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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1427**

State of Minnesota,
Respondent,

vs.

Adam Michael Deutsch,
Appellant.

**Filed July 6, 2026
Affirmed
Cochran, Judge**

Rice County District Court
File No. 66-CR-22-672

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

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Ross, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal from the judgment of conviction for possession of a pornographic work involving a minor, appellant argues that, because the information in the search-warrant application was stale by the time police searched his home, the district court

erred by denying his motion to suppress the evidence obtained during the search. We affirm.

FACTS

Respondent State of Minnesota charged appellant Adam Michael Deutsch by amended complaint with two counts of possession of a pornographic work involving a minor¹ in violation of Minnesota Statutes section 617.247, subdivision 4(a), with reference to subdivision 4(b) (2020). Deutsch moved to suppress evidence discovered during the search. The district court denied the motion and, following a bench trial, found Deutsch guilty. We derive the following facts from evidence submitted at the hearing on Deutsch’s pretrial motion to suppress.

Search-Warrant Application

On May 28, 2021, the Federal Bureau of Investigation (FBI) submitted a search-warrant application to search a property in Faribault, any persons located on the property, and a white 2013 Chevrolet Impala. The search warrant sought to collect evidence related to possessing, or accessing with intent to view, a pornographic work involving a minor in violation of 18 U.S.C. §§ 2252(a)(4)(B), (b)(2) and 2252A(a)(5)(B), (b)(2) (2024). The search-warrant application specifically identified the following items to be seized as evidence: computers or storage media; routers, modems, and network

¹ At the time of Deutsch’s offense, the statute criminalized the possession of a “pornographic work” involving a minor. Minn. Stat. § 617.247, subds. 2, 4 (2020). In 2025, the legislature amended the statute and changed “pornographic work” to “child sexual abuse material.” Minn. Stat. § 617.247, subd. 2, 4 (Supp. 2025).

equipment; pornographic work involving a minor; and records, information, and items related to pornographic works involving minors.

The search-warrant application included a sworn affidavit from an FBI special agent. The agent was assigned to the Minneapolis Division of the FBI and had experience investigating federal crimes related to cybercrime, child exploitation, and crimes involving pornographic works involving minors. The agent stated that, in June 2019, a foreign law-enforcement agency seized a computer server hosting a bulletin board and website containing pornographic works involving minors, identified as the “target website.”² In August 2019, the foreign law-enforcement agency notified the FBI that, on May 17, 2019, a specific IP address³ had accessed “online child sexual abuse and exploitation material” via the target website. Through further investigation, the FBI learned that the IP address was associated with the Faribault home where Deutsch resided. Based on this information, the agent stated that “[a] user of the Internet account” at the home had “been linked to an online community of individuals who regularly send and receive [pornographic works involving minors] via a hidden service website.”

The agent noted that it is difficult to access such websites, which “made it extremely unlikely that a user would accidentally access” the website without understanding its

² The name of the target website is known to law enforcement. However, agents continue to investigate individuals who access this website. Identifying the name of the website could alert users and jeopardize the investigation. For that reason, the search-warrant application did not disclose the name of the website.

³ An “Internet Protocol address,” or “IP address,” is a unique numeric or alphanumeric string used by a computer or digital device to access the internet. Every device that connects to the internet is assigned an IP address.

purpose and content.” Users were required to create an account to access the materials on the site. It could not be accessed through the traditional internet and only a user who had installed the appropriate “Tor software”⁴ on a computer and knew the correct web address could find it. Additionally, after 2017, only individuals who were “contributors” could gain admittance to the site, meaning that access was limited “only to those users who uploaded [pornographic works involving minors] to the website.” Based on this information, the agent averred there was probable cause to believe that “at a minimum,” someone living at Deutsch’s address knowingly accessed the website on May 17, 2019, “with intent to view [pornographic works involving minors], or attempted to do so.”

The agent’s affidavit also discussed characteristics common to individuals who access the internet with the intent to view a pornographic work involving a minor. The agent stated that such individuals “almost always possess and maintain [such] material in the privacy and security of their home or some other secure location” and “typically retain those materials . . . for many years.” Additionally, the agent stated that individuals “will often retain electronic devices and storage media used to access and store their collections of [pornographic works involving minors] [from] years earlier.” The agent noted that “evidence of child sexual exploitation material can be found on the electronic devices many years after it had been acquired,” and even after it has been deleted. The agent believed an individual living at the residence associated with the IP address “likely displays

⁴ A “Tor network” is a computer network specifically designed to facilitate anonymous communication over the internet. It attempts to do this by “routing Tor user communications through a globally distributed network of relay computers along a randomly assigned path.”

characteristics common to individuals who access online child sexual abuse and exploitation material via a website” and that it was “more likely than not that evidence of this access will be found in his home.”

The agent’s affidavit also noted that the FBI learned, based on a subpoena issued to the internet service provider, that the IP address in question was registered to Deutsch’s brother. A search of a public records database provided the names of others living at the property, including Deutsch. According to the affidavit, Deutsch had a 2014 conviction for possession of a pornographic work involving a minor and was required to register as a predatory offender. Additionally, the Minnesota Predatory Offender Registration database showed Deutsch’s self-reported address between July 2016 and August 2019 was the home that law enforcement requested to search. The agent also stated that the Minnesota Department of Motor Vehicles confirmed that Deutsch lived at the home as of February 2021. And a representative of the U.S. Postal Service stated that Deutsch was receiving mail at the home in February 2021. FBI agents also conducted surveillance at the home on multiple occasions from February to May 2021. During the surveillance, agents saw a 2013 white Chevrolet Impala vehicle at the home that was registered to Deutsch.

A federal magistrate judge signed the search warrant on May 28, 2021. The search warrant commanded that federal law enforcement execute the warrant on or before June 11, 2021.

Search and Resulting Criminal Complaint

On June 3, 2021, the FBI conducted a search of the home where Deutsch resided pursuant to the search warrant. Officers seized cell phones, micro secure digital cards (SD cards), and a USB drive. The seized items were processed by the FBI computer analysis response team. One of the SD cards found in Deutsch's bedroom contained a pornographic work involving a minor. An FBI agent interviewed Deutsch the same day the home was searched. Deutsch admitted that he received links to websites that contained pornographic works involving minors and to being attracted to young girls. He also admitted that he downloaded and viewed these materials on his phone in early May 2021.

The FBI shared information about their investigation with the Faribault Police Department. In March 2022, following an investigation, the state filed a complaint charging Deutsch with possession of a pornographic work involving a minor in violation of Minnesota Statutes section 617.247, subdivision 4(a). The complaint alleged that Deutsch possessed a pornographic work involving a minor between May 1 and May 15, 2021, in violation of Minnesota Statutes section 617.247, subdivision 4(a). Deutsch also admitted to probation that he continued to view pornographic works involving minors after his 2014 conviction.

Motion to Suppress

Deutsch moved to suppress evidence obtained during the search of his home. In support of the motion, Deutsch argued that the affidavit accompanying the search-warrant application lacked probable cause because the information was stale. He also argued that the search-warrant application did not show a nexus between the evidence to be seized and

the location searched, and the affidavit did not contain sufficient evidence that Deutsch possessed any data from the target website. The district court held a contested omnibus hearing at which it considered the motion. It received five exhibits into evidence, including: (1) the search-warrant application, affidavit in support, and attachments; (2) the search warrant with a list of items seized; (3) a report from the FBI describing the contents of the evidence; (4) a Faribault Police Department incident report; and (5) an email regarding a request for information.

On April 19, 2023, the district court denied Deutsch's suppression motion in a written order. The district court determined that the application and affidavit provided a sufficient basis for the issuing magistrate judge to reasonably determine that probable cause existed to issue the search warrant. The district court further determined that: (1) the information in the application was not stale; (2) there was a clear nexus between the evidence sought and the location searched; and (3) the alleged crime did not require that Deutsch download a pornographic work involving a minor from the target website in order for a violation of the statute to occur.

Trial

On December 11, 2023, the state filed an amended complaint. The complaint set forth two charges under section 617.247, subdivision 4(a), for possession of a pornographic work involving a minor. The district court held a bench trial on March 12-13, 2025. After the state's presentation of evidence, the state dismissed count II.

On March 14, the district court filed its findings of fact, conclusions of law, and order, finding Deutsch guilty of count I. The district court sentenced Deutsch to 25 months'

imprisonment, stayed execution of the sentence and placed Deutsch on probation for five years.

Deutsch appeals.

DECISION

Deutsch raises one argument on appeal. He argues the district court erred by denying his motion to suppress because the search warrant was based on stale information and therefore lacked probable cause. We are not persuaded.

“When reviewing a district court’s pretrial order on a motion to suppress evidence, we review the district court’s factual findings under a clearly erroneous standard and the district court’s legal determinations de novo.” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted). “We give great deference to a district court’s findings of fact and will not set them aside unless clearly erroneous.” *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010).

The United States and Minnesota Constitutions guarantee the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A search warrant must be supported by probable cause. *Id.* Probable cause requires “more than mere suspicion but less than the evidence necessary for conviction.” *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023) (quotation omitted). Probable cause exists when the totality of the facts and circumstances show that there is a “fair probability that contraband or evidence of a crime will be found in a particular place.” *Id.* (quotation omitted).

The judge issuing the search warrant must “make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before [the court that] . . . there is 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) (quotations omitted). An issuing judge considers “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.” *State v. Yarbrough*, 841 N.W.2d 619, 623 (Minn. 2014).

When a defendant challenges the issuance of a search warrant on appeal, “[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). In so doing, we consider “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 the place to be searched. *Id.* at 146. Additionally, the supreme court has instructed “that doubtful or marginal cases should be largely determined by the preference to be accorded to warrants.” *Id.* at 145-46 (quotation omitted).

On appeal, Deutsch argues that because the information provided by the FBI to support the search was approximately two years old when the search-warrant application was made and executed, the information was stale and therefore the search warrant lacked

probable cause.⁵ For this reason, he contends the district court erred in denying his motion to suppress. In response, the state argues that under the totality of the circumstances presented, the information in the search-warrant application and affidavit were not stale. We agree with the state.

To satisfy the United States and Minnesota Constitutions, probable cause must exist at the time the warrant is issued and when the search is conducted. *See State v. Jannetta*, 355 N.W.2d 189, 193 (Minn. App. 1984), *rev. denied* (Minn. Jan. 14, 1985). Stale information cannot establish probable cause. *Id.* A search-warrant affidavit must contain proof “of 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) (quoting *Sgro v. United States*, 287 U.S. 206, 210 (1932)). But there is no bright-line rule for determining when information has become stale. *State v. King*, 690 N.W.2d 397, 401 (Minn. App. 2005), *rev. denied* (Minn. Mar. 29, 2005). Rather, staleness “must be determined by the circumstances of each case,” and the court’s “approach should be one of flexibility and common sense.” *Id.* (quotations omitted). “Factors relating to staleness include 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.” *Souto*, 578 N.W.2d at 750; *see also Jannetta*, 355 N.W.2d at 193-94.

⁵ On appeal, Deutsch challenges only the district court’s determination that the evidence in the search warrant was not stale. He does not challenge the other determinations made by the district court in denying the motion to suppress.

Here, the district court considered the relevant factors outlined in *Souto* and determined that the information in the search warrant was not stale. It noted that, although two years had passed between the time the target website was accessed and the FBI's execution of the search warrant, the information was not stale "given the known common characteristics of individuals who view [pornographic works involving minors] and the technology used in their activity." The district court credited the statements in the agent's affidavit reflecting that such material has enduring utility, that "it is common practice for users of [these materials] to retain such material for many years," and that such materials often remain on digital devices even after deleted by the user. "Based on all of the information in the search warrant," the district court determined "it was probable that evidence related to the [possession of a pornographic work involving a minor] would be found in [Deutsch's] home." Therefore, despite the passage of time, the district court concluded that "there was probable cause to believe that the evidence being sought would be found at the time of the search." Based on our review of the district court's analysis of the *Souto* factors, we discern no basis to reverse the district court's probable-cause determination.

Ongoing Criminal Activity

The first factor to be considered is whether the warrant application provided any indication of ongoing criminal activity. *Souto*, 578 N.W.2d at 750. "[T]he continuity of the crime is the most important factor in determining the staleness issue." *State v. Yaritz*, 287 N.W.2d 13, 17 (Minn. 1979) (citation omitted). Possession of a pornographic work involving a minor is frequently an ongoing, rather than a fleeting, crime. *United*

States v. Lemon, 590 F.3d 612, 614 (8th Cir. 2010). It customarily occurs in secret. *United States v. Frechette*, 583 F.3d 374, 378 (6th Cir. 2009). Because such a crime is “not a fleeting crime and it is a crime that is generally carried out in the secrecy of the home and over a long period . . . , the time limitations applied to more fleeting crimes do not control.” *United States v. Elbe*, 774 F.3d 885, 890 (6th Cir. 2014) (citations omitted). Information related to these crimes generally is not stale even after the passage of some time. *See Lemon*, 590 F.3d at 614-15 (affirming search warrant in case when evidence to support warrant was 18 months old); *Jannetta*, 355 N.W.2d at 194 (determining warrant was not stale after two years); *United States v. Carroll*, 750 F.3d 700, 704 (7th Cir. 2014) (concluding that search warrant was not stale after five years because “staleness inquiry must be grounded in an understanding of both the behavior of child pornography collectors and of modern technology”).

Deutsch argues that the district court erred in its analysis of this factor because there was no evidence in the warrant application of ongoing criminal activity. This argument is not persuasive.

As the district court noted in its order, “the information in the search warrant cannot be considered stale given the known common characteristics of individuals who view [a pornographic work involving a minor] and the technology used in their activity.” In the search-warrant application, the FBI agent discussed those common characteristics. The agent stated that such individuals “almost always possess and maintain [such] material in the privacy and security of their home or some other secure location” and “typically retain those materials . . . for many years.” The agent also stated that individuals “will often

retain electronic devices and storage media used to access and store their collections of [pornographic works involving minors] [from] years earlier.” And the agent provided specific evidence showing that, in May 2019, an internet user at Deutsch’s residence accessed a website using Tor software that contained pornographic works include minors. Considering the totality of these circumstances and given the nature of the crime alleged, we agree with the district court that it was reasonable for the issuing magistrate judge to infer that there likely was evidence of an ongoing crime at Deutsch’s residence in June 2021.

To persuade us otherwise, Deutsch argues that the affidavit focused on whether a person living at his address “access[ed]” a website containing a pornographic work involving a minor but failed to establish that someone at the residence downloaded the material or maintained it on an electronic device in the home. Again, we are not persuaded.

The search warrant sought to collect evidence related to possessing and accessing with intent to view a pornographic work involving a minor in violation of 18 U.S.C. §§ 2252(a)(4)(B), (b)(2) and 2252A(a)(5)(B), (b)(2). These sections criminalize both possession and accessing with intent to view such materials. *See* 18 U.S.C. § 2252(a)(4)(B), (b)(2) (providing that any person who knowingly possesses, or knowingly accesses with intent to view, visual depictions involving the use of a minor engaged in sexually explicit conduct, is guilty of a felony); 18 U.S.C. § 2252A(a)(5)(B), (b)(2) (providing that any person who knowingly possesses, or knowingly accesses with intent to view, material containing an image of pornographic materials involving a minor is guilty of a felony). The Eighth Circuit has held that “knowingly accessing a child-pornography

website with the intent to view illegal materials is itself a criminal act.” *United States v. Croghan*, 973 F.3d 809, 828 (8th Cir. 2020) (quotation omitted). As such, deliberately viewing a pornographic work involving a minor online is a federal crime even without possession. And, as the agent noted in his affidavit, individuals who access the internet with the intent to view a pornographic work involving a minor generally keep the material in their homes for many years. The agent further noted that evidence of such crimes could be retrieved from electronic devices “many years after it had been acquired.”

Moreover, the search-warrant application reflects that Deutsch had a prior conviction for possession of a pornographic work involving a minor. And Deutsch admitted to probation that he continued to view such materials after his 2014 conviction. Based on the totality of these facts and circumstances, we agree with the district court that this factor favors a determination that the search-warrant application provided a sufficient basis for the issuing magistrate judge to infer there was likely ongoing criminal activity at the location to be searched. This factor weighs strongly in favor of a conclusion that the information in the search-warrant application was not stale.

Innocuous Nature and Transferability of Articles Sought

The second and third factors consider “whether the articles sought are innocuous or incriminating” and “whether the property sought is easily disposable or transferable.” *Souto*, 578 N.W.2d at 750. The search-warrant application sought “computers and storage media” at the home where Deutsch resided. Computers and storage devices are not inherently incriminating and they are easily disposable or transportable. *See, e.g., United States v. Patiutka*, 804 F.3d 684, 690 (4th Cir. 2015) (determining that there were

innocuous explanations for tablet computers found in defendant's vehicle); *Waypoint Aviation Servs. Inc. v. Sandel Avionics, Inc.*, 469 F.3d 1071, 1072 (7th Cir. 2006) (characterizing personal computers as a "ubiquitous" consumer good). Therefore, these factors weigh in favor of a staleness finding.

Enduring Utility

Lastly, we consider whether the evidence sought was of "enduring utility." *Souto*, 578 N.W.2d at 750. In his affidavit, the agent provided information showing the material sought was of enduring utility. The agent explained that these images "are valued highly" by individuals who access and download a pornographic work involving a minor, and, as a result, "are often maintained for several years." Additionally, such images "are kept close by, usually at the possessor's residence . . . to enable the individual to view the [pornographic] images." The agent also stated that individuals who access such materials "prefer not to be without their [pornographic works involving minors] for any prolonged time period." Consequently, we agree with the district court's determination that the evidence sought by the search warrant was of enduring utility. This factor weighs strongly in favor of a determination that the information supporting the search warrant was not stale.

Considering the four *Souto* factors together, we conclude that the district court had a substantial basis for determining the information supporting the search warrant was not stale and that probable cause existed to issue the search warrant.

Case Relied on by Deutsch

To convince us otherwise, Deutsch relies on *Jannetta*. This argument is unavailing. In *Jannetta*, we considered whether information included in a search warrant was stale due to a two-year time delay between the observation of photographs depicting a pornographic work involving a minor and the execution of the search warrant. 355 N.W.2d at 193-94. As Deutsch correctly notes, we stated in *Jannetta* that “a gap of two years from the source of the information to the application for a warrant is of great concern.” *Id.* at 194. But we held the information in the search-warrant application at issue was not stale, even after the passage of two years, because such material “might be expected to be retained by a person engaged in ongoing criminal sexual conduct.” *Id.* We recognized that such images “would likely have enduring utility to the perpetrator for his own sexual gratification.” *Id.* And, given circumstances of the case and the nature of the crime, we concluded that “the gap is less critical than it might be.” *Id.* Here, we are similarly persuaded that, for the reasons discussed above, the information in the search-warrant application was not stale and probable cause supported the warrant.

Conclusion

In sum, we conclude that the totality of the circumstances set forth in the search-warrant application established “a fair probability that contraband or evidence of a crime will be found” in the home where Deutsch resided. *Wiggins*, 4 N.W.3d at 145. Accordingly, the district court did not err by denying Deutsch’s pretrial motion to suppress the evidence seized under the search warrant.

Affirmed.