

Circuit Court for Prince George's County
Case No. CT13-1137X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 206

September Term, 2016

CHARLES E. PRINGLE

v.

STATE OF MARYLAND

Graeff,
Berger,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: February 23, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellant Charles E. Pringle was indicted in the Circuit Court for Prince George’s County on various firearm offenses and distribution of a controlled dangerous substance. Pringle moved to suppress all evidence seized during the execution of a search warrant, alleging a lack of probable cause to support the issuance of the warrant. Following a hearing, the court, finding the warrant to be facially valid as presented, denied the motion. Pringle then entered into a conditional guilty plea to possession of a firearm by a prohibited person.¹

On appeal, Pringle challenges the circuit court’s denial of his motion to suppress.

We shall affirm.

I. BACKGROUND

In December of 2012, Detective S. Saraullo² of the Prince George’s County Police Department (PGPD), received information from a known confidential informant (C.I.)³ regarding a drug dealer. Specifically, the C.I. informed Saraullo that a black male called “C” was selling crack cocaine in Landover and that he could call “C” to get him to deliver the drugs. From that information, over the course three months, Saraullo and the

¹ The condition of the plea depended on Pringle appealing the court’s denial of his motion to suppress the search warrant, allowing him the right to withdraw the plea should he prevail on an appeal. The court then sentenced Pringle to four years and six months of incarceration. The court permitted Pringle to post an appeal bond, thus he was released pending disposition of this appeal.

² The record does not contain Detective S. Saraullo’s full name.

³ The “Application and Affidavit for Search and Seizure Warrant ‘No Knock’” described the informant, variously, as the “source of information,” the “confidential source,” the “source,” the “informant,” and the “confidential informant,” interchangeably.

C.I. arranged three controlled hand-to-hand drug transactions with “C”, all of which were witnessed by Sarullo. After the first controlled hand-to-hand drug transaction, Sarullo followed “C” back to an apartment building located at 3204 Reed Street, Glenarden.

Two controlled drug transactions ensued, each beginning with PGPD officers surveilling 3204 Reed Street, an apartment building where, on both occasions, they observed “C” leave the apartment building from a particular area and followed him as he drove to the predetermined location of the C.I. for the controlled drug transaction.

Through investigation, it was determined that “C” was appellant, Charles Pringle, who, at that time, resided in apartment #2312 of the 3204 Reed Street apartment building. That connection was based on information that a Charles Pringle, who had been the victim of a carjacking in July 2011, resided at apartment #2312 of the 3204 Reed Street. On January 23, 2013, during the course of the organized controlled drug transactions, Detective King,⁴ also of the PGPD, went to apartment #2312 and met with Charles Pringle regarding the carjacking incident, thereby confirming that Pringle still resided in that apartment.

Using all information gained from the C.I., the surveillance, the three controlled hand-to-hand drug transactions, and the investigation, Sarullo applied for, received, and executed a no-knock search warrant of apartment #2312 of 3204 Reed Street apartment building. As a result of the continuing investigation, including items seized in the execution of the search warrant, Pringle was arrested and indicted on eight counts for

⁴ The record does not contain Detective King’s full name.

various firearm offenses and distribution of a controlled dangerous substance. Following the court’s denial of his motion to suppress, Pringle entered into a conditional guilty plea, whereby he pleaded guilty to the illegal possession of a regulated firearm in exchange for the State’s recommendation of a sentence of five years with a portion suspended, followed by three years’ supervised probation.⁵

DISCUSSION

Standard of Review

The well-established standard of review for motions to suppress has been explained as:

When evidence has been recovered in a warrant-authorized search, it is not the task of a court ruling on a motion to suppress, or an appellate court reviewing the suppression decision on appeal, to conduct a *de novo* review of the issuing judge's probable cause decision. *State v. Jenkins*, 178 Md. App. 156, 163, 941 A.2d 517 (2008). Rather, those courts are to determine whether the issuing judge had a “substantial basis” for finding probable cause to conduct the search. *Id.* “The substantial basis standard involves something less than finding the existence of probable cause, and is less demanding than even the familiar ‘clearly erroneous’ standard by which appellate courts review judicial fact finding in a trial setting.”

Joppy v. State, 232 Md. App. 510, 527–28 (quoting *State v. Faulkner*, 190 Md. App. 37, 46-47 (2010)), *cert. denied*, 454 Md. 662 (2017).

⁵ Pringle failed to file a timely request for leave to appeal pursuant to terms of the conditional plea, but later filed a petition for post-conviction relief, alleging that failure was due to ineffective assistance of counsel. The post-conviction court granted his request for relief, allowing him to file a belated appeal. A subsequent consent petition for post-conviction relief was granted, allowing Pringle to file a second belated appeal, after the first appeal had been dismissed as a result of counsel error.

“The ambit of our review, precisely the same as the suppression hearing judge's review, is bounded by the four corners of the warrant application.” *State v. Johnson*, 208 Md. App. 573, 581 (2012). The “review of the judge's decision to issue the search warrants is limited to whether there was a substantial basis for concluding that the evidence sought would be discovered in the place described in the application for the warrant.” *Id.* at 586 (quoting *Birthead v. State*, 317 Md. 691, 701 (1989)).

Motion to Suppress

Pringle's motion to suppress had requested, variously, that all evidence seized during execution of the search warrant be suppressed, the identity of the confidential informant be released, and that a *Franks*⁶ hearing be held. The motion was based on assertions that, *inter alia*, there was a lack of probable cause existed for the issuance of the warrant, that the warrant application and affidavit contained false statements and information, that the affidavit in support of the search warrant failed to show a nexus between the drug transaction and Pringle's apartment, or to provide a description of Pringle. For those reasons, he posits, the application failed to establish that he was “C.”

Before this Court, Pringle contends that the suppression court applied an incorrect legal standard in its review of the issuance of the search warrant. He alleges that the court addressed only the good faith exception and “never applied the ‘substantial basis’ test in arriving at its ruling[,]” and, because of that, “it is possible to infer that the Court did not find a substantial basis for the probable cause finding.” Pringle further contends

⁶ *Franks v. Delaware*, 438 U.S. 154 (1978).

that “[t]o the extent that the suppression Court found that the issuing Judge had a substantial basis to find probable cause and issue a warrant, the Court erred.” He presents two sub-arguments, wherein he asserts that the affidavit was “bare bones” with completely conclusory statements and that there was a lack of nexus between the criminal activity and his apartment.

Pringle contends that “there are several instances where the ‘bare bones’ nature of the application required the issuing judge to act as a ‘rubber stamp’ in order to find probable cause.” First, he argues that “[f]or a substantial basis for the issuance of a warrant to exist, the man known as ‘C’ and Appellant must be shown to be the same person.” Next, Pringle argues that Saraullo’s affidavit, stating that he was contacted by a “past proven reliable source of information[,]” was a “bald assertion” and “does not provide any basis from which a judge could draw any independent conclusions on the reliability of the CI’s track record.”

Pringle also contends that there is a lack of a nexus between the crime and his apartment. He asserts that “no facts are enumerated from which an inference could be drawn that ‘C’ even lives in the particular apartment searched mak[ing] any real nexus impossible.” Further, Pringle argues that “none of the criminal activity alleged had any connection to the apartment ultimately searched[,] and that “there is nothing to support the inference that contraband might be found there[,] resulting in the court “lack[ing] a substantial basis to find probable cause[.]”

None of Pringle’s arguments, however, are supported by the record.

Correct Legal Standard

In *State v. Johnson, supra*, Judge Moylan explained the position of the suppression court’s review as, “‘sit[ting] in an appellate-like capacity with all of the attendant appellate constraints.’” 208 Md. App. at 578 (quoting *State v. Amerman*, 84 Md. App. 461, 463 (1990)). “Under those ‘attendant appellate constraints,’ the suppression hearing judge may well be called upon to uphold the warrant-issuing judge for having had a substantial basis for issuing a warrant even if the suppression hearing judge himself would not have found probable cause from the same set of circumstances.” *Id.* The question for any reviewing court is not whether there was probable cause, but, whether there was a substantial basis for the issuing judge to find that there was. *Id.* at 581.

Contrary to Pringle’s assertions, the suppression court made a thorough and appropriate review of the issuing judge’s finding of probable cause to permit the issuance of the search warrant.

With respect to probable cause, the court began its ruling by noting that:

I have read the four corners of the warrant. I find that the warrant is sufficient enough for me to give deference to the judge that signed it. . . .

It later addressed the arguments concerning the link between “C” and Pringle. The court explained its consideration, as follows:

I did look at the fact that the affiant in the affidavit here does not say that he saw what apartment the C went into, . . . but the last paragraph under section four says through detectives [sic] investigation, so on and so forth. The defense position is we don’t know what that investigation is. I was focusing more on that . . . looking at the issue of probable cause.

I think that there is enough factual basis in that paragraph to show that the officers were able to establish a link between Mr. Pringle and C and this residence, in particular the apartment number. . . .

