

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4463-15T3

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

CHRISTOPH L. FRAZER, a/k/a
ENERGETIC, CHRISTOPHER OUSLEY,
CHRIS OUSLEY and CHRISTOPH FRAZER,

Defendant-Appellant.

Submitted July 18, 2017 – Decided July 26, 2017

Before Judges Reisner and Suter.

On appeal from the Superior Court of New
Jersey, Law Division, Monmouth County,
Indictment No. 14-09-1655.

Joseph E. Krakora, Public Defender, attorney
for appellant (Paul B. Halligan, Assistant
Deputy Public Defender, of counsel and on the
brief).

Christopher J. Gramiccioni, Monmouth County
Prosecutor, attorney for respondent (Carey J.
Huff, Assistant Prosecutor, of counsel and on
the brief).

PER CURIAM

Defendant Christoph L. Frazer¹ appeals from his conviction, based on his guilty plea to second-degree possession of a controlled dangerous substance with intent to distribute, N.J.S.A. 2C:35-5(b)(2). Defendant does not appeal from the sentence imposed - seven and one-half years in prison with a forty-five month parole bar. His appeal focuses exclusively on the denial of his suppression motion, and presents the following point of argument²:

THE AFFIDAVIT DID NOT PROVIDE PROBABLE CAUSE TO SEARCH THE DEFENDANT'S HOME AND CAR BECAUSE THE VERACITY AND BASIS OF KNOWLEDGE OF THE CONFIDENTIAL INFORMANT UPON WHICH THE AFFIDAVIT RELIED WAS NOT ESTABLISHED. THUS, THE TRIAL COURT ERRED IN DENYING THE MOTION TO SUPPRESS.

The motion focused on a search warrant affidavit signed by Sgt. Otlowski. He attested that he had received information from a confidential informant (CI), who had previously been found reliable, concerning defendant's drug dealing activities at two specified addresses in Freehold. Otlowski also attested to his own observations of defendant at the two locations, engaging in

¹ Defendant's first name is spelled "Christopher" in some portions of the record; we use the spelling reflected in the judgment of conviction.

² Defendant's plea agreement reserved his right to appeal on other issues. However, he has not briefed those issues, and therefore we will not address them.

activity typical of drug dealing. Thereafter, according to Otlowski, the CI successfully completed four purchases of drugs (controlled buys) from defendant, which took place under police surveillance. The court issued a search warrant based on that affidavit.

In support of his motion for a Franks³ hearing, defendant submitted an affidavit denying that he engaged in drug dealing. He also attested that when Otlowski arrested him, the officer told defendant that he knew defendant had a large amount of cocaine in his house and Otlowski would shoot defendant "if his kids ever got a hold of this stuff." Defendant claimed that Otlowski's affidavit contained false information. He argued that Otlowski's version of events was suspect because the officer did not create any police reports concerning the investigation preceding the warrant application. He also argued that the investigation concerned cocaine, but the resulting search pursuant to the warrant "only" turned up heroin and marijuana.

In a thorough written opinion, Judge John T. Mullaney, Jr. rejected those arguments, finding that there was probable cause for the issuance of the search warrant and defendant's "uncorroborated factual assertions" did not entitle him to a Franks

³ Franks v. Delaware, 438 U.S. 154, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978).

hearing. After reviewing the record in light of the applicable standard of review, we affirm for the reasons stated by Judge Mullaney. Defendant's appellate arguments are without sufficient merit to warrant discussion, beyond the following brief comments. R. 2:11-3(e)(2).

On this appeal, defendant argues that Otlowski's affidavit failed to detail the CI's prior activity which caused the police to find him reliable. Defendant does not address the CI's subsequent four successful controlled buys, which, together with Otlowski's own observations of defendant's activity, provided a more than adequate basis for a finding of probable cause to issue the warrant. See State v. Jones, 179 N.J. 377, 390-92 (2004).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION