

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2125**

State of Minnesota,
Respondent,

vs.

Donald Michael Wiegel,
Appellant.

**Filed December 30, 2019
Affirmed
Klaphake, Judge***

Ramsey County District Court
File No. 62-CR-17-6917

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

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, John Donovan, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Florey, Judge; and Klaphake,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant Donald Michael Wiegel challenges his conviction of first-degree controlled-substance crime, arguing that the district court erred by denying his pretrial motion to suppress evidence discovered during the execution of a search warrant because the search-warrant application was not supported by probable cause. We affirm.

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), *review denied* (Minn. Feb. 22, 2006). Instead, “great deference must be given to the issuing [magistrate’s] determination of probable cause.” *State v. Valento*, 405 N.W.2d 914, 918 (Minn. App. 1987). When reviewing a decision to issue a search warrant, an appellate court limits its review to 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).

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the “veracity” and “basis of knowledge” of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

Id. (quoting *Illinois v. Gates*, 462 U.S. 213, 238, 103 S. Ct. 2317, 2332 (1983)).

In January 2017, Deputy Jacob French of the Ramsey County Sheriff’s Department arrested a confidential informant (CI) who was on his way to purchase methamphetamine from Wiegel. Based on the information he received from the CI, Deputy French applied for, and was granted, a warrant for GPS tracking on Wiegel’s truck. Deputy French later applied for and was granted a second warrant to search Wiegel’s home and truck. Law enforcement executed the search warrant and discovered 380 grams of methamphetamine and a firearm in Wiegel’s garage. Respondent State of Minnesota charged Wiegel with first-degree possession of a controlled substance and possession of a firearm by an ineligible person. Wiegel moved to suppress the evidence, arguing that the first warrant that authorized GPS tracking was not supported by probable cause. The district court denied the motion. Wiegel stipulated to the state’s case to preserve review of the pretrial ruling on the motion to suppress, and the district court subsequently found Wiegel guilty of first-degree controlled-substance crime but not guilty of possession of a firearm by an ineligible person.

Wiegel argues that the first warrant was not supported by probable cause. He first argues that the CI was not credible because he did not provide any information that was not publicly available. There are six factors that are relevant in determining a CI's credibility. *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004). Only two factors are present here—the police were able to corroborate the information and the CI made a statement against his interest—that he was en route to purchase methamphetamine. *Id.*

Wiegel argues that the CI only provided easily verifiable information, and therefore the information that Deputy French corroborated does not establish probable cause. He relies on *State v. Albrecht*, in which this court affirmed the district court's grant of a motion to suppress where the only information provided was the defendant's address and ownership of a truck. 465 N.W.2d 107, 109 (Minn. App. 1991). Here, the CI provided additional information. The CI told Deputy French that Wiegel worked construction during the summer, had a criminal history, and possessed a weapon. Deputy French confirmed that Wiegel worked construction and had prior convictions for possession of a controlled substance and possession of a firearm by an ineligible person. An individual's criminal history is information that the district court may consider when determining whether to issue a warrant. *State v. Holiday*, 749 N.W.2d 833, 844 (Minn. App. 2008).

Additionally, the CI directed Deputy French to an address in Maple Grove. Deputy French then observed Wiegel's truck at this address, which was confirmed by another officer to be the home of a known methamphetamine dealer. The CI also provided the basis for his knowledge—he was on his way to purchase methamphetamine from Wiegel. The CI's statement that he had previously observed large quantities of methamphetamine

in Wiegel's truck supports the inference that he had purchased methamphetamine from Wiegel in the past. *See State v. Cook*, 610 N.W.2d 664, 668 (Minn. App. 2000) (stating an informant may supply first-hand information if he has purchased drugs from a suspect in the past), *review denied* (Minn. July 25, 2000). On this record, we conclude that the information corroborated by Deputy French was sufficient to render the CI's information credible.

Finally, Wiegel argues that there is no nexus between the controlled substances and the truck or the truck's movements and location. He argues that the information provided does not support the inference that he used his vehicle to transport or distribute controlled substances because the only information linking the truck with controlled substances is the presence of the truck at the home of a known methamphetamine user. We disagree. Wiegel's truck was not observed at the home of a methamphetamine *user*, but rather the home of a known methamphetamine *dealer*. Additionally, the search-warrant application states that the CI has "seen large amounts of methamphetamine inside the [vehicle]." Thus, the CI reported that Wiegel was dealing methamphetamine in the area, that he had observed large quantities of methamphetamine inside the truck, and the truck was seen at the home of a known methamphetamine dealer. Based on this information, and the great deference we afford the issuing magistrate, we conclude there was probable cause to support the issuance of the warrant for GPS tracking on Wiegel's vehicle. The district court therefore did not err in denying Wiegel's motion to suppress the evidence.

Affirmed.