

*This opinion is nonprecedential except as provided by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
A24-0544**

State of Minnesota,
Appellant,

vs.

Jesse Travis White,
Respondent.

**Filed September 30, 2024
Reversed and remanded
Halbrooks, Judge***

Hennepin County District Court
File No. 27-CR-23-7315

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

Mary F. Moriarty, Hennepin County Attorney, Kacy Wothe, Senior Assistant County Attorney, Minneapolis, Minnesota (for appellant)

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Considered and decided by Johnson, Presiding Judge; Segal, Chief Judge; and Halbrooks, Judge.

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

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

In this pretrial appeal, the state argues that the district court erred by granting respondent's motion to suppress evidence obtained in a warrantless vehicle search. Because we conclude that police had probable cause to conduct the warrantless search, we reverse and remand.

FACTS

On the evening of March 22, 2023, law enforcement officers with the Minneapolis Police Department and the Hennepin County Sheriff's Office were working on a "focused enforcement detail" in the city of Minneapolis to address ongoing gun violence and drug crime in the area. An officer described this program as an effort between the police department and other agencies, including the sheriff's office, to "target . . . high crime areas."

Two officers testified at the suppression hearing about the events giving rise to respondent Jesse Travis White's arrest. Officer Spies has been in law enforcement for 20 years. He is currently a police officer with the Minneapolis Police Department Community Response Team. Among other things, the response team investigates narcotics complaints and "target[s] higher crime areas known for narcotics dealing and gunfire." Officer Spies has been involved in hundreds of drug-related cases. He testified that he has witnessed thousands of hand-to-hand transactions over his career. Detective Wong is an officer with the Violent Offender Task Force of the Hennepin County Sheriff's Office.

Detective Wong and his partner were patrolling an area near First Avenue North in downtown Minneapolis that evening and drove by a parking lot. He knew, based on his experience, that this lot was “a high drug and crime area lot.” Detective Wong testified that he had been involved in “several arrests in that parking lot involving narcotics and firearms.” As he drove by, he saw a vehicle with its lights on backed into a parking spot near the exit. Detective Wong stated that this vehicle “drew [his] attention” because it was the only vehicle backed into a parking space in that lot with its lights on. Detective Wong relayed the vehicle’s license plate number to dispatch and learned that the vehicle belonged to White, whom he recognized sitting in the driver’s seat.

Detective Wong testified that he was familiar with White because he had received information on “[m]ultiple occasions” over the course of six months about White’s alleged illegal activities. Specifically, a confidential informant (CI) had told Detective Wong that he had seen White use and sell “large amounts” of methamphetamine. Detective Wong described the CI as someone who had “provided information about several criminals, people that were engaged in narcotics use or sales, or weapons carrying or sales.” Detective Wong testified that the CI had a signed contract with the Violent Offender Task Force and that he had been able to verify information provided by the CI “[m]ultiple times,” leading to three arrests and the discovery of contraband including drugs and guns. Detective Wong’s most recent contact with the CI regarding White’s activities was one month before the night of White’s arrest.

Based on the CI’s reports and his own observations, Detective Wong believed that White was conducting narcotics activities out of his parked vehicle. Detective Wong asked

Officer Spies to begin monitoring this area through the Milestone City Surveillance System.¹ Detective Wong then parked his squad vehicle a block or two away to await more information from Officer Spies.

Officer Spies was located in a precinct office in Minneapolis and remotely viewed the surveillance camera from this office. Officer Spies testified that he was familiar with this area of the city because it was “in the heart of the downtown entertainment district” and that “surface lots are commonly used in this area for people that sell narcotics, and they tend to target people that are in the city . . . looking to enhance their time while under the influence of a controlled substance.” Officer Spies considered it unusual that White was parked in his vehicle with its headlights on for “an extended period of time” and noted that this behavior was common in drug-transaction cases because it allowed the driver to monitor foot traffic.

Officer Spies testified that he observed White accessing the center console and then holding an object that the officer stated was “consistent with a digital scale that someone may use to weigh narcotics.” About ten minutes later, two people got into a truck that was parked two spaces away from White. The male driver then got out of the truck and approached White’s vehicle on the passenger side. The man leaned into the open window in such a way that his head and upper portion of his body, including his hands, were inside

¹ According to Officer Spies, “[t]he Milestone [camera system] is a digital platform that is run by the City of Minneapolis where it has cameras throughout the city. A lot of the cameras have . . . [a] handheld zoom function where you can move the camera and zoom in or pan out.” Officers can access these cameras through the Milestone system. Officer Spies was able to maneuver the camera from his location in the police department precinct.

White's vehicle. White bent down toward the center of the vehicle so that his head was almost below the dash, which suggested to the officer that White was "accessing the center console and weighing out a specific quantity of narcotics." After approximately one minute, Officer Spies stated that the man tucked something into his right pocket, walked back to his own vehicle, and drove off. Officer Spies acknowledged that he could not see White pass a specific item to the man but, based on his training and experience, he believed that he had witnessed a hand-to-hand drug transaction.

