

*This opinion is nonprecedential except as provided by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
A24-1240**

State of Minnesota,
Respondent,

vs.

Nelson Randolph, III,
Appellant.

**Filed August 18, 2025
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-22-22762

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

Mary F. Moriarty, Hennepin County Attorney, Elizabeth Scoggin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Worke, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A seven-year-old child of Nelson Randolph III died in Randolph's home after ingesting fentanyl. A Hennepin County jury found Randolph guilty of second-degree felony murder and second-degree manslaughter. We conclude that the district court did

not err by denying Randolph's pre-trial motion to suppress evidence found in his home when police officers searched it six weeks after the child's death. We also conclude that the district court did not err in answering questions posed by the jury or in giving the jury a supplemental instruction to continue its deliberations. Therefore, we affirm.

FACTS

On August 17, 2022, at approximately 6:45 a.m., Randolph went to a bedroom of his home to wake his seven-year-old son, A.N.R. The boy was nonresponsive, stiff, and cold, with a white substance around his mouth. Randolph called 911. Paramedics arrived at his home approximately ten minutes later but could not revive A.N.R. Randolph told police officers at the scene that A.N.R. had been at his home since the prior evening and that his behavior had been normal. Randolph said that A.N.R. fell asleep on the couch and that Randolph moved him to a bedroom at approximately 10:00 p.m. Randolph did not enter the bedroom again until the following morning. Paramedics believed that A.N.R. had died of a seizure, and police officers did not consider the home to be a crime scene.

An autopsy was performed on A.N.R.'s body. On September 15, 2022, a police investigator learned that toxicology tests revealed "a fatal amount of fentanyl in [A.N.R.'s] body," trace amounts of xylazine (a large-mammal tranquilizer), and "no other life-threatening injuries." The investigator then contacted A.N.R.'s mother, S.M., who had last seen A.N.R. on August 15, 2022, as well as S.M.'s adult son, D.R.W., and his girlfriend, who had been with and cared for A.N.R. the day before his death.

On September 29, 2022, a police officer applied for a warrant to search Randolph's home. The application stated that A.N.R. had been found dead in Randolph's home on

August 17, 2022; that A.N.R. had been behaving normally the night before he was found dead; and that a toxicology test determined that A.N.R.'s death was caused by a fentanyl overdose. The application described a statement that S.M. had made to investigators that Randolph was "more likely to be a [drug] supplier than a user" and noted that Randolph and S.M. "are separated but cordially share custody of their children."

A district court judge approved the application and issued a warrant, and police officers executed it that same day. When police officers arrived at Randolph's home, he did not answer the door for five to six minutes and smelled like bleach when he did so. Inside his home, officers found gray powder in a toilet bowl and in plastic baggies lying on the bathroom floor. Officers also found \$2,935 in cash, a strong smell of bleach in the bathroom, and other drug paraphernalia. The plastic baggies later tested positive for fentanyl, fluorofentanyl, and xylazine.

In November 2022, the state charged Randolph with second-degree manslaughter, in violation of Minn. Stat. § 609.205, subd. 5 (2022). The state later amended the complaint to add a charge of second-degree felony murder, in violation of Minn. Stat. § 609.19, subd. 2(1) (2022).

In May 2023, Randolph moved to suppress the evidence that officers found in his home. The district court denied the motion in a seven-page order.

The case was tried to a jury in March 2023. Over four days, the state called 19 witnesses and introduced 113 exhibits, including videorecordings made by the body-worn cameras of police officers who responded to Randolph's 911 call. D.R.W. testified that he dropped off A.N.R. at Randolph's home at approximately 5:00 p.m. on August 16, 2022,

and that A.N.R. was acting normally at that time and during the time that D.R.W. remained at the home to socialize with Randolph. D.R.W. also testified that, while in Randolph's home, he saw a bowl on the dining-room table that contained a gray substance that "looked like drugs."

The jury found Randolph guilty of both charges. The district court sentenced him to 195 months of imprisonment on the felony-murder conviction. Randolph appeals.

DECISION

I. Motion to Suppress

We begin by considering Randolph's argument that the district court erred by denying his motion to suppress evidence.

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. In reviewing an issuing judge's probable-cause determination, this court gives the issuing judge "great deference" and seeks to

determine whether there was “a substantial basis for concluding that probable cause existed.” *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001).

Randolph challenges the district court’s denial of his motion to suppress in two ways.

A. Probable Cause

Randolph first argues that the search-warrant application lacked probable cause on the ground that it did not give rise to a fair probability of the discovery of evidence of the cause of A.N.R.’s death. He notes that officers did not see any drug-related items in his home immediately after A.N.R.’s death. He also contends that S.M.’s statement that he likely was a drug supplier held little weight because her statement was speculative, she did not reveal any first-hand knowledge of drug-dealing, and her statement was not corroborated.

In denying Randolph’s motion, the district court noted his statement that A.N.R. appeared to be normal before he put him to bed at 10:00 p.m., which, the district court reasoned, indicates that A.N.R. ingested fentanyl at Randolph’s home either shortly before falling asleep or during the night. The district court also noted S.M.’s statement that Randolph was “more likely to be a supplier than a user.” The district court reasoned that S.M.’s statement was reliable because she and Randolph cordially co-parented A.N.R. Accordingly, the district court determined that the search warrant was supported by probable cause.

The search-warrant application presented the issuing judge with undisputed information that a young child had died of a fentanyl overdose in Randolph’s home after

arriving at the home in good health. In addition, the application stated that A.N.R.’s other parent, S.M., had said, in effect, that Randolph likely was a drug supplier. Together, these two pieces of information make it reasonably likely that A.N.R. ingested fentanyl while in Randolph’s home, which provided the issuing judge with “a fair probability that contraband or evidence of a crime” would be found in Randolph’s home. *See Yarbrough*, 841 N.W.2d at 622 (quotation omitted).

Randolph questions the value of S.M.’s statement concerning his potential drug-dealing without more information about the basis of her knowledge. But the warrant application described S.M.’s relationship to A.N.R. and Randolph, which makes it reasonable to believe that she has known Randolph for a number of years and interacts with him regularly. If a warrant application includes information provided by an informant, the totality-of-the-circumstances analysis may include “the credibility and veracity of the informant.” *State v. Wiggins*, 4 N.W.3d 138, 149 (Minn. 2024) (quotation omitted). An informant who identifies himself or herself to a police officer, and thus is in a position to be held accountable for the information provided, is more likely to be deemed reliable. *Id.*; *State v. McCloskey*, 453 N.W.2d 700, 703-04 (Minn. 1990); *State v. Davis*, 393 N.W.2d 179, 181 & n.1 (Minn. 1986). Here, S.M. identified herself to the police officer who submitted the warrant application. Nothing in the warrant application indicates that S.M. should be deemed unreliable. Thus, the district court did not err by considering S.M.’s statement that Randolph likely was a drug supplier.

B. Staleness

Randolph also argues that the information in the warrant application was stale. A search-warrant application must include “facts so closely related to the time of the issue of the warrant as to justify a finding of probable cause at that time.” *State v. Souto*, 578 N.W.2d 744, 750 (Minn. 1998) (quotation omitted). In considering whether the factual basis of a warrant is stale, a court may consider factors such as “whether there is any indication of ongoing criminal activity, whether the articles sought are innocuous or incriminating, whether the property sought is easily disposable or transferable, and whether the items sought are of enduring utility.” *Id.*

The district court reasoned that the facts supporting a probable-cause determination were not stale because it was reasonable to believe that, if Randolph was a drug supplier, he likely was engaged in drug-dealing on an ongoing basis. The district court also reasoned that it was reasonable for police to wait for the results of the autopsy and to interview S.M. before seeking a warrant.

The search-warrant application sought drugs and drug paraphernalia generally, not necessarily the specific drugs that caused A.N.R.’s death. S.M.’s statement that Randolph likely was a drug supplier gives rise to a reasonable inference that Randolph was engaged in supplying drugs on an ongoing basis. In the present circumstances, the passage of six weeks of time is not excessive and does not compel the conclusion that the information stated in the warrant application was stale. *See State v. McGrath*, 706 N.W.2d 532, 544 (Minn. 2005) (concluding that information was not stale because facts suggesting ongoing criminal activity were obtained within three weeks of warrant application); *cf. Souto*, 578

N.W.2d at 750-51 (concluding that information was stale six to ten months after occurrence of events described in warrant application).

Thus, the issuing judge had “a substantial basis for concluding that probable cause existed,” *Rochefort*, 631 N.W.2d at 804, and the district court did not err by denying Randolph’s motion to suppress evidence.

II. Responses to Jurors’ Questions

Randolph also argues that the district court erred in its responses to questions submitted to the court by the jury.

This issue first arose during the afternoon of the day after the case was submitted to the jury. The jury foreperson sent two notes to the district court within a ten-minute period. The first note referred to the felony-murder charge in count 1 and asked, “How do we define ‘the defendant’s act’ in reference to [one of the elements of the offense]?” The second note asked, “What do we do if we cannot come to a consensus on a count?”

The district court conferred with counsel on the record. With respect to the first note, the district court stated that it would give the jury a supplemental instruction that “they have all of the law necessary to decide the case” but that the court might later give a different response if the jury were to “repeat[] that same question.” After the jury returned to the courtroom, the district court responded to the first question by stating, “You do have all the law necessary for you to decide this case in the jury instructions.”

With respect to the second note, the district court proposed to respond by repeating an instruction that was given before the case was submitted, and neither party objected. The district court implemented that plan by instructing the jury as follows:

In order for you to return a verdict, whether guilty or not guilty, each juror must agree with that verdict. Your verdicts must be unanimous. You should discuss the case with one another and deliberate with a view towards reaching agreement if you can do so without violating your individual judgment. You should decide the case for yourself but only after you have discussed the case with your fellow jurors and have carefully considered their views. You should not hesitate to reexamine your views and change your view—or your opinion if you become convinced they are erroneous. But you should not surrender your honest opinion simply because other jurors disagree or merely to reach a verdict.

The next day, at approximately 11:30 a.m., the jury submitted a third note to the district court, stating: “We are unable to come to a unanimous decision on count 1 because of different interpretations of the definitions & elements. We do have a unanimous decision on count 2.” The district court conferred with counsel off the record. After the jury returned to the courtroom, the district court responded to the third note by asking the foreperson the following question: “Does this third question that the jury has posed relate to the first question that the members of the jury sent out yesterday?” The foreperson responded, “It is related; albeit, not solely the issue.” The district court then stated:

Okay. What I am going to do now is I am going to answer the question that you posed yesterday in this manner: When I gave you the original instructions in this case, I told you that you should regard each instruction in light of the other instructions. The defendant’s act that is referred to in subpart 2 of the felony-murder charge under the third element refers back to any factual findings you have made regarding subpart 1 of that same section. So I will say it a different way. We are—the question related to element 3 of felony murder. Element 3 of felony murder says, “At the time of the act causing the death of [A.N.R.], the defendant was committing felony child endangerment.” Your question from yesterday related to the elements of felony child endangerment. So when I say “the defendant’s act” in subpart 2, refers back to any

factual findings you have made related to subpart 1, I mean, under . . . the portion of the instructions where it defines the elements of felony child endangerment.

With that, I am going to reread the instruction that I gave you yesterday, which is in order for you to return a verdict, whether guilty or not guilty, each juror must agree with that verdict. Your verdicts must be unanimous. You should discuss the case with one another and deliberate with a view towards reaching agreement if you can do so without violating your individual judgment. You should decide the case for yourself but only . . . after you have discussed the case with your fellow jurors and have carefully considered their views. You should not hesitate to reexamine your views and change your opinion if you become convinced they are erroneous. But you should not surrender your honest opinion simply because other jurors disagree or merely to reach a verdict. I am, members of the jury, gonna ask you to return to the deliberation room and continue with deliberations.

After the jury left the courtroom, the district court noted for the record, “As I mentioned earlier, I did go over this plan with the attorneys back in chambers.” The district court also stated its intention to order a mistrial if the jury were to send “another note indicating that they have not reached consensus.” The district court also gave the parties an opportunity to make a record concerning the district court’s response to the third note. The state did not object. Randolph’s attorney objected to the district court’s decision to instruct the jury to continue deliberating. The jury returned its verdicts less than two hours later.

Randolph challenges the district court’s responses to the jury’s notes in two ways.

A. Question Posed to Foreperson

Randolph first argues that the district court erred when, after receiving the jury’s third note, the district court asked the foreperson, “Does this third question that the jury

has posed relate to the first question that the members of the jury sent out yesterday?” Randolph contends that the district court’s question intruded upon the secrecy and privacy of jury deliberations.

Randolph’s trial attorney did not assert an objection that aligns with Randolph’s argument on appeal. Accordingly, this court applies the plain-error rule. *See* Minn. R. Crim. P. 31.02. Under the plain-error test, an appellant is entitled to relief on an issue to which no objection was made at trial only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant’s substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, the appellant also must satisfy a fourth requirement: that the error “seriously affects the fairness and integrity of the judicial proceedings.” *State v. Little*, 851 N.W.2d 878, 884 (Minn. 2014); *see also Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022). If any requirement of the plain-error test is not satisfied, this court need not consider the other requirements. *State v. Brown*, 815 N.W.2d 609, 620 (Minn. 2012).

Randolph bases his argument on two supreme court opinions: *State v. Mims*, 235 N.W.2d 381 (Minn. 1975), and *State v. Nissalke*, 801 N.W.2d 82 (Minn. 2011). In *Mims*, the district court judge entered the jury room and asked about the jury’s progress toward reaching a verdict. 235 N.W.2d at 383-84. On appeal, the supreme court reversed and remanded for a new trial. *Id.* at 384-89. The supreme court expressed “concern . . . with the influence this particular type of intrusive communication has upon the integrity of the proceedings and the independent role and function of a jury during its deliberations on its verdict.” *Id.* at 384. The supreme court summarized the operative principle as follows:

“When the trial judge in a criminal case enters the jury room and communicates with the jury without any effort to secure the presence of the defendant or his counsel, the defendant’s right to be present and represented at all stages of the proceeding has been violated.” *Id.* at 389.

In *Nissalke*, the district court judge discovered errors in the verdict forms while instructing the jury. 801 N.W.2d at 93. The judge immediately told the jury that the errors would be corrected. *Id.* at 93-94. After the jury left the courtroom, the judge corrected the verdict forms and reviewed them with counsel. *Id.* at 94. The judge then personally carried the corrected verdict forms to the jury room and delivered them to the jury. *Id.* at 94. While in the deliberation room, the judge answered two questions before departing. *Id.* On appeal, the supreme court determined that the district court erred by entering the jury room but concluded that reversal was not automatically required because the jury had not yet begun its deliberations and that the error was harmless because the judge’s statements to the jurors were accurate and appropriate. *Id.* at 97-98.

Mims and *Nissalke* are different from this case in one important respect: the judge in this case did not enter the jury room. The judicial act about which Randolph complains (which is entirely verbal in nature) occurred in open court, on the record, with Randolph and counsel present. Randolph urges this court to apply *Mims* and *Nissalke* to a judge’s oral questions in the courtroom on the ground that such questions also may improperly intrude into a jury’s deliberations. Randolph asserts that the district court judge in this case “invaded the jury’s sacred privacy in a different manner than *Mims*, but equally wrongfully.” Specifically, Randolph contends that the district court intruded on the jury’s

secrecy and privacy by “ask[ing] a substantive question about the content and details of the jury’s deliberations” and “by inquiring about the jury’s impasse, which interfered with their decision-making authority and inserted the judge into the decision-making process.”

To reiterate, Randolph’s argument is focused on one question posed by the district court to the foreperson: “Does this third question that the jury has posed relate to the first question that the members of the jury sent out yesterday?” The district court asked the question to clarify the meaning of the jury’s third note. Before the district court asked the question, it was reasonable to believe that the third note related to the first note. The foreperson confirmed that fact in her answer to the district court’s question. A district court is expressly authorized by a procedural rule to “give additional instructions” to a jury “[i]f the jury asks for additional instructions on the law during deliberation.” Minn. R. Crim. P. 26.03, subd. 20(3), (3)(a). The challenged question allowed the district court to understand that jurors still were unclear about the issue referenced in the jury’s first note. After receiving the foreperson’s answer, the district court proceeded to give a supplemental instruction concerning the elements of count 1. Importantly, the district court’s question was narrowly tailored and did not seek information from the foreperson about the jury’s deliberations, such as the amount of time expected to reach a verdict, which was the nature of the questions asked in *Mims*. See 235 N.W.2d at 382-84.

Randolph repeatedly states in his brief that the district court’s question was “substantive” in nature. That description apparently invokes the supreme court’s comment in its harmless-error analysis in *Nissalke* that, while in the jury room, “the court’s responses to the juror’s questions provided cursory and *substantively* appropriate answers to the two

questions.” 801 N.W.2d at 99 (emphasis added). We do not interpret that part of *Nissalke* to categorically prohibit a district court from asking a question that may be deemed substantive. If anything, *Nissalke* is permissive with respect to substantive questions or statements because it suggests that they may be harmless, so long as they are “appropriate.” *See id.* Even if we assume without deciding that a district court may not ask a question that is substantive in nature, the district court’s question in this case would not be deemed “substantive” because it did not seek information central to the jury’s decision, such as the jury’s perceptions of the evidence or its views about whether the state had proved its case.

Thus, the district court did not plainly err by asking the jury foreperson a question after receiving the jury’s third note.

B. Coercion

Randolph also argues that the district court erred on the ground that the supplemental instruction given after the jury’s third note coerced the jury into reaching a verdict.

“The jury may be discharged without a verdict if the court finds there is no reasonable probability of agreement.” Minn. R. Crim. P. 26.03, subd. 20(4). A district court has discretion in determining whether or not to discharge a jury and may consider factors such as “the length of the trial, the nature or complexity of the case, the volume and nature of the evidence, the presence of multiple counts or multiple defendants, and the jurors’ statements to the court concerning the probability of agreement.” *State v. Kelley*, 517 N.W.2d 905, 909 (Minn. 1994) (quotation omitted). “If a trial court believes a jury is unable to agree, it “may require the jury to continue their deliberations and may give or

repeat an instruction” *Id.* (quoting A.B.A. Standards for Criminal Justice § 15-4.4(b) (1986)). But a district court’s discretion to instruct a jury to continue deliberating is limited. “The court shall not require or threaten to require the jury to deliberate for an unreasonable length of time or for unreasonable intervals.” *Id.* (quotation omitted). In addition, “it is reversible error in Minnesota to coerce a jury towards a unanimous verdict,” which means that a district court “can neither inform a jury that a case must be decided, nor allow the jury to believe that ‘deadlock’ is not an available option.” *State v. Jones*, 556 N.W.2d 903, 912 (Minn. 1996) (citations omitted). This court applies an abuse-of-discretion standard of review to a district court’s decision to require a jury to continue deliberating. *Kelley*, 517 N.W.2d at 909 (quotation omitted).

Randolph does not contend that the district court used coercive language in the supplemental instruction given after the jury’s third note. The language of the district court’s supplemental instruction is identical to that of a commonly used pattern instruction that has been cited approvingly by the supreme court. *See* 10 Minnesota Dist. Judges’ Ass’n, *Minnesota Practice–Jury Instruction Guides* § 3.02, at 45-46 (7th ed. 2024); *State v. Cox*, 820 N.W.2d 540, 551-52 & n.7 (Minn. 2012); *State v. Buggs*, 581 N.W.2d 329, 337-38 & n.1 (Minn. 1998); *Jones*, 556 N.W.2d at 907-08 & n.2, 911; *Kelley*, 517 N.W.2d at 907 & n.1, 910. Instead, Randolph contends that the supplemental instruction was inherently coercive because it was given immediately after the jury had sent the district court a note stating that it was unable to reach a unanimous verdict on count 1. Randolph contends that, by instructing the jury to continue deliberating, the district court “made them believe they had to reach a verdict and could not deadlock.”

This case is fairly similar to *Buggs*, in which the jury sent a note asking that certain testimony be read to them again and later sent a second note saying that it had reached an impasse and that a verdict would be “impossible” without again hearing additional testimony. 581 N.W.2d at 337. The district court instructed the jury to “continue deliberations” and to “keep working.” *Id.* at 338. On appeal, the supreme court affirmed, reasoning that the district court earlier had given a supplemental instruction conforming to the pattern instruction, the supplemental instruction was “noncoercive” in nature, the jury’s deliberations had not been excessively long, and the jury “was fully able to discern the limits of its obligations.” *Id.*; *see also Jones*, 556 N.W.2d at 911-12 (concluding that district court did not coerce jury to reach verdict by twice instructing jury to continue deliberating, in part because district court “properly responded to the jury’s impasse by reading [pattern instruction language] verbatim”).

In this case, the state called 19 witnesses over four days and introduced more than 100 exhibits. After approximately one and one-half days of deliberations, the jury informed the district court that it was at impasse and, in doing so, referred to the issue for which it earlier had sought clarification of the applicable law. The district court repeatedly instructed the jury with appropriate language from the pattern instruction, both after the first note and after the third note. The district court did more than simply instruct the jury to continue deliberating; the district court also provided the jury with an explanation of the elements of count 1, which the jury earlier had sought. That additional information about the applicable law provided the district court with a reason to believe that continued deliberations might be fruitful. Likewise, the additional information made it less likely

that the jury was coerced into believing that they were required to reach a unanimous verdict solely by compromising their honest opinions.

Thus, the district court did not coerce the jury into reaching a verdict.

Affirmed.