your affiant has received information from multiple sources corroborating the same information concerning ISAACS possessing/distributing Methamphetamine in Franklin County, Indiana from the aforementioned address. Based on persons['] observations of Methamphetamine in the residence, your affiant has reason to believe Methamphetamine will still be located there.

Your affiant further believes items of illegal controlled substances will be located in the aforementioned residence due to ISAACS informing Deputy Bowers the Marijuana came from inside of his residence. Therefore, Your Affiant respectfully requests the Court to issue a SEARCH WARRANT directing the search for and seizure of the above-described property to further our investigation.

Appendix Vol. II at 28-29 (emphases added).

[4] The search warrant was issued on September 6, and police officers executed the warrant later that day. When the officers entered the residence, Isaacs was sitting on a bed, facing an open safe. While searching the home, the officers observed a “white, crystalline substance,” which appeared to be methamphetamine, spread across the top of the safe. *Transcript Vol. II at 133.* Inside the safe was a paper ledger, some small Ziploc baggies, and several bundles of cash.

[5] Isaacs was arrested and escorted to a police vehicle. At some point, Officer Geiser observed a crystalline substance in the back seat and floorboard where Isaacs was seated. After being transported to the jail, Isaacs was searched, and

Officer Ethan Cantrell observed a trail of “white crystals and dust” near Isaacs that appeared to be methamphetamine. *Id.* at 100-01. When the officers directed Isaacs to spread his legs, a bag containing a white substance fell to the ground. The officers then discovered another baggie that Isaacs had wedged in his buttocks. One bag weighed approximately fifteen grams and the other approximately four grams. Both substances tested positive for methamphetamine.

[6] The State charged Isaacs with dealing in methamphetamine, a Level 2 felony, and alleged that he was a habitual offender. On April 16, 2019, Isaacs filed a motion to suppress, claiming that the evidence seized from his residence should be excluded from evidence because the search warrant lacked “reliable information” and the “totality of the circumstances failed to corroborate the hearsay [statements].” *Appellant’s Appendix Vol. II* at 22.

[7] The trial court denied the motion to suppress and following a jury trial on January 22, 2020, Isaacs was convicted as charged and found to be a habitual offender. Isaacs was subsequently sentenced, and he now appeals.

Discussion and Decision

[8] In addressing Isaacs’s claim that the drugs seized from his residence were improperly admitted into evidence, we initially observe that 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. *Heuring v. State*, 140 N.E.3d 270, 274 (Ind. 2020). This constitutional

requirement is codified in Ind. Code § 35-33-5-2, which specifies the information that must be included in an affidavit supporting a search warrant. One such requirement is that the affidavit set “forth the facts known to the affiant through personal knowledge . . . constituting the probable cause.” I.C. §35-33-5-2(a)(3).

[9] In deciding whether there is probable cause, “[t]he task of the issuing magistrate is simply to 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); *Bunnell v. State*, No. 20A-CR-981, *slip op.* at 5 (Ind. Ct. App. Dec. 18, 2020). In reviewing that decision, our task is to determine whether the affidavit provided the warrant-issuing judge with a “substantial basis” for finding probable case. *Id.* at 238-39; *Bunnell*, *slip op.* at 5. And while we afford a probable-cause determination great deference, “it is not boundless.” *United States v. Leon*, 468 U.S. 897, 914 (1984). We must ensure that the judge “perform his neutral and detached function and not serve merely as a rubber stamp for the police.” *Id.* A warrant issued without probable cause is invalid; therefore, any subsequent search based on the warrant is illegal. *Bunnell*, *slip op.* at 6. Under the exclusionary rule, any evidence obtained directly and derivatively from the illegal search must be suppressed. *Id.*

[10] When a warrant is sought based on hearsay, I.C. § 35-33-5-2(b) requires that an affidavit supporting the probable cause must either:

(1) contain reliable information establishing the credibility of the source and of each of the declarants of the hearsay and establishing that there is a factual basis for the information furnished; or

(2) contain information that establishes that the totality of the circumstances corroborates the hearsay.

[11] The trustworthiness of hearsay for purposes of proving probable cause can be established in several ways, including where: (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 demonstrated; or (4) the informant predicts conduct or activities by the suspect that are not ordinarily predictable. *Jaggers v. State*, 687 N.E.2d 180, 182 (Ind. 1997). And depending on the facts, other considerations may come into play in establishing the reliability of the informant or the hearsay. *Id.* A “‘statement that the event was observed firsthand’ entitles the tip to ‘greater weight than might otherwise be the case.’” *Jaggers*, 687 N.E.2d at 183 (quoting *Gates*, 462 U.S. at 234). Similarly, while an anonymous tip alone cannot provide the basis for probable cause, an anonymous tip, along with a showing of a basis for the informant's knowledge and corroboration by independent police work, will support probable cause. *Cheever-Ortiz v. State*, 825 N.E.2d 867, 873 (Ind. Ct. App. 2005).

[12] We acknowledge that easily obtained facts that are within the public domain, such as the location of a defendant's residence, will not establish an informant's

credibility. *Gates*, 462 U.S. at 245; *Bradley v. State*, 609 N.E.2d 420, 423 (Ind. 1993). Here, however, Deputy Geiser recounted five sources of information that he received over a nearly two-month period, along with evidence from the traffic stop on September 4, 2018, in support of the probable cause determination. Four sources independently reported to Deputy Geiser in separate interviews that Isaacs was dealing methamphetamine from his residence, and three of them stated that they had purchased the drug from Isaacs. And at least three of those individuals provided information directly to law enforcement personnel at the police station, where they provided Isaacs's address or mentioned that the residence was adjacent to Pavey's gas station. In addition to the location of the residence, the CIs reported that they had seen the drugs in Isaacs's residence, and they knew he loaded the drugs in small baggies and stored them in a safe in the bedroom. At least two of the sources stated that Isaacs has been selling the drugs throughout the town of Laurel.

- [13] The face-to-face nature of the tips serves to establish their reliability because law enforcement officials can judge the credibility of the informant and the tipster has waived anonymity. *See, e.g., Washburn v. State*, 868 N.E.2d 594, 600 (Ind. Ct. App. 2007) (concluding the totality of the circumstances established that the informant was reliable, as the law enforcement officer had ample opportunity to assess the informant's credibility and enough information had been provided to hold the informant responsible for false informing if necessary), *trans. denied*. Moreover, there is nothing to suggest that the sources had fabricated the statements they provided to the officials. The witnesses were interviewed

separately and independently, and their statements corroborated each other. Finally, Isaacs's own admission to the police officers regarding the marijuana that was seized during the traffic stop further supported the fact that drugs would be found at his residence.

[14] In sum, Deputy Geiser's affidavit contained reliable information, and the totality of the circumstances corroborated the sources' hearsay statements. *See, e.g., Fry v. State*, 25 N.E.3d 237, 245 (Ind. Ct. App. 2015) (concluding that the State properly corroborated hearsay in its warrant request because two hearsay "statements corroborate[d] each other"), *trans. denied*; *see also Beverly v. State*, 801 N.E.2d 1254, 1262 (Ind. Ct. App. 2004) (citing *United States v. Schaefer*, 87 F.3d 562, 566 (1st Cir. 1996) (observing that courts often have held that consistency between the reports of two independent informants helps to validate both accounts), *trans. denied*. Given all the information in the search warrant affidavit, the totality of the circumstances reasonably leads to the conclusion that police would find drugs at Isaacs's residence. We therefore conclude that the search warrant for Isaacs's residence was supported by probable cause and the trial court did not abuse its discretion in admitting the evidence procured via the search warrant.

[15] Judgment affirmed.

Mathias, J. and Weissmann, J., concur.