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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0995-21**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

SAMAD WRIGHT, a/k/a JOHAD
MARSHALL, SHAROD JACKSON,
SHAROD TAYLOR, UMAR WHITE
and ALI WHITE,

Defendant-Appellant.

Argued January 23, 2023 – Decided March 30, 2023

Before Judges Whipple, Mawla, and Smith.

On appeal from the Superior Court of New Jersey,
Law Division, Essex County, Indictment No. 19-03-
0777.

Kelly Anderson Smith argued the cause for appellant.

Barbara A. Rosenkrans, Special Deputy Attorney
General/Acting Assistant Prosecutor, argued the cause
for respondent (Theodore N. Stephens II, Acting
Essex County Prosecutor, attorney; Barbara A.
Rosenkrans, of counsel and on the brief).

PER CURIAM

Defendant Samad Wright appeals from a December 17, 2021 judgment of conviction following a guilty plea entered after an unsuccessful motion to suppress. We affirm.

I.

In March 2019, a grand jury indicted defendant on two counts of third-degree possession of a controlled dangerous substance (CDS), N.J.S.A. 2C:35-10(a); one count of third-degree possession of CDS with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and 2C:35-5(b)(3); two counts of third-degree possession of CDS with intent to distribute within 1,000 feet of school property, N.J.S.A. 2C:35-7(a); one count of second-degree possession of CDS with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and 2C:35-5(b)(2); four counts of second-degree possession of a firearm during commission of a certain crime, N.J.S.A. 2C:39-4.1(a); one count of fourth-degree possession of a large capacity ammunition magazine, N.J.S.A. 2C:39-3(j); one count of second-degree receiving stolen property, N.J.S.A. 2C:20-7(a); and one count of third-degree receipt of stolen property, N.J.S.A. 2C:20-7(a).

Defendant moved to suppress evidence resulting from an executed search warrant. Testimony from the suppression hearing establishes the following facts.

In December 2018, the Essex County Prosecutor's Office (ECPO) received an anonymous tip defendant was dealing drugs in a certain area of Newark. In addition to providing defendant's East Orange address, the source told the ECPO he drove a grey Ford Focus and gave the vehicle's license plate number. Based on the tip, Detective Rahsaan Johnson conducted three controlled buys with a confidential informant (CI) who cooperated with the ECPO in the past and was considered reliable.

Johnson drove the CI to the area in Newark provided by the anonymous source, and eventually a car matching the source's description arrived. Johnson watched the CI approach the car, speak to the driver, hand him the money provided by the ECPO, and receive an item in return. The CI rejoined Johnson and handed him suspected cocaine in plastic wrap and two glassine bags of suspected heroin. The CI reported the driver of the Ford Focus identified himself as "Samad" and gave the CI his phone number. Detective Darryl Brown, Johnson's partner, was nearby, wearing plain clothes with his

badge displayed. He stopped the Ford Focus after the buy and identified defendant as the driver.

Johnson and the CI conducted a second controlled buy. The CI called the number given to him by defendant and put the phone on speaker so Johnson could hear the conversation. The person on the phone agreed to meet the CI for a cocaine sale. He asked the CI to hurry because he wanted to go home. Johnson drove the CI to the agreed upon location, where they saw the grey Ford Focus. The CI approached the car and got in the front passenger door. He or she emerged minutes later, rejoined Johnson, and turned over two bags of suspected cocaine reportedly purchased from defendant.

Meanwhile, Detective Brown went to the address provided by the source as defendant's residence, a multi-unit apartment building in East Orange. Although the door to the lobby was locked, Brown waited until someone exited the building and used the opportunity to enter. Brown saw defendant enter the building and get on the elevator. Later, Johnson contacted the managers of the building and obtained a tenant list, which showed defendant leased an apartment there.

The third controlled buy took place the next week, when the CI called the number and arranged to meet the person on the phone, this time in East

Orange. Detective Brown was again surveilling defendant's apartment building. Brown saw defendant and two others leave the building, enter a grey Ford Focus, and drive away. He followed the car until it parked near the CI.

Once the Ford Focus parked, the CI walked to the driver's window, spoke to the driver, and, after handing him money, emerged with items in hand. The CI turned over four bags of suspected heroin, reportedly purchased from defendant.

Detective Johnson applied for warrants to search defendant's person, car, and apartment. In his applications, he described the anonymous tip, controlled buys, and his contact with the managers of defendant's apartment building. The warrant for defendant's apartment was executed on January 4, 2019. The search revealed, among other things, \$48,360 in cash, approximately 120 grams of suspected cocaine, approximately eight grams of suspected heroin, and four firearms.

The court denied defendant's motion to suppress, reasoning the combination of the tip, controlled buys, and surveillance of defendant and his apartment building were sufficient to establish probable cause. The court also determined Brown's entry into the lobby of the apartment building was not improper; the lobby "was generally open to the public" and defendant did not

have a reasonable expectation of privacy in it. Additionally, the court found Detective Johnson did not rely on the observations made by Detective Brown at the residence as a basis for obtaining the warrant for his apartment.

Defendant pleaded guilty to third-degree possession of CDS with intent to distribute, second-degree possession of CDS with intent to distribute, fourth-degree possession of a large capacity ammunition magazine, second-degree receiving stolen property, and third-degree receiving stolen property. He was sentenced to two flat five-year sentences to run concurrent with two five-year sentences with a thirty-six and eighteen-month period of parole ineligibility. This appeal followed.

Defendant argues the following:

POINT I
THE TRIAL COURT IMPROPERLY DENIED
DEFENDANT'S MOTION TO SUPPRESS
EVIDENCE SEIZED WITHOUT A WARRANT.

II.

When we review a grant or denial of a motion to suppress, we must "uphold the factual findings underlying the trial court's decision so long as those findings are supported by sufficient credible evidence in the record." State v. Lamb, 218 N.J. 300, 313 (2014) (citing State v. Elders, 192 N.J. 224, 243 (2007)). Those findings "are substantially influenced by [an] opportunity

to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy." Ibid. (alteration in original) (quoting Elders, 192 N.J. at 244). Therefore, we reverse only when the trial court's determination is "so clearly mistaken 'that the interests of justice demand intervention and correction.'" Ibid. (quoting Elders, 192 N.J. at 244).

Additionally, our review of a search warrant is limited. State v. Chippero, 201 N.J. 14, 32 (2009). We "'pay substantial deference' to judicial findings of probable cause in search warrant applications." State v. Andrews, 243 N.J. 447, 464 (2020) (quoting State v. Kasabucki, 52 N.J. 110, 117 (1968)). Once issued, a warrant is presumed to be valid; the party challenging a search performed pursuant to a warrant bears the burden of proving its infirmity. Chippero, 201 N.J. at 26 (quoting State v. Evers, 175 N.J. 355, 381 (2003)). If the court has any "[d]oubt as to the validity of the warrant," such doubt "should ordinarily be resolved by sustaining the search." State v. Keyes, 184 N.J. 541, 554 (2005) (quoting State v. Jones, 179 N.J. 377, 389 (2004)).

III.

Defendant argues the trial court erred in denying his motion to suppress the evidence recovered from his apartment and attacks the validity of the warrant, contending: it lacked certain details about the controlled buys; did

not sufficiently establish the reliability of the person who offered the tip and the CI; and failed to demonstrate a nexus between defendant's apartment and the putative CDS sales conducted from his vehicle. He additionally argues entry into his apartment building's lobby was unlawful and thus the subsequent warrant and search were invalid.

Both the Fourth Amendment to the United States Constitution and Article I, Paragraph 7 of the New Jersey Constitution protect citizens against unreasonable searches and seizures. State v. Edmonds, 211 N.J. 117, 129 (2012); State v. Dangerfield, 171 N.J. 446, 455 (2002). To protect these constitutional rights, police officers must generally obtain a warrant before searching a person or their property. State v. DeLuca, 168 N.J. 626, 631 (2001).

A valid search warrant "must be based on sufficient specific information to enable a prudent, neutral judicial officer to make an independent determination that there is probable cause to believe that a search would yield evidence of past or present criminal activity." Keyes, 184 N.J. at 553 (citing State v. Novembrino, 105 N.J. 95, 120 (1987)). Probable cause is a "'common-sense, practical standard' dealing with 'probabilities' and the 'practical considerations of everyday life'" Evers, 175 N.J. at 381 (quoting State v.

Sullivan, 169 N.J. 204, 211 (2001)). It is generally understood to mean "less than legal evidence necessary to convict though more than mere naked suspicion." Ibid. (quoting State v. Mark, 46 N.J. 262, 271 (1966)). In evaluating the sufficiency of the probable cause supporting a search warrant, the court should review the four corners of the supporting affidavit and the totality of the circumstances presented therein. Id. at 380.

Challenging the validity of the warrant, defendant argues Johnson had no "first[-]hand knowledge of the CDS events alleged." Moreover, his application "rested upon the hearsay of a [CI] for which no information was provided—no dates of the alleged buys, no quantity of CDS, no amount of transactions, not even whether the [CI] was being paid."

While Detective Johnson did not act as the buyer in the controlled buys, he observed them directly, and saw the hand-to-hand exchange for two of the three. Moreover, "hearsay alone can provide a sufficient basis for the warrant." Novembrino, 105 N.J. at 110. Further, while no one fact alone establishes probable cause conclusively, a successful "controlled buy 'typically will be persuasive evidence in establishing probable cause.'" Keyes, 184 N.J. at 556 (quoting Jones, 179 N.J. at 392).

Here, the investigation began with an anonymous tip, the details of which were corroborated over the course of the inquiry. The source gave defendant's full name and identified a photo of him. This information was corroborated when defendant told the CI his name and Brown stopped him during the first controlled buy. The license plate number and description of defendant's car was also confirmed by both Brown and Johnson. Lastly, the source provided defendant's address, which was corroborated by Brown's surveillance of the building as well as Johnson's contact with the building managers.

The application detailed the three controlled buys, conducted through a CI the ECPO knew to be reliable based on a history of successful cooperation with law enforcement. It included the officers' observations and information from the CI, and it detailed the place and time of each of the buys and the suspected CDS recovered through them. Taken together, we find no error in the trial court's finding there was probable cause to believe crime was afoot based on the tip and the three controlled buys.

Defendant also contends the warrant to search his apartment, even if supported by probable cause to believe he was engaged in criminal activity,

was not supported by probable cause to believe evidence of a crime would be found in his apartment. We are unpersuaded.

Defendant relies on State v. Boone, 232 N.J. 417 (2017). In that case, our Supreme Court found a search warrant for the defendant's home was invalid because "there was nothing in the [warrant] affidavit to indicate where [the defendant] lived, how police knew which apartment was his," or why evidence might be found there. Id. at 429-30.

Here, by contrast, the officers had concrete reasons to believe both that defendant resided in the East Orange apartment and that evidence or contraband would be found there. The anonymous source provided the address of the apartment building as defendant's residence, and Brown observed defendant entering and exiting it. More importantly, the building managers provided the tenant list, which not only confirmed defendant's residence there, but also provided his apartment's number.

The indications defendant conducted CDS transactions, leased an apartment in the building, and went back and forth to that apartment directly before and after the transactions suggests evidence of criminal activity could be found at that address. Because we agree with the trial court the warrant was

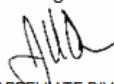
valid, we need not address the State's argument that the inevitable discovery doctrine applies.

IV.

Lastly, defendant argues Brown's entry into his apartment building's lobby was unlawful. However, we need not reach this issue because we agree with the trial court Brown's entry into the lobby of the building did not yield any information upon which the warrant application depended. The only information arising from Brown's surveillance in the lobby was his observation of defendant's entry into the elevator. The officers already knew—from the anonymous tip—that defendant lived in the building. Brown's observation gave no indication of what unit he lived in; that information came from Johnson's contact with the building managers. Thus, we find no error in the trial court's denial of defendant's motion to suppress.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION