

*This opinion is nonprecedential except as provided by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
A22-1695**

State of Minnesota,
Respondent,

vs.

Stephron Luquis Washington,
Appellant.

**Filed July 10, 2023
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-CR-20-16677

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

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Craig E. Cascarano, Minneapolis, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Larkin, Judge; and Bratvold,
Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his unlawful-possession-of-a-firearm conviction, arguing that the district court erred by denying his motion to suppress the firearm because the search warrant lacked probable cause. We affirm.

FACTS

Officers learned from a confidential reliable informant (CRI-1) that appellant Stephron Luquis Washington was distributing crack cocaine in and around Minneapolis. CRI-1 stated that Washington, commonly armed with a handgun, used two vehicles when distributing the cocaine—a white Buick car (the Buick) and a dark-colored car. CRI-1 reported seeing Washington with the handgun within the preceding several weeks. CRI-1 provided a phone number that Washington used for drug sales.

Based on this information, officers began an investigation. Officers confirmed Washington's identity with CRI-1 using a photograph. They then identified Washington's girlfriend as A.G. Officers observed the Buick and a black Chevrolet Impala (the Chevrolet) parked at A.G.'s apartment (the apartment). An officer discovered that the Buick was registered to A.G. Officers showed CRI-1 photographs of the vehicles and CRI-1 confirmed that Washington used both vehicles for drug sales.

Officers enlisted an experienced confidential reliable informant (CRI-2) to conduct a controlled buy. CRI-2 used the phone number provided by CRI-1 to contact Washington. Washington and CRI-2 arranged to meet. Officers surveilling the controlled buy observed Washington arrive in the Chevrolet. Following the controlled buy, CRI-2 delivered to officers the substance purchased from Washington. The substance field-tested positive as cocaine. Officers continued surveilling Washington as he drove from the controlled buy to the apartment.

On April 23, 2020, a judge signed two search warrants authorizing officers to search the apartment and the Buick for items including controlled substances and firearms. The controlled buy had occurred “less than 72 hours before” the search warrants were issued.

On April 30, 2020, officers executed the search warrants. Officers observed that the apartment “was set up for processing and packaging crack cocaine and located small amounts of crack cocaine.” In the trunk of the Buick, officers found a “loaded .45 caliber firearm wrapped in a sock” inside a jacket. Washington admitted that the jacket belonged to him and that he had worn it “three weeks prior.” Although denying ownership of the firearm, Washington stated that he knew it was in his jacket and that he had handled it in the past. Washington also admitted to selling large quantities of cocaine recently.

The state charged Washington with unlawfully possessing a firearm. Washington moved to suppress the firearm, claiming that the search warrant for the Buick lacked probable cause. The district court denied the motion, concluding that the totality of the circumstances, including the information from CRI-1, police investigation, and controlled buy, created “a sufficient nexus between the controlled substances sought by the warrant and the Buick.”

Washington agreed to a stipulated-facts proceeding under Minn. R. Crim. P. 26.01, subd. 4, in order to preserve review of the suppression ruling on appeal. The district court found Washington guilty of unlawful possession of a firearm and sentenced him to 60 months in prison. This appeal followed.

DECISION

Washington challenges the district court's denial of his suppression motion, claiming that the search warrant was not supported by probable cause. In reviewing a challenge to an issuing court's determination of probable cause, this court is limited to the information in the search-warrant application. *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998). The reviewing court "afford[s] the district court's [probable-cause] determination great deference" and considers 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). We look for "a direct connection, or nexus, between the alleged crime and the particular place to be searched, particularly in cases involving the search . . . for evidence of drug activity." *Souto*, 578 N.W.2d at 747-48.

Washington argues that there was no probable cause for two reasons. First, he claims that there was no nexus between the alleged crime and the Buick. Second, he claims that the information in the search-warrant application was stale because the warrant was silent as to when the information was provided to law enforcement. We reject both claims.¹

¹ In his brief to this court, Washington also asserted a staleness argument because the warrant was executed seven days after it was issued. At oral argument, Washington seemingly conceded that he was not complaining about the lapse of time between the issuing and execution dates. But if he did not concede this claim, as the district court noted, "the indications of ongoing criminal activity in the search warrant were sufficiently strong that the passage of seven days did not diminish the probable cause established in the warrant." *See State v. Dyer*, 438 N.W.2d 716, 719 (Minn. App. 1989) (affirming denial of suppression motion because officers suspected ongoing narcotics sales based on information obtained nine days before affidavit was signed), *rev. denied* (Minn. June 9, 1989).

No warrant shall be issued unless supported by probable cause describing the place to be searched and the items to be seized. U.S. Const. amend. IV; 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) (quotation omitted). Whether probable cause exists is a “practical, common-sense decision” based on the totality of the circumstances. *Id.* at 622-23.

Here, CRI-1 reported that Washington sold crack cocaine around Minneapolis using “a white Buick passenger car, and a dark-colored passenger car.” CRI-1 stated that Washington was commonly armed with a handgun during drug sales, and CRI-1 saw the handgun “within the preceding several weeks.” Officers investigated, learning that a white Buick was registered to A.G. CRI-1 confirmed that A.G.’s Buick and the Chevrolet parked at the apartment were the vehicles Washington used for drug sales. CRI-2 conducted a controlled buy. Washington arrived in the Chevrolet. The substance that Washington sold to the CRI field-tested positive as cocaine.

There is a connection between the alleged crime and the vehicle because CRI-1 indicated that Washington sold drugs out of two vehicles and was commonly armed during drug sales. Even though Washington sold drugs to CRI-2 out of the Chevrolet, CRI-1 reported that he also sold out of the Buick. Washington chose to drive the Chevrolet to the controlled buy rather than the Buick. But the totality of the circumstances still support the conclusion that there is a fair probability that contraband will be found in the Buick. *See id.* at 622 (“A nexus may be inferred from the totality of the circumstances.”).

Additionally, CRI-1's information was corroborated by the controlled buy. *See State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004) (stating that informant's reliability can be established if police can corroborate the information and in narcotics cases, "controlled purchase" is a term of art that indicates reliability), *rev. denied* (Minn. June 15, 2004). The corroborated information from CRI-1 and the nature of the crime established a nexus between the items to be seized (drugs and firearms) and the vehicle.

Washington also argues that the information in the application is stale because it does not indicate when CRI-1 provided the information to law enforcement. But the application stated that a controlled buy was conducted within 72 hours, and there is no evidence in the record to suggest a change in circumstances during this time that would have affected the probable-cause determination. *See State v. Papadakis*, 643 N.W.2d 349, 353, 356 (Minn. App. 2002) (affirming denial of suppression motion when search-warrant affidavit stated that within 72 hours of applying for search warrant, officers recovered trash containing cocaine residue). We conclude that there was probable cause supporting the search warrant. The district court appropriately denied the suppression motion.

Affirmed.