Officer Spies relayed these details to Detective Wong. Based on the information from the CI, Officer Spies's observations through the surveillance cameras, and his own observations, Detective Wong believed that he had probable cause to search White's vehicle. He and his partner approached the vehicle, conducted a search, and found drugs in the front seat of the vehicle, including a plastic bag containing methamphetamine and fentanyl.

Appellant State of Minnesota charged White with one count of first-degree sale of methamphetamine, under Minn. Stat. § 152.021, subd. 1(1) (2022), and one count of second-degree sale of fentanyl, under Minn. Stat. § 152.022, subd. 1(1) (2022). White moved to suppress evidence of the drugs. He asserted that suppression was warranted because the initial search and seizure of his vehicle was not supported by probable cause. The district court held an evidentiary hearing at which the state presented testimony from Detective Wong and Officer Spies as well as the Milestone camera footage from this incident. The district court granted White's suppression motion.

This appeal follows.

DECISION

I. Critical Impact

The state's ability to appeal in a criminal case is limited. *State v. Lugo*, 887 N.W.2d 476, 481 (Minn. 2016). In the case of a pretrial order, the state must establish that, unless the district court's ruling is reversed, the alleged error will have a "critical impact" on the outcome of the trial. *State v. Trei*, 624 N.W.2d 595, 597 (Minn. App. 2001), *rev. dismissed* (Minn. June 22, 2001). Critical impact exists "where the lack of the suppressed evidence significantly reduces the likelihood of a successful prosecution." *State v. Ault*, 478 N.W.2d 797, 799 (Minn. App. 1991) (quotation omitted). Because the suppression of the state's evidence related to the controlled substances meets this requirement, we consider whether the district court's suppression order was erroneous.

II. Suppression of Evidence

When reviewing a district court's pretrial order on a motion to suppress evidence, an appellate court "may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). An appellate court reviews de novo the legal issue of whether a search was justified and reviews findings of fact for clear error. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005). Where the facts are undisputed, as they are here, "[an appellate court's] review is entirely de novo." *Id.*

The United States and Minnesota Constitutions guarantee the right of the people to be secure against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. This guarantee extends to the right of people to be secure in their vehicles.

See, e.g., Berkemer v. McCarty, 468 U.S. 420, 439-40 (1984); *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). Warrantless searches and seizures are unreasonable unless a recognized exception to the warrant requirement applies. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009).

One such exception permits a police officer to search a vehicle without a warrant if there is “probable cause to believe the search will result in a discovery of evidence or contraband.” *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016) (quotation omitted). Probable cause “exists when there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023) (quotation omitted). “This is a common-sense, nontechnical concept that involves the factual and practical considerations of everyday life on which reasonable and prudent people, not legal technicians, act.” *Id.* (quotations omitted).

Determining whether probable cause exists is an “objective inquiry that depends on the totality of the circumstances in each case.” *Id.* (quotations omitted). In a totality-of-the-circumstances analysis, “courts do not examine the ‘bits and pieces of a probable cause showing in isolation,’” but instead must consider them in their entirety. *State v. Lieberg*, 553 N.W.2d 51, 55 (Minn. App. 1996) (quotation omitted). “[A] collection of pieces of information that would not be substantial alone can combine to create sufficient probable cause.” *State v. Jones*, 678 N.W.2d 1, 11 (Minn. 2004). This evaluation, moreover, may be based on “reasonable inferences that police officers draw from facts, based on their training and experience, because police officers may interpret circumstances differently than untrained persons. *Lester*, 874 N.W.2d at 771. Accordingly, in reviewing a probable-

cause determination, “an appellate court must give due weight to reasonable inferences drawn by police officers and to a district court’s finding that the officer was credible and the inference was reasonable.” *Id.* (quotations omitted).

Here, based on prior observations, Detective Wong recognized White as the driver of a vehicle parked in an area known for drug activity. Detective Wong observed that White was backed into a space in a parking lot with his lights on for over 20 minutes—a behavior that the detective identified as being associated with drug sales based on his training and experience. *See State v. Smith*, 476 N.W.2d 511, 517 (Minn. 1991) (holding that an officer had probable cause to arrest the defendant when “the location and defendant’s conduct were consistent with [drug] dealing”). Additionally, Officer Spies observed what he believed was a hand-to-hand transaction through the window of White’s vehicle, after which the other man concealed something in his jacket pocket, walked back to his own vehicle, and drove off. Officer Spies testified that this conduct was also consistent with a narcotics sale.

In concluding that these circumstances did not establish probable cause for a search of White’s vehicle, the district court credited Officer Spies’s testimony that he believed that he saw a hand-to-hand drug transaction but concluded that the officer “did not actually observe two hands meeting,” which suggested that there could have been an innocent explanation for White’s conduct. The district court acknowledged that White and the other man “may have exchanged an item,” but concluded that “there is not probable cause to believe that item [was] contraband.” The state argues—and we agree—that the district

court erred by determining that the possibility of innocent conduct defeated probable cause for a search of White's vehicle.

This court's decision in *State v. Hawkins*, 622 N.W.2d 576 (Minn. App. 2001), is instructive on this point. There, the defendant was arrested after an officer saw him riding a bike in an area for about 15 minutes, waving at vehicles, and engaging in hand-to-hand exchanges that the officer deemed consistent with drug transactions. *Id.* at 578. The district court determined that the officers lacked probable cause to arrest Hawkins because his conduct "could have been perfectly benign." *Id.* We reversed on appeal, concluding that the circumstances were sufficient to permit the reasonable belief that Hawkins was engaged in drug sales. *Id.* at 581. In reaching this decision, the *Hawkins* court reasoned:

In explaining its conclusion that there was not probable cause to arrest Hawkins, the district court stated that Hawkins's conduct "could have been perfectly benign." The court also stated that "making 'hand to hand exchanges,' without more, does not necessarily mean that [he] was engaging in illegal activities." This explanation demonstrates that the district court applied the wrong standard for determining whether there was probable cause to arrest Hawkins and by doing so, required a greater showing than was needed to establish probable cause. The fact that there might have been an innocent explanation for Hawkins's conduct does not demonstrate that the officers could not reasonably believe that Hawkins had committed a crime.

Id. at 580.

We noted that, when assessing probable cause, the ultimate question "is not whether there is some hypothesis of innocence which is reasonably consistent with the circumstances shown," which is more appropriate "to the 'beyond a reasonable doubt' standard used on the merits." *Id.* Instead, a probable-cause determination requires "far

less evidence.” *Id.* (quotation omitted). Here, the district court erred in its legal analysis by applying a higher standard of proof than is required when determining whether the officers’ observations and inferences—which the district court credited—supported a finding of probable cause. As *Hawkins* instructs, the possibility of an innocent explanation does not necessarily preclude a finding of probable cause. 622 N.W.2d at 580-81; *see also State v. Martinson*, 581 N.W.2d 846, 852 (Minn. 1998) (noting that, while each factor was consistent with innocent behavior, factors taken together justified reasonable suspicion of criminal activity); *State v. Anderson*, 439 N.W.2d 422, 426 (Minn. App. 1989) (determining that an officer’s observation of apparently innocent acts can be significant to a trained officer and the officer is entitled to assess probable cause in light of that experience), *rev. denied* (Minn. June 21, 1989).

We also disagree with the district court’s conclusion that the information provided by the CI—that he had personally observed White selling methamphetamine in the past—was “not sufficient, when combined with the totality of circumstances available to the officers on March 22, 2023, to create a fair probability that Mr. White was selling drugs and that evidence of this crime would be found in his car.”

Generally speaking, an evaluation of probable cause includes consideration of “the ‘veracity’ and ‘basis of knowledge’ of persons supplying hearsay information.” *State v. McCloskey*, 453 N.W.2d 700, 702 (Minn. 1990) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). To this end, an informant who has an established track record of providing reliable information in the past is generally considered reliable for purposes of determining probable cause. *State v. Mosley*, 994 N.W.2d 883, 890-92 (Minn. 2023). And

when the information provided is based on the informant's personal observations rather than hearsay, "corroboration of minor details is enough to 'lend credence' to an informant's tip." *Id.* at 892 (quoting *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985)).

Here, Officer Wong's testimony established both that the CI had a record of reliability and that his information concerning White was based on personal observation. In addition, as the district court found, the observation of a suspected hand-to-hand transaction corroborated generally "that Mr. White sells drugs." Although we agree that this tip is insufficient to independently establish probable cause for a search of the vehicle because it does not directly relate to White's conduct in the parking lot, we conclude that it is sufficiently reliable to be considered in examining the reasonableness of Officer Wong's inferences regarding that conduct. In light of the fact that White was credibly connected to prior drug sales, the officers' observations of a continuous series of behaviors that were each consistent with a current drug sale were collectively adequate "to permit a prudent person to reasonably believe" that White was in fact engaged in the sale of drugs. *Hawkins*, 622 N.W.2d at 581.

We are therefore satisfied that the totality of the circumstances, including the tip from the CI and all the direct observations of the officers, were sufficient to establish "a fair probability that contraband or evidence of a crime" would be found in White's vehicle. *Torgerson*, 995 N.W.2d at 169 (quotation omitted). Because the search of White's vehicle was supported by probable case, the district court erred in suppressing the evidence discovered pursuant to that search.

Reversed and remanded.