

*This opinion is nonprecedential except as provided by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
A23-1602**

State of Minnesota,
Respondent,

vs.

Jason Lloyd Swick,
Appellant.

**Filed August 25, 2025
Affirmed; motion granted
Bjorkman, Judge**

Anoka County District Court
File No. 02-CR-20-2058

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

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for respondent)

Joseph G. Vaccaro, The Law Office of Joseph G. Vaccaro, St. Paul, Minnesota (for
appellant)

Considered and decided by Harris, Presiding Judge; Bjorkman, Judge; and Bratvold,
Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant Jason Lloyd Swick challenges his conviction of first-degree possession
of a controlled substance. He argues that the district court erred by denying his motion to

suppress evidence obtained in the execution of search warrants that were invalid because the first—for a swab of his front door—was not supported by probable cause and because the second—for a search of his home—was premised on the results of the unlawful door swab. Respondent State of Minnesota moves to strike portions of Swick’s brief and addendum as outside the appellate record. We affirm and grant the state’s motion.

FACTS

On January 18, 2019, a detective in the Anoka County Sheriff’s Office applied for a warrant to enter the curtilage of a specified residence in Andover (residence) to conduct the brief and “non-invasive process” of using a cloth to swab the residence’s door handles and frame, to be submitted for an “ION scan” for controlled substances. The warrant application incorporates a supporting affidavit alleging the following facts.

During the week of January 6, the detective received an anonymous tip that a man named “Jason Swick” had moved into the residence; that he was operating a methamphetamine lab in the basement and “moving” about one to three ounces per day; and the landlord “allows” it to happen. The tipster also indicated that Swick drives a black Mustang, has been to prison, and has a conviction “for manufacturing controlled substances.” The detective was familiar with the residence. He knew of it as a place “associated with criminal activity” and knew of the landlord as someone who “commonly rents to people who have warrants and are involved in other criminal activities.” The detective investigated further.

The detective conducted surveillance at the residence and “several” times saw a black Mustang parked at the residence with a license plate registered to Swick, which was

consistent with the tip and led him to believe that Swick was actually residing there. He also learned that Swick has an “extensive criminal history involving narcotics,” which was also consistent with the tip.

Then, on January 17, the detective saw a pickup truck in the driveway that he had not seen before. The truck was registered to an 81-year-old woman, but a “younger” man came out of Swick’s residence and got in the truck. Such use of another’s vehicle “is indicative of narcotics behavior as a means to cover and conceal . . . identities.” Detectives traced the vehicle to an address in Coon Rapids that has an extensive history of police interactions related to narcotics and other criminal activity. The Coon Rapids address is on the same street as the residence of K.G., who “has contacts at both addresses,” including “being mentioned in a methamphetamine arrest” in 2017 “at the target residence.”

After seeing the man exit the truck, the detective swabbed the truck’s door handle and submitted the swab for ion scanning. The swab “alarmed” during testing “for the presence of methamphetamine.” And the detective later confirmed that the man driving the truck was T.H., whom he had previously arrested for first-degree possession of methamphetamine. Based on all of this information, the detective believed that Swick’s residence was “being used as an outlet for drug use and trafficking” and T.H. was there “for narcotics related purposes.”

The district court granted the warrant, and police executed it on January 23, collecting a swab from the exterior door of Swick’s residence. During ion scanning, the swab “alarmed for the presence of methamphetamine.”

On January 25, the detective applied for a second warrant, this one to search Swick's residence for controlled substances and related materials. As justification for the second warrant, the application restated the allegations in the first warrant application and added that the swab of the residence's front door tested positive for methamphetamine. The district court granted the warrant that day, and police executed it on January 31, recovering more than 230 grams of methamphetamine from Swick's residence.

Swick was charged with first-degree possession of a controlled substance. He moved to suppress the drug evidence, arguing that the first warrant was not supported by probable cause and the second warrant was invalid because it was based on evidence obtained from executing the first warrant. The district court denied the motion, and Swick agreed to submit the charge to the district court on stipulated evidence. The district court found him guilty and sentenced him to prison.

Swick appeals, and the state moves to strike parts of Swick's brief and addendum.¹

DECISION

I. The application for the first warrant provided a substantial basis for concluding that probable cause existed.

The United States and Minnesota Constitutions require that a search warrant be supported by probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. When reviewing a challenge to the sufficiency of a search warrant, we consider the warrant application and supporting affidavits to determine whether "all the circumstances"

¹ After filing this appeal, Swick obtained a stay from this court to pursue postconviction relief. The district court denied his postconviction petition. Swick does not challenge that denial in this reinstated appeal.

identified in the affidavit provided the issuing judge a “substantial basis for concluding that probable cause existed.” *State v. Wiggins*, 4 N.W.3d 138, 145 (Minn. 2024) (quotations omitted). We afford deference to the issuing judge, “recognizing that doubtful or marginal cases should be largely determined by the preference to be accorded to warrants.” *Id.* at 145-46 (quotation omitted).

Probable cause exists if “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)). There must be a “sufficient ‘nexus’ . . . between the evidence sought and the place to be searched,” but it need not be based on “direct observation of evidence of a crime at [that] place.” *Id.* Among the factors a court considers in weighing probable cause are (1) information linking the crime to the place to be searched; (2) the freshness of the information; (3) the reliability of the source of the information; (4) the type of crime; (5) the nature of the items sought; (6) the extent of the suspect’s opportunity for concealment; and (7) the normal inferences as to where the suspect would normally keep the items. *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998) (articulating one through three); *State v. Harris*, 589 N.W.2d 782, 788 (Minn. 1999) (articulating four through seven).

Swick challenges the sufficiency of the first warrant based on the third of these factors—reliability. He argues that the tip was not a reliable enough source of information to establish probable cause because it was anonymous and not sufficiently corroborated. He contends that the tip concerned, and police corroborated, only easily obtained information, and included nothing predictive or indicative of “insider information.”

Swick is correct that a warrant affidavit that relies on an informant's tip should identify a "substantial basis for crediting" the tip, such as police investigation to corroborate it. *Gates*, 462 U.S. at 241-42 (quotation omitted). He also is correct that a tip that accurately predicts future behavior is considered more reliable than one that merely reports "easily obtained facts and conditions existing at the time of the tip." *Id.* at 245; *see also Alabama v. White*, 496 U.S. 325, 332 (1990) (explaining that if a tipster predicts a person's behavior and police verify "significant aspects" of the prediction, it provides "reason to believe" the tipster was "honest" and "well informed"). But probable cause is a "fluid concept," and that fluidity "extends to the consideration of informant tips as part of the probable cause inquiry." *State v. Mosley*, 994 N.W.2d 883, 889 (Minn. 2023) (quoting *Gates*, 462 U.S. at 232). Even corroboration of "minor details" can "lend credence" to a tip. *Id.* at 892 (quotation omitted). And the more information police gather that tends to corroborate the tip, the more reliable it is. *See White*, 496 U.S. at 330.

The tip here contained some information that was relatively easy to obtain—Swick's name and criminal history, the model and color of his car, and his landlord's criminal associations. Swick does not dispute that the detective corroborated all of this information. This corroboration provides some basis for crediting the part of the tip that addressed ongoing behavior—that Swick was making and distributing methamphetamine from his residence. But the detective collected substantial additional information tending to corroborate that part of the tip. This information included (1) a man with a known methamphetamine history left Swick's residence in a truck that is registered to someone else, which the detective knows to be a practice that those involved with narcotics use to

conceal their identities; (2) the man drove the truck to another residence associated with narcotics, which was also on the same street as the residence of a woman associated with methamphetamine at the place where Swick now resides; and (3) ion scanning of the swab from the truck's door handle indicated the presence of methamphetamine.

Swick seeks to diminish the significance of this last piece of information, suggesting that the ion swab had little corroborative significance because there is no information about how long the methamphetamine was on the door handle, how it came to be there, or the “science, accuracy, or any technical detail” about the ion-swab test. He identifies no authority requiring such information. To the contrary, probable cause is a practical standard, not a technical one. *Gates*, 462 U.S. at 241. Even without scientific detail about the testing process, the positive test result had practical significance because it tended to corroborate the tip regarding Swick's methamphetamine involvement. And that test result, together with the rest of the circumstances, provided a substantial basis for issuing the warrant authorizing the limited intrusion of swabbing Swick's exterior door. As such, Swick has not demonstrated that the warrant was invalid for lack of probable cause.²

II. We grant the state's motion to strike extra-record material.

In connection with his argument regarding the ion scan from the truck, Swick's brief includes a footnote expressing “concern[]” that the technician who “reviewed” the ion swab in this case was “barred from testifying at trial” in another case and the state “never

² In one sentence, Swick also appears to reiterate his contention that the second warrant was invalid because it relied on information obtained during execution of the “invalid” first warrant. Because he articulates no separate challenge related to that second warrant, this argument fails along with his arguments regarding the first warrant.

disclosed” the order articulating that evidentiary ruling. And he included the referenced order in his addendum. The state moved to strike the order from the addendum, and the footnote addressing it, on the ground that the order is not part of the record for this appeal.

The appellate record is composed of documents filed in the district court, the exhibits, and any transcripts. Minn. R. Civ. App. P. 110.01; Minn. R. Crim. P. 28.02, subd. 8. “An appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below.” *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988). Accordingly, any matters submitted to the court that are not part of the record generally “must be stricken.” *State v. Breaux*, 620 N.W.2d 326, 334 (Minn. App. 2001) (quotation omitted). We have some latitude to consider certain types of materials outside the record, but “never . . . for the purpose of reversing a judgment.” *State v. Anderson*, 733 N.W.2d 128, 139 n.4 (Minn. 2007).

It is undisputed that the order in question is not part of the record for this appeal. And we discern no basis for considering this extra-record document because it is not relevant to our review of the search warrant at issue in this case and cannot justify the reversal that Swick seeks. Accordingly, we strike the order from Swick’s addendum and the footnote addressing it from his brief.

Affirmed; motion granted.