

*This opinion is nonprecedential except as provided by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
A21-1376**

Keshaun Pierre Guy, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 6, 2022
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-18-18827

Cathryn Middlebrook, Chief Appellate Public Defender, Andrew J. Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Reyes, Judge; and Klaphake, Judge.*

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

NONPRECEDENTIAL OPINION

JOHNSON, Judge

In 2019, Keshawn Pierre Guy was convicted of unlawful possession of a firearm and ammunition. In 2021, he petitioned for post-conviction relief on the ground that the search warrant that led to the discovery of the firearm and the ammunition was not supported by probable cause. The post-conviction court denied the petition. We conclude that the search warrant was supported by probable cause and, therefore, affirm.

FACTS

In July 2018, Sergeant Biederman of the Minneapolis Police Department applied for warrants for searches of a house and a vehicle. Each warrant application included the following statements:

Through the course of my employment, I was contacted by a confidential reliable informant (CRI) who stated that a male, known to them as “Kasun Guy” possessed a firearm. This CRI was able to identify Keshawn Pierre GUY . . . as the male they were talking about. The CRI stated that GUY lived at [address omitted] and described the home physically. I drove past the house and noted that the description and the appearance were the same. This CRI stated that GUY possessed firearms and drugs in the house. The CRI stated that GUY sold the narcotics in north Minneapolis.

Within the last 72 hours, I was again contacted by the CRI, who stated that GUY was in possession of a firearm in a vehicle. The CRI stated that they had observed GUY in a gray SUV with Minnesota plates [letters and numbers omitted] with the firearm. The CRI was able to direct me to the location where GUY was and I noted that GUY was in the driver’s seat of the Dodge Journey with Minnesota plates [same letters and numbers omitted]. GUY was followed to [same address omitted] in the vehicle.

The Dodge Journey with Minnesota plates [same letters and numbers omitted] lists to GUY at [same address omitted] in the Department of Motor Vehicle records.

GUY has a criminal history that would prevent the legal possession of a firearm, specifically, he has a first-degree burglary conviction . . . and a domestic assault conviction

A district court judge approved the applications and issued the search warrants.

Law-enforcement officers executed the search warrants three days later. Guy was present at the house identified in the search warrant at the time of the search. In an upstairs bedroom, officers found a loaded .45-caliber handgun and numerous loose rounds of ammunition. Officers also found two boxes of ammunition in the bedroom closet: one box of .45 caliber ammunition and one box of .38 caliber ammunition. In a subsequent interview, Guy admitted that he owned and possessed the handgun and that the bedroom where it was found is his bedroom. No contraband was found in Guy's vehicle.

The state charged Guy with one count of being an ineligible person in possession of a firearm, in violation of Minn. Stat. § 624.713, subd. 1(2) (2016). In October 2018, Guy moved to suppress the evidence of the firearm and the ammunition on the ground that the warrant application was not supported by probable cause. The district court held a hearing on the motion in November 2018. Neither party presented any testimony. In December 2018, the district court filed an order in which it denied the motion on the ground that the search warrant was supported by probable cause.

In April 2019, on the first day of trial, the state amended the complaint to add two counts of being an ineligible person in possession of ammunition, in violation of Minn. Stat. § 624.713, subd. 1(2). A jury found Guy guilty of all three charges. In June 2019,

the district court imposed a sentence of 60 months of imprisonment on count 1. Guy did not pursue a direct appeal.

In June 2021, Guy petitioned for post-conviction relief on the ground that the search warrant for his residence was not supported by probable cause. Guy's petition expressly states that he was not requesting an evidentiary hearing. The state opposed the petition by filing an answer and memorandum of law, and Guy filed a reply memorandum. In August 2021, the post-conviction court denied Guy's petition on the ground that the search warrant was supported by probable cause. Guy appeals.

DECISION

Guy argues that the post-conviction court erred by denying his post-conviction petition. He contends that the search warrant was not supported by probable cause.

The Fourth Amendment to the United States Constitution guarantees the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” and states that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV; *see also* Minn. Const. art. I, § 10. “Probable cause exists if the judge issuing a warrant determines that ‘there is a fair probability that contraband or evidence of a crime will be found.’” *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). Whether probable cause exists is a “practical, common-sense decision” based on the totality of the circumstances. *Id.* at 622-23. If the facts and circumstances establishing probable cause are supplied by a confidential informant, the “informant’s ‘veracity,’

‘reliability,’ and ‘basis of knowledge’ are all highly relevant in determining the value of his report.” *Gates*, 462 U.S. at 230. These characteristics are not “entirely separate and independent requirements to be rigidly exacted in every case” but, rather, are “closely intertwined issues that may usefully illuminate the commonsense, practical question whether there is ‘probable cause.’” *Id.*

If there is a challenge to an issuing court’s determination of probable cause, the reviewing court is limited to the information contained in the warrant application. *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998). The reviewing court “should afford the district court’s determination great deference” and should consider only “whether the issuing judge had a substantial basis for concluding that probable cause existed.” *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001); *see also Rugendorf v. United States*, 376 U.S. 528, 533 (1964). Because the issuing judge’s determination should be based on the “totality of the circumstances,” the reviewing court must be careful not to review each component of the application in isolation. *Massachusetts v. Upton*, 466 U.S. 727, 732-33 (1984). The resolution of doubtful or marginal cases “should be largely determined by the preference to be accorded to warrants.” *Id.* at 734 (quoting *United States v. Ventresca*, 380 U.S. 102, 109 (1965)).

In this case, the post-conviction court determined that the warrant application stated facts and circumstances that established probable cause. The post-conviction court reached this conclusion by reasoning that the informant voluntarily provided information to Sergeant Beiderman, that the informant’s basis of knowledge was demonstrated by his or her personal observation, and that the informant’s tip was corroborated by Sergeant

Beiderman. Guy contends that the post-conviction court erred with respect to each of its reasons.

Our review of the warrant application reveals that, based on the totality of the circumstances, the issuing judge had a substantial basis for concluding that the warrant application was supported by probable cause. We reach this conclusion for three reasons.

First, the informant's veracity was supported by the undisputed fact that the informant was known to Sergeant Biederman. The post-conviction court expressly stated that the informant was known to Sergeant Beiderman, and Guy does not challenge that point on appeal. That fact tends to support the accuracy of the informant's tips because the informant was "in a position to be held accountable" for the information provided. *See State v. McCloskey*, 453 N.W.2d 700, 704 (Minn. 1990).

Second, the informant's basis of knowledge is evident from the warrant application. "Recent personal observation of incriminating conduct has traditionally been the preferred basis for an informant's knowledge." *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985). In addition, an informant's "statement that the event was observed firsthand, entitles his tip to greater weight than might otherwise be the case." *Gates*, 462 U.S. at 234. In this case, the warrant application indicated that the confidential informant had personally observed, on multiple occasions, facts that were relevant to the probable-cause determination. The informant's first tip indicated first-hand knowledge because it included both an address and a physical description of Guy's home. The informant's second tip more strongly indicated first-hand knowledge because the informant stated that he or she

had observed Guy driving a particular vehicle (which was identified by its color, type, and license plate) in a particular location at that particular time.

Third, the reliability of the informant's tips was enhanced by Sergeant Beiderman's corroboration of some of the informant's information. The United States Supreme Court has "consistently recognized the value of corroboration of details of an informant's tip by independent police work." *Id.* at 241-43 (citing *Jones v. United States*, 362 U.S. 257, 269 (1960), *Aguilar v. Texas*, 378 U.S. 108, 109 (1964), and *Draper v. United States*, 358 U.S. 307, 309, 313 (1959)). "[C]orroboration through other sources of information reduce[s] the chances of a reckless or prevaricating tale." *Id.* at 244-45 (quotation omitted). To establish reliability by corroboration, "there is no mandate that *every* fact in the [informant's report] be corroborated, that a certain number of facts be corroborated, or that certain types of facts must be corroborated." *State v. Holiday*, 749 N.W.2d 833, 841 (Minn. App. 2008). The corroboration of even minor details can lend credence to an informant's report. *Draper*, 358 U.S. at 313; *McCloskey*, 453 N.W.2d at 704; *State v. Siegfried*, 274 N.W.2d 113, 115 (Minn. 1978). In this case, Sergeant Biederman confirmed that Guy was the registered owner of the vehicle specifically described by the informant, that Guy's vehicle registration included the same address where the informant said that Guy lived, and that the informant's description of Guy's home was accurate. In addition, after the informant's second tip, Sergeant Biederman confirmed that Guy was then in his vehicle at the location described by the informant, and Sergeant Biederman followed the vehicle to the address provided by the informant, which tended to corroborate the informant's statement that Guy lived there.

Guy challenges the value of Sergeant Biederman's corroboration by contending that the corroborated facts were "easily obtainable" and, thus, did not meaningfully add to the probable-cause analysis. It is true that some of the information provided (such as Guy's address, a description of his residence, and his ownership of a grey SUV with a particular license plate) likely was known by some persons other than the informant. But the informant's second tip—that Guy was in a particular vehicle at a particular place at a particular time—is not the type of information that many persons were likely to know. Consequently, Sergeant Biederman's corroboration of that information provided stronger support for the reliability of the informant's tips.

Guy contends more generally that this case is similar to *State v. Albrecht*, 465 N.W.2d 107 (Minn. App. 1991), in which this court concluded that a search warrant was not supported by probable cause. *Id.* at 109. But *Albrecht* is distinguishable in at least two significant ways. First, the informant in *Albrecht* was anonymous, which meant that law-enforcement officers had no inherent reason to believe in the informant's veracity. *Id.* at 108-09. Second, the officers in *Albrecht* corroborated only some of the information provided by the informant: the location of the defendant's home and a description of the defendant's vehicle. *Id.* at 108. In this case, the informant was known to Sergeant Biederman, and Sergeant Biederman corroborated more information than in *Albrecht*, including information about Guy's location at the time of the second tip. Accordingly, the *Albrecht* opinion does not compel reversal in this case.

In sum, given the information contained in the warrant application, the issuing judge had a substantial basis to conclude that the totality of the circumstances indicated that there

was a fair probability that contraband or evidence of a crime would be found in Guy's home. Thus, the post-conviction court did not err by concluding that the warrant application was supported by probable cause and did not err by denying Guy's petition for post-conviction relief.

Affirmed.