The Court disposed of Pringle’s argument that the absence of additional detail relating to the investigation of “C’s” identity invalidates the warrant, by stating that “that in and of itself does not mean that there is no substantial and reliable basis for the issuing judge to determine probable cause.” In the court’s analysis of the alternative ground of good faith, the court applied the rationale from the holdings in *United States v. Leon*, 468 U.S. 897 (1984) and *Connelly v. State*, 322 Md. 719 (1991), explaining that:

[W]hat you are arguing, falls right in line with what the whole intent of the [*Leon*] opinion is as well as *Connelly*. . . . Even though we don’t have the description, you don’t know what the other investigation is that determined, it is not spelled out in the search warrant to determine that Mr. Pringle lived at the address. The *Leon* case requires that good faith be given, and that it points out because reasonable minds can differ as to whether there is probable cause when you read the factual basis of an affidavit, that there is a deference and a preference given to the neutral magistrate’s determination.

* * *

You are trying to say that this search warrant is not supported by probable cause. Here you have the detective that applied for this search warrant. . . .

* * *

[Saraullo] objectively had a good faith reliance on a facially valid search warrant when the apartment was searched.

The court made several determinations regarding the sufficiency of the issuing judge’s finding of probable cause for the issuance of the search warrant, finding that:

Basically there is no information to conclude that the detective provided false information to get the warrant. [The issuing judge] read the warrant, the application for the warrant, and determined that it was sufficient probable cause to issue a warrant.

So I don’t believe that there has been anything stated at this hearing for me to conclude that the warrant was not based on reliable information, and that [the issuing judge’s] determination was not reasonable based on the information, and, therefore, I have to give deference to [the issuing judge].

When I look at the warrant there is sufficient information to determine probable cause. Even though that further investigation information is not there, and even though the -- I guess basically we don't know exactly what the further investigation, if there was further investigation that led to the linking of Mr. Pringle to C.

The warrant indicates, from my reading of it, I would conclude that they linked it with the information as stated . . . through detectives further investigation, C was found to be Charles Pringle with a date of birth, and Charles Pringle was linked to the address of 3204 Reed Street, apartment 2312.

Despite Pringle's attempt to cherry-pick convenient excerpts from the transcript of the court's ruling to craft an argument, it is clear that the suppression court thoroughly analyzed the issue of the issuing judge's finding of probable cause under the "substantial basis" standard. Nevertheless, as the State has correctly pointed out in its brief, "[a] determination that probable cause is lacking is not always necessary before reaching the issue of the objective good faith exception of *Leon*." *McDonald v. State*, 347 Md. 452, 470 (1997) (quoting *United States v. Maggitt*, 778 F.2d 1029, 1033 (5th Cir. 1985)). *See also Marshall v. State*, 415 Md. 399, 408 (2010). Even though it had, the suppression court was not required to make such a finding prior to applying the "good faith" exception.

Probable Cause

As we make our own evaluation of the warrant application and affidavit to determine the existence of a substantial basis, we recall that an initial determination of probable cause sufficient to issue a search warrant requires only that:

The judge issuing that warrant must make a practical common-sense decision whether, given all the circumstances set forth in the affidavit

before him [or her], including the “veracity” and “basis of knowledge” of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

Agurs v. State, 415 Md. 62, 76 (2010) (quoting *Patterson v. State*, 401 Md. 76, 92 (2007)).

The relevant requirements of Maryland Code (2001, 2008 Repl. Vol.), Criminal Procedure Article (C.P.), are that the search warrant shall:

(ii) name or describe, with *reasonable particularity*:

1. the person, building, apartment, premises, place, or thing to be searched;
2. the grounds for the search; and
3. the name of the applicant on whose application the search warrant was issued

C.P. § 1-203(a)(3)(ii) (emphasis added).

With respect to requests for no-knock search warrants, the statute also allows for such a request to be made, “on the grounds that there is reasonable suspicion to believe that, without the authorization . . . the property subject to seizure may be destroyed . . . [or] the life or safety of the executing officer . . . may be endangered.” C.P. § 1-203(a)(2)(ii). The warrant application and affidavit at issue presented substantial facts to satisfy the “reasonable particularity” required under the statute.

With respect to the identification of “C” and connecting “C” to Pringle, the affidavit details a number of occasions, over a three month period, where “C” was followed either from the apartment building to the location of the scheduled drug

transaction with the C.I. or from the location of the drug transaction back to the apartment building.

Specifically, the affidavit provided the following factual support:

- Initial information from C.I. where: “it could call ‘C’ and have ‘C’ deliver crack cocaine to it[;]”
- The first arranged hand-to-hand buy, where: “[C.I.] called ‘C’ and arranged to meet him at a pre determined location for a pre determined amount of crack cocaine[;]” “[t]he [C.I.] was then given [money] fronted by the [PGPD]; the [C.I.] then left [Sarullo], and never left [Sarullo’s] sight and never came into contact with [anyone][;]” “‘C’ arrived in a blue Toyota Camry bearing Maryland registration . . . [;]” “[t]he [C.I.] met with ‘C’ and engaged in a hand to hand transaction[;]” “[t]he [C.I.] then returned to [Sarullo] without coming into any contact with any other person[;]” “[t]he [C.I.] then gave [Sarullo] suspected crack cocaine and stated it had just purchased the crack from ‘C’[;]” “[a]fter letting the [C.I.] leave, [Sarullo] followed ‘C’ back to 3204 Reed Street, Glenarden, Prince Georges County County [sic] Maryland[;]” “‘C’ was then seen exiting his car and entering 3204 Reed Street, and walking down the steps[;]”
- The second arranged hand-to-hand buy, where: “[Sarullo] called [his] [C.I.], and asked the [C.I.] to call ‘C’ and order a specific amount of crack cocaine[;]” “[Sarullo] had other officers set up surveillance in front of 3204 Reed Street, Glenarden, Prince Georges County Maryland[;]” “[d]etectives observed ‘C’ walk up the steps of 3204 reed [sic] Street and exit the building, and enter the blue Toyota Camry[;]” “Detectives followed ‘C’ from Reed Street, until he met with the [C.I.][;]” “[t]he [C.I.] met with ‘C’ and engaged in a hand to hand transaction[;]” “[t]he [C.I.] then returned to [Sarullo] without coming into any contact with any other person[;]” “[t]he [C.I.] then gave [Sarullo] suspected crack cocaine and stated it had just purchased the crack from ‘C’.”
- The third arranged hand-to-hand buy, where: “[Sarullo] called [his] [C.I.], and asked the [C.I.] to call ‘C’ and order a specific amount of crack cocaine[;]” “[Sarullo] had other officers set up surveillance in front of 3204 Reed Street, Glenarden, Prince Georges County Maryland[;]” “[d]etectives observed ‘C’ walk up the steps of 3204 reed [sic] Street and exit the building, and enter the Black Landrover bearing

- Maryland registration . . . [;]” “Detectives followed ‘C’ from Reed Street, until he met with the [C.I.];]” “[t]he [C.I.] met with ‘C’ and engaged in a hand to hand transaction[;]” “[t]he [C.I.] then returned to [Saraullo] without coming into any contact with any other person[;]” “[t]he [C.I.] then gave [Saraullo] suspected crack cocaine and stated it had just purchased the crack from ‘C’.”
- Additional information concerning “C’s” identity yielded that: “[t]hrough Detectives investigation, ‘C’ was found to be Charles Pringle with a date of birth . . . [;]” “Charles Pringle was the victim of a carjacking on July 9, 2011 used [sic] the address 3204 Reed [sic] Street # 2312[;]” “[o]n January 23, 2013 Detective King . . . responded to 3204 Reed Street # 2312, to meet with Charles Pringle reference [sic] his previous carjacking[;]” “Detective King . . . went directly into 3204 Reed Street #2312 which verifies that Charles Pringle lives at 3204 Reed Street #2312, GlenArden [sic], Prince George’s County Maryland.”
 - Additional information supporting the connection of “C” to Pringle through the location of the apartment: “3204 Reed Street #2312 . . . is a tan brick garden style apartment building with a glass front[;]” “‘3204’ is painted in white above the entrance of the main building[;]” “[t]here are three flights of stairs leading upstairs and one flight leading downstairs[;]” “Apartment 2312 is the 2nd unit downstairs on the left hand side[;]” “[t]here is a red metal door with ‘2312’ in white numbers in the middle of a brass door knocker with a red placard. . . .”

We are satisfied that the foregoing recitations in the warrant application and affidavit contained sufficient factual support to provide the issuing judge with a substantial basis to connect “C” to Pringle.

Making the Connections

The reliability of the informant is almost irrelevant when the initial statement made about “C” selling crack cocaine was corroborated by the controlled buys that were observed by Saraullo. It would be as “[i]f the informant had been nothing more than a robot or a trained ape, the directly observed ‘controlled buy’ – with the informant as a

mere mechanical agent – would have been sufficient to establish probable cause.” *State v. Jenkins*, 178 Md. App. 156, 179 (2008) (quoting *Hignut v. State*, 17 Md. App. 399, 415 (1973)). *See also Massachusetts v. Upton*, 466 U.S. 727, 731 (1984) (finding that “[t]he informant's veracity and the basis of his knowledge are still important but, where the tip is adequately corroborated, they are not elements indispensable [sic] to a finding of probable cause”). The same finding could be established in the instant appeal. The C.I. brought “C” to the attention of the police and then arranged three opportunities for the police to observe three controlled hand-to-hand drug transactions, which corroborated the C.I.’s statements. The State made clear during the suppression hearing that Pringle was not charged with the crimes relating to the hand-to-hand drug transactions, only with charges supported by the evidence found in the apartment pursuant to the execution of the search warrant.

As for Pringle’s argument that there is no actual connection asserted in the affidavit between “C” and Pringle, is likewise without merit. The information provided was consistent with the observations of the officers that “C” would leave from, and return to, the building in which Pringle’s apartment was located. It is also reasonable to consider that the C.I. referred to Pringle as “C”, which is consistent with the first letter of Pringle’s first name, Charles. It is clear from the search warrant application and affidavit, there was “adequate circumstantial evidence that, when combined with reasonable inferences generated from that evidence, would support the finding of probable cause by the issuing magistrate.” *Joppy*, 232 Md. App. at 527 (quoting *State v. Coley*, 145 Md. App. 502, 530 (2002)). From this, the suppression court found that it was reasonable for

the issuing judge to infer from the information provided in the affidavit that there was a substantial basis to accept the finding that “C” was Pringle. We agree.

Having established the sufficiency of the evidence to support the inference that “C” was Pringle, the next question addressed the nexus between the drug transactions and Pringle’s apartment. Although there were no transactions observed in or around the apartment, there were observations of Pringle just before or just after the drug transactions, either entering or exiting from the downward stairwell that leads to his apartment to support that implication. In *Holmes v. State*, 368 Md. 506 (2002), the Court held that “[d]irect evidence that contraband exists in the home is not required for a search warrant; rather, probable cause may be inferred from the type of crime, the nature of the items sought, the opportunity for concealment, and reasonable inferences about where the defendant may hide the incriminating items.” 368 Md. at 522. In *Holmes*, the Court further opined that ““observations of illegal activity occurring away from the suspect’s residence, can support a finding of probable cause to issue a search warrant for the residence, *if there is a reasonable basis to infer from the nature of the illegal activity observed, that relevant evidence will be found in the residence.*”” *Id.* (quoting *United States v. Thomas*, 989 F.2d 1252, 1255 (D.C. Cir. 1993)). *See also Agurs*, 415 Md. at 85.

In the case *sub judice*, the application contained Saraullo’s observations when he followed “C” back to the apartment building after the first transaction, thus providing a possible location of the dwelling. That information was then coupled with the observations of the surveilling officers immediately before the next two transactions, where “C” was observed walking up the stairs from the same location previously

observed by Saraullo, and “C” was then followed by the police to the designated drug sale transaction site, where the transaction was then observed by Saraullo.

The application also contained the supporting references to the carjacking of a Charles Pringle who resided in an apartment located in the same area as the officers’ observations. This information collectively supported a reasonable inference that the particular apartment was #2312 and that drugs could be kept there for the drug transactions, and is further supported by the fact that the observations and transactions were over the span of three months. The suppression court reviewed the affidavit and agreed, finding “that there is enough factual basis in that paragraph to show that the officers were able to establish a link between Mr. Pringle and C and this residence, in particular the apartment number.” We have said, “[t]o characterize the fully fleshed out affidavit in this case as a ‘bare bones’ application is to push the metaphor beyond its limit.” *Joppy*, 232 Md. App. at 544.

Good Faith Exception

In Pringle’s alternative argument, he contends that “[a]lthough it was not explicit, this analysis could be read as a finding that the good faith exception to the exclusionary rule applies in Appellant’s case[,]” which he asserts would be in error. He argues that “[g]iven the importance of establishing the identify [sic] of ‘C’ as Appellant, police should have been aware that the bare assertion that ‘investigation’ established that crucial fact was not something on which a judge could make an independent determination of probable cause.” Because we have concluded that there was a substantial basis to support

the issuing judge’s finding of probable cause, we need not address the merits of this argument.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED;
COSTS ASSESSED TO APPELLANT.**