

*This opinion is nonprecedential except as provided by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
A23-1324**

State of Minnesota,
Respondent,

vs.

Richard Lawrence Tereau,
Appellant.

**Filed July 29, 2024
Affirmed
Cochran, Judge**

Ramsey County District Court
File No. 62-CR-22-765

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Cochran, Judge; and
Ede, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this appeal from the final judgment of conviction for possession of child
pornography, appellant challenges the district court's denial of his pretrial motion to

suppress evidence that law enforcement obtained during the warranted search of his home. Because the search warrant was supported by probable cause, we affirm.

FACTS

In September 2021, a police sergeant submitted a search-warrant application to search appellant Richard Lawrence Tereau's home in St. Paul (the St. Paul address). The application stated that, earlier that month, law enforcement received two tips from the National Center for Missing and Exploited Children (NCMEC) about a Yahoo! account that uploaded suspected child pornography. The first tip included a description of the child pornography—a four-minute video depicting prepubescent girls exposing their genitals—and the account information, including a first and last name (Richard Tereau), a phone number, a date of birth, and two email addresses whose usernames contained Tereau's name. The second tip stated that the account user appeared to have two prior convictions related to possession of child pornography and is a "Lifetime Registrant Sex Offender" in Wisconsin.

The warrant application also summarized information from law enforcement's investigation into the tips. Based on records from the department of motor vehicles and a database called CLEAR, law enforcement learned that a Richard Lawrence Tereau, with a date of birth matching the birthdate associated with the Yahoo! account, lived at the St. Paul address. The records further showed that Tereau was a Minnesota-registered offender and that his cell phone number matched the phone number associated with the Yahoo! account. Tereau's probation officer also confirmed that Tereau is a "level 2 Registered Offender," that he lives at the St. Paul address, and that his cell phone number

matched the one associated with the account. In addition, the warrant application included information about the sergeant's experience with investigating child pornography, including that "[s]uspects often retain the images or videos for the purpose of sexual gratification and keep their 'collections' close to their person" and "collectors maintain their collections on items stored in the privacy and security of their home or vehicle."

The district court granted, and law enforcement executed, the warrant to search Tereau, his home, and his electronic devices. Respondent State of Minnesota charged Tereau with five counts of possession of child pornography based on files found on a USB drive seized in the search. Tereau moved to suppress the evidence found in his home, arguing that the search warrant was not supported by probable cause. The district court determined that the search-warrant application provided probable cause to search Tereau's home and denied the motion.

Tereau then proceeded under Minnesota Rule of Criminal Procedure 26.01, subdivision 4, stipulating to the prosecution's evidence and waiving his right to a jury trial to obtain review of the dispositive pretrial ruling on his motion to suppress. Following a bench trial, the district court convicted Tereau of one count of possession of child pornography, in violation of Minnesota Statutes section 617.247, subdivision 4(a) (2020), and sentenced Tereau to 87 months in prison. Tereau appeals.

DECISION

Tereau challenges the denial of his motion to suppress evidence obtained during the search of his home, contending that the warrant authorizing the search was not supported by probable cause.

Both the United States and Minnesota Constitutions require search warrants to be supported by probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. “Probable cause requires a fair probability that contraband or evidence of a crime will be found in a particular place.” *State v. Wiggins*, 4 N.W.3d 138, 145 (Minn. 2024) (quotation omitted). “A sufficient ‘nexus’ must be established between the evidence sought and the place to be searched.” *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014). But “direct observation of evidence of a crime at the place to be searched is not required.” *Id.*

When reviewing an argument that a search warrant lacks probable cause, “[w]e review only the warrant application and supporting affidavits to determine if the issuing judge had a substantial basis for concluding that probable cause existed.” *Wiggins*, 4 N.W.3d at 145 (quotations omitted). The issuing judge must “make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before [them], . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Id.* (quotations omitted). The circumstances relevant to the probable-cause determination include “the type of crime, the nature of the items sought, the extent of the defendant’s opportunity for concealment, and the normal inferences as to where the defendant would usually keep the items.” *Yarbrough*, 841 N.W.2d at 622-23. “Therefore, the question we must ask is whether the totality of the circumstances alleged in the search warrant application established a ‘fair probability’ that evidence of a crime would be found” at Tereau’s home. *Wiggins*, 4 N.W.3d at 146. “When we perform a totality of the circumstances analysis on a warrant application, we defer to the issuing magistrate,

recognizing that doubtful or marginal cases should be largely determined by the preference to be accorded to warrants.” *Id.* at 145-46 (quotation omitted).

We conclude that there was a substantial basis for the issuing judge’s determination that there was a fair probability that evidence of child pornography would be found at Tereau’s home. The search-warrant application stated that a Yahoo! account uploaded a four-minute child-pornography video. Law enforcement confirmed that unique identifying information associated with the account—a first and last name, date of birth, and phone number—matched Tereau’s information. The sergeant also described, based on his training and his experience in investigating child-pornography crimes, that “[s]uspects often retain the images or videos for the purpose of sexual gratification and keep their ‘collections’ close to their person” and that “collectors maintain their collections on items stored in the privacy and security of their home or vehicle.” And this court has recognized that “viewing and possessing child pornography is, by its nature, a solitary and secretive crime” and thus, based on an affiant’s training and experience, “the court could reasonably draw an inference that the suspect would keep the illicit images in a place considered safe and secret, like the home.” *State v. Brennan*, 674 N.W.2d 200, 206 (Minn. App. 2004), *rev. denied* (Minn. Apr. 20, 2004).

Tereau contends that the search-warrant application failed to establish a nexus between himself and the upload, asserting that the information in the application connected Tereau to only the Yahoo! account. But as noted above, Tereau’s first and last name, phone number, and date of birth each matched the account information. Tereau does not dispute that the account is his, and the application contains no facts suggesting another person used

the account. In addition, “[a] person’s criminal record is among the circumstances a judge may consider when determining whether probable cause exists for a search warrant.” *State v. Carter*, 697 N.W.2d 199, 205 (Minn. 2005). And here, the application stated that the account user appeared to have two prior convictions for possessing child pornography and was a registered sex offender, and Tereau’s probation officer confirmed that Tereau is a registered offender. These circumstances fully support the common-sense determination that Tereau uploaded the video of child pornography.

Tereau also argues that, even if the application established a nexus between the upload of alleged child pornography and Tereau, the application did not establish a nexus between the upload and Tereau’s home. He challenges law enforcement’s failure to obtain the IP address associated with the upload. A nexus, however, does not require “direct observation of evidence of a crime at the place to be searched.” *Yarbrough*, 841 N.W.2d at 622. For example, in *Brennan*, we concluded that there was probable cause to search the defendant’s home for evidence of child pornography where the application alleged that law enforcement discovered child pornography on the defendant’s work laptop—which was recovered from his workplace, not his home—and the search-warrant affiant stated, based on his training and experience, that those who view child pornography “have a tendency to view explicit images in their own homes.” 674 N.W.2d at 206. We rejected the defendant’s argument that “there was no nexus between his crime of possessing child pornography and his house” and instead determined that, given the affiant’s training and the reasonable inferences from the defendant’s use of his work laptop to store and view child pornography, the warrant application supported probable cause to search his home.

Id. Likewise, even without an IP address for the upload of the video, the reasonable inference that Tereau uploaded the video, the sergeant's experience regarding child-pornography investigations, and the nature of child-pornography crime were sufficient for the issuing judge to conclude that there was a fair probability that evidence of child pornography would be found at Tereau's home.

In sum, based on the totality of the circumstances and affording the issuing judge deference, the search-warrant affidavit established probable cause to search Tereau's home. We therefore conclude that the district court did not err by denying the motion to suppress.

Affirmed.