UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0658

September Term, 2014

DIEUDONNE BUCKSON

v.

STATE OF MARYLAND

Eyler, Deborah S.,
Hotten,
Nazarian

JJ.

Opinion by Hotten, J.

Filed: June 8, 2015

On April 3, 2014, the Circuit Court for Baltimore City held a hearing on appellant's counsel's motion to suppress evidence seized during a search of a residence that was the subject of a search warrant. The court denied appellant's counsel's motion to suppress and, thereafter, appellant, Dieudonne Buckson, proceeded by way of a not guilty agreed statement of facts. The court convicted appellant of possession of cocaine with the intent to distribute and sentenced appellant to ten years' incarceration. *See* Md. Code (2002 Repl. Vol. 2012), § 5-602 of the Criminal Law Article.

On appeal, appellant presents a single question for review: "Did the lower court err in denying the motion to suppress?" Perceiving no error, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL HISTORY

Prior to trial, appellant filed a motion to suppress the evidence seized pursuant to a search warrant at 2865 E. Lake Avenue in Baltimore City. Appellant argued that the warrant was "totally devoid of probable cause that [he] committed a crime and lack[ed] the required nexus between his alleged criminal activity and his home." Appellant's motion further alleged that "the affidavit was so lacking in probable cause that no reasonable officer could believe it to be valid, and thus the good faith exception must fail[.]" The court granted a hearing on appellant's motion to suppress.

At the suppression hearing, the State admitted the search warrant and its application into evidence as State's Exhibit 1. In the warrant application Detective Ryan Jones noted that he had reason to believe appellant was concealing heroin, cocaine, marijuana, other

controlled dangerous substances, related paraphernalia, scales, money, and other materials of contraband in his residence, 2865 E. Lake Avenue Baltimore, MD 21214, and vehicle, a 2002 Navy blue Lexus with Maryland Tag # 07625CE. Detective Jones submitted an affidavit in support of the warrant application, which included the following statement of probable cause:

> During the month of February 2013 your Affiant debriefed a Baltimore City Police Department/Drug Enforcement Administration DEA confidential source (Hereinafter refer to as CS-1) about the activities of a black male later identified as Kinon Dawson. During the debriefing CS-1 explained that Dawson is a distributor/supplier of crack cocaine and is the key facilitator of a narcotic organization located in the Northeast Section of Baltimore City and is distributing kilogram quantities every month throughout the [N]ortheast Section of Baltimore City. CS-1 further advised Dawson distributes his cocaine at a wholesale price to various drug users and to mid-level drug dealers in Baltimore.
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> It was further mentioned Dawson utilizes cellular phone number (904)556-0430 to arrange narcotic transactions. CS-1 further described Dawson as a dark skin black male in his early 30's who has dred locks. CS-1 continued advising that Dawson primarily conducts his narcotic operations in the area of Jennifer Ave. @ 30[th] and 31[st]. As a result of this detailed information your Affiant produced a photo of Dawson. The CS positively identified the photo as Kinon Dawson and as the narcotic dealer that was described. As a result of this detailed information obtained from CS-1 your affiant initiated a narcotic investigation into Dawson's narcotic operations.
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> During the month March 2013 CS-1 made contact via cell phone with DAWSON in regards to purchasing a quantity of crack cocaine. The CS made contact with DAWSON in the presence of your affiant and DEA Task Force Officer (TFO) R. Carrington. The conversation concluded with DAWSON agreeing to conduct the transaction in the Northeast section of Baltimore City.
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> Baltimore DEA HIDTA Enforcement Group 54 established surveillance in the vicinity of the pre-arranged buy location set by DAWSON. A search of the CS was conducted by your affiant that produced negative results. The CS was

then given Baltimore City Police Department (Official Advanced Funds (OAF) and transported into the area of the pre-arranged buy location. Once in the area your affiant observed DAWSON walking in the 1900 blk. of E. 31St., wearing a gray jacket, blue jeans, blk. white shoes, and his dread locks pulled into a ponytail. Your affiant further observed DAWSON utilizing his cellular phone, while monitoring DAWSON, TFO Rose observed DAWSON enter into 2037 E. 31[st]. This dwelling is known to investigators as DAWSON's residence. After a short time span DAWSON returned in view of surveillance and sat on a porch in the 1800 blk. of E. 30[th] St., shortly after sitting on the porch DAWSON got up and began walking into the direction of Hillen Rd. Surveillance then observed a 2002 dark blue Lexus (MD. Tag#07625CE)

Affiant Note: (MVA Legacy Browse produced the owner of the Lexus MD. Tag # 07625CE being Dieudonne Samuel BUCKSON b/m; DOB. 7/22/73 6605 Hampnett Ave. Baltimore, Maryland.
Surveillance further notices the Lexus enter the area of the pre-arranged buy location. Surveillance was unable to positively identify the individual operating the vehicle at this time. It was then observed that the Lexus MD. Tag #07625CE pulled over and parked in the 1900 blk. of E. 29th St. Once parked DAWSON approached the vehicle and entered the front passenger seat. Approximately 2 minutes later DAWSON exited the vehicle and began walking to the pre-arranged purchase location. It was at this time CS-1 handed Dawson the OAF and in return DAWSON handed the CS a quantity of crack cocaine (Exhibit#3)

The transaction concluded with the CS proceeding to the neutral location where he/she was met by TFO Carrington. The CS then handed a quantity of crack cocaine Exhibit#3 to TFO Carrington, no additional currency or narcotics in any form were recovered from the CS. Without further incident the CS was dismissed. The suspected crack cocaine (Exhibit#3) was submitted per DEA rules and regulations. Following the transaction your affiant immediately believed the individual operating the Lexus was DAWSON'S cocaine source.

While still monitoring DAWSON, surveillance observed him return to the Lexus and enter the front passenger seat, followed by the vehicle departing. For a brief moment surveillance lost sight of the Lexus. A few minutes later the Lexus reappeared in view of surveillance with DAWSON no longer in the front passenger seat. The Lexus was followed by surveillance into the 2600 blk. of Harford Rd. Once in the block the vehicle parked illegally in a bus stop

loading zone. The operator of the vehicle a black male, who was wearing a tan sweat suit, exited the vehicle and entered a Barber Shop that was located in the block.

It was determined by surveillance to contact a BPD Northeast District Patrol Officer and advise the Officer of the illegal parking violation of the Lexus with the intentions of positively identifying the operator of the vehicle. Upon the arrival of the BPD Northeast Patrol, P/O Cueeias observed BUCKSON'S vehicle along with a newer model BMW Suv illegally parked in the bus stop loading zone. P/O Cueeias then came in contact with individual who was wearing the tan sweat suit and operating the Lexus. A field interview was conducted, which ultimately resulted with the operator producing a Maryland Driver's License that positively identified the owner/operator of the Lexus being Diudonne [sic] S. BUCKSON, driver's license ID number B-250-243-758-577. Without further incident P/O Cueeias issued a BPD citizen contact form to BUCKSON and a verbal warning.

Surveillance remained in the area and waited for the return of BUCKSON. BUCKSON ultimately returned to his vehicle and pulled off. Surveillance continued to follow BUCKSON as he drove through East Baltimore and finally ending up in the 2800 blk, of E. Lake Ave. Surveillance further observed BUCKSON'S other vehicle a 2003 burgundy 4dr.Lexus MD Tag#A211940 parked in front of 2865 E. Lake Ave.

During the month of March 2013 Baltimore DEA HIDTA Enforcement Group 54 initiated a surveillance operation, focusing on the narcotic activity of BUCKSON. During the course of surveillance, surveillance observed BUCKSON respond once again into the residence of 2865 E. Lake Ave. During the course of monitoring BUCKSON, your affiant utilized CS-l to contact DAWSON for purpose of conducting a controlled purchase of crack cocaine. It was at this time CS-1 contacted DAWSON in the presence of your affiant, S/A Bolden in reference to purchasing quantity crack cocaine and confirm that BUCKSON was in fact DAWSON'S cocaine source. The conversation concluded with DAWSON agreeing to conduct the transaction in the Northeast [S]ection in Baltimore City.

CS-1 was then searched and found free of currency or narcotics in any form. CS-1 was given OAF from DEA and Baltimore City Police Department and transported into the area of the pre-arranged buy location set by DAWSON.

> Once there the CS met with DAWSON, during the course of the meeting CS-1 and DAWSON counted the OAF.
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> Surveillance remained in the area of the 2800 blk. of E. Lake Ave. focusing on the dwelling of 2865 E. Lake Ave. the location where BUCKSON was located. While there surveillance observed BUCKSON exit the front door of 2865 E. Lake Ave. and proceed to his vehicle (2002 LEXUS MD.Tag#07625CE) and depart the area. Surveillance followed BUCKSON into the area of the pre-arranged buy location. Once there BUCKSON was met by DAWSON once again, at which time DAWSON entered the front passenger seat of his vehicle. Surveillance then followed BUCKSON as he traveled a few blocks away with DAWSON in the vehicle. Surveillance then observed DAWSON returning to CS-1 location at which time CS-1 gave DAWSON the DEA/BPD OAF and in return DAWSON gave CS-1 a quantity of crack cocaine. The transaction concluded with CS-1 returning to the neutral location and handing TFO Carrington a quantity of crack cocaine (Exhibit#4). The CS was once again searched and found free of any currency or illegal narcotics. Without further incident the CS was dismissed.
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> Surveillance continued monitoring BUCKSON, BUCKSON then led investigators back the 2800 blk. of E. Lake Ave. at which time he parked his vehicle in front of 2865 E. Lake Ave. Once there BUCKSON got out his vehicle and responded to the CVS approximately two blocks down the street. Approximately 10 minutes later BUCKSON exited the CVS and returned back to the 2800 blk. of E. Lake Ave. It was at this time BUCKSON once again entered the front door of 2865 E. Lake Ave. Surveillance was then terminated. The suspected crack cocaine Exhibit#4 was submitted to the DEA per DEA rules and regulations.
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> Throughout the course of this investigation your affiant has observed BUCKSON's [sic] enter the dwelling of 2865 E. Lake Ave. on numerous occasions along with his vehicles parked in front of this dwelling all hours of the day and night. Therefore your affiant believes that BUCKSON is residing at this location. Also your affiant believes that BUCKSON is the cocaine supplier for DAWSON's narcotic organization.

After reviewing the warrant application, affidavit, and hearing arguments from both parties, the court denied the motion to suppress, explaining:

That is really a question of deferring to any discretion exercised by the original magistrate who issued the warrant, but, in order to find that the original judge or magistrate had substantial basis for probable case, the Court has to make its own assessment of how substantial – what value this information has.

Now, there are two questions put forward here. [Appellant's counsel] suggests many more questions in what the police could have done, and, with that, he is really demonstrating his history and background as a narcotics investigator himself and all the steps that they could have taken. Terrific argument, but it's not the argument – it's not the analysis I have to apply.

I have to apply the analysis of whether what they wrote about what they did was enough, not other things they could have done. Whether this was enough. So my reading would indicate that, as far as probable cause, they seem to have stumbled in to [appellant] in the course of developing investigation against Mr. Dawson.

They're two separate events, and, in each of those events, [appellant] seems to be operating in conjunction with Mr. Dawson, that he brings him there and drives away in both of them, in which case, Mr. Dawson gets out of the car and does the actual transaction that is involved. He is the one who is contacted by the confidential informant.

He is the one who actually deals hand-to-hand with the confidential informant, but, in both of these transactions, the [appellant] is – the [appellant]'s car is seen participating in the events. The police do an investigation to find out who was driving the car, and actually go through the subterfuge of having a confrontation over an improperly parked vehicle, in which the officer gets [appellant]'s name and gives him a warning, and they note of the encounter with the police, which I'm sure Mr. Dawson, that day, said thank you about. Thank you was probably the last thing he should have ever said, because that was just an investigation to find out who's driving this car.

Once that happened, the investigation then focused to see where [appellant] had come from, and they followed him back to a place. Now, there is raised here the question of the nexus of this house to the drug operation, and the parties have focused their argument on whether or not this is the [appellant]'s house. I personally find that to be irrelevant.

The question is was the house that was the subject of the search at all demonstrated to have a nexus to the operation that the police were observing. In that case, we don't know where Mr. Dawson – or excuse me. We know where Mr. Dawson came from the first day, but we don't know where [appellant] came from the first day, but, after the first transaction, the police stayed with [appellant]'s car, then knowing it's [appellant's] and followed him back to the Lake Avenue home, saw him go into the home.

Whether he was going in demonstrating any ownership was not at all clear. As [appellant's counsel] points out, didn't take a key out to go into the house, but was able to go in freely. Then, in the course of time, when it would be reasonable to make another major purchase, the police set up another controlled buy, major controlled by dealing only through Mr. Dawson, but, rather than watching Mr. Dawson's residence, they watched the home on Lake Avenue to see whether or not something would happen on Lake Avenue that would eventually become relevant to the development of probable cause here.

Now, I substantially disagree with you about one fact, [appellant's counsel]. Your argument that the police could have stopped the car when [appellant] picked up Mr. Dawson, that, if they had probable cause, they had probable cause then to just grab them in the car with the drugs. I disagree, because I think, at that point, that would have been a conclusion.

Only after the second drug transaction was made do the two separate events then come to a situation where they can be added together. Now, the nexus of the house to the second event is [appellant] left the house to pick up Mr. Dawson to go and do the transaction, and he returned there.

He had another car that the police say was his car. They don't go into detail about its license number, VIN number, or its registration, but they say a second car there. Does that mean that that's Mr. Dawson's [sic] home? No.

Does it mean, based upon the information provided in the warrant, that there is a connection between that house and Mr. Buckson and a connection between [appellant] and Mr. Dawson and the exchange of drugs? And here, I think there clearly is a substantial basis for Judge Avery to conclude that there was probable cause to believe that the stash house for the drugs was the house on Lake Avenue.

> Whether [appellant] owned it, whether [appellant] was just a minion or a knave for someone else in the house actually delivering the drugs, that's not important. For the warrant purposes, the question is whether there's a nexus between the house and the sale of drugs.
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> The first time that nexus would have been a guess. After the second transaction, when the police watched [appellant] come out of the house, go and participate in the transaction, and return to the house, I think the substantial basis for the decision Judge Avery made has been demonstrated.
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> * * *
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> . . . I think, given this setup of observations involved in the second event, that was really a preplanned trap to see if [appellant] was involved, and he had no idea they were watching and came from the place they expected him to come from.
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> I think that gives us a reason to believe that a crime was being committed in the house and reason to believe that that's where the drugs came from. Doesn't have to be proof positive. It has to be a reason to believe, and I think, based upon that, Judge Avery's conclusion is legitimate and substantiated.
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> But then, if we were to get into the LEON situation, I don't see how this is not absolutely and completely absorbed in the LEON circumstance, that the officers and agents and detectives conducted this surveillance, conducted a complex surveillance and believe they have probable cause and took it to a detached and neutral magistrate, who reviewed it and concluded that there was probable cause. I don't see how their search of the house, although it, in some way, may have been an inference – a weak inference – I don't see how it was not an inference made in good faith. I don't see how there's any way to suppress the evidence in this case.

Thereafter, appellant proceeded by way of a not guilty agreed statement of facts. The court found him guilty, and sentenced appellant, as discussed above. Appellant noted the instant appeal challenging the court's denial of his motion to suppress.

DISCUSSION

Appellant argues that "[a] police officer exercising his professional judgment could not have reasonably believed that the warrant application in this case established probable cause, for the application set forth not a single indicium of probable cause to believe that contraband would be found in the Lake Avenue residence." The State contends that "even assuming probable cause to issue the warrant was lacking, there was 'some evidence' to support the inference that evidence of [appellant's] criminal activity would be found in the 2865 E. Lake Avenue residence, and thus to justify the officers' reliance on the search warrant."

"Generally, a search conducted without a warrant supported by probable cause violates the Fourth Amendment's prohibition against unreasonable search and seizure."[1] *Jones v. State*, 213 Md. App. 483, 497 (2013). "Probable cause has been defined by this Court as 'a fair probability that contraband or evidence of a crime will be found in a particular place.'" *Patterson v. State*, 401 Md. 76, 91 (2007) (quoting *Malcolm v. State*, 314 Md. 221, 227 (1988)). "[T]o determine whether the issuing judge had a substantial basis for

[1] The Fourth Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment, provides that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and 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.

concluding the warrant was supported by probable cause, '[w]e do so not by applying a *de novo* standard of review, but rather a deferential one.'" *Id.* at 89 (quoting *Greenstreet v. State*, 392 Md. 652, 667 (2006)).

Assuming, without deciding, that the search warrant was not supported by probable cause, the evidence recovered from the residence will, nevertheless, be admissible if the officers reasonably believed that they were executing a valid search warrant. *See Kelly v. State*, 436 Md. 406, 421 (2013) ("Accordingly, courts will not suppress evidence where law enforcement officers act with a reasonable good-faith belief that their conduct is lawful."), *McDonald v. State*, 347 Md. 452, 470 (1997) ("A determination that probable cause is lacking is not always necessary before reaching the issue of the objective good faith exception[.]") (internal quotation marks omitted).

"Under the good faith exception to the Fourth Amendment's exclusionary rule, evidence obtained pursuant to a search warrant, later determined or assumed to have been issued improperly[ ]" is generally admissible. *Marshall v. State*, 415 Md. 399, 408 (2010). This is because "[s]uppression is not an individual right, but rather a judicial creation with the express purpose of deterring future misconduct on the part of law enforcement officers." *Kelly*, 436 Md. at 421. As such, "Maryland has religiously recognized the preference that must be extended to warrants." *State v. Johnson*, 208 Md. App. 573, 592 (2012). "'When the State seeks to introduce evidence obtained pursuant to a warrant, there is a presumption that the warrant is valid[,] and [t]he burden of proof is allocated to the defendant to rebut that

presumption by proving otherwise.'" *Id.* (quoting *Volkomer v. State*, 168 Md. App. 470, 486 (2006)) (emphasis and internal quotation marks omitted). "'The presumption that a search warrant is valid provides an incentive to police officers to seek judicial approval before effectuating a search.'" *Id.* (quoting *Volkomer*, 168 Md. App. at 486).

A court, however, must suppress the evidence under the following circumstances:

> (1) if the magistrate, in issuing a warrant, 'was misled by information in an affidavit that the affiant knew was false or would have known was false except for a reckless disregard of the truth,' or (2) 'in cases where the issuing magistrate wholly abandoned his judicial role so that no reasonably well trained officer should rely on the warrant,' or (3) in cases in which an officer would not 'manifest objective good faith in relying on a warrant based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable,' or (4) in cases where 'a warrant may be so facially deficient – *i.e.*, in failing to particularize the place to be searched or the things to be seized – that the executing officers cannot reasonably presume the warrant to be valid.'

Marshall, 415 Md. at 408-09 (quoting *Connelly v. State*, 322 Md. 719, 729 (1991)).

Here, we only address the third category because appellant does not contend that any of the other categories apply. *See Marshall*, 415 Md. at 409. "[A]ppellate review of the police officers' good faith reliance on a search warrant, deemed to have issued improperly, is a question of law . . . and, as such, that review is conducted *de novo*." *Marshall*, 415 Md. at 408 (internal citations omitted). "We review all of the facts in the affidavit in support of the warrant to determine the reasonableness of police reliance." *Id.* "Where the defect in the warrant is not readily apparent to a well-trained officer, or, where the warrant is based on 'evidence sufficient to create disagreement among thoughtful and competent judges as to the

existence of probable cause,' then the good faith exception will apply." *Greenstreet v. State*, 392 Md. 652, 679 (2006) (quoting *U.S. v. Leon*, 468 U.S. 897, 926 (1984)).

"In this category of cases, evidence obtained during a police search should be excluded at trial if the warrant was so clearly lacking in indicia of probable cause as to render police reliance on the warrant entirely unreasonable." *Marshall*, 415 Md. at 409. "A warrant may be considered 'so lacking in indicia of probable cause' if the applicant files merely a 'bare bones' affidavit, one which contains only 'wholly conclusory statements' and presents essentially no evidence outside of such conclusory statements.'" *Id.* (quoting *Patterson*, 401 Md. at 107-08). "Thus, the standard of factual support required to be presented by the affidavit in order for evidence to be admitted under the good faith exception is considerably lower than the standard for establishing a substantial basis for a finding of probable cause by a judge issuing a search warrant." *Id.* at 410.

Appellant argues that *Agurs v. State*, 415 Md. 62 (2010) controls the outcome of this case. In *Agurs*, the Court of Appeals held that "the affidavit . . . completely failed to support a reasonable inference that Agurs had drugs in his home." 415 Md. at 97-98. The Court explained:

> To draw the inference that Agurs had drugs in his home, two factual leaps were necessary. First, the issuing judge had to infer that Agurs was involved with drug distribution based upon speculative assertions, the allegations of an uncorroborated informant who indicated no personal knowledge of Agurs' alleged criminal activities, and the allegations of unidentified and entirely uncorroborated informants. Second, based on that inference, the issuing judge had to infer that Agurs was likely to have drugs in his home, even though there were no indicia of probable cause to support this conclusion.

Id. at 98. Accordingly, in Part B of the opinion, the court "conclude[d] that no reasonably well-trained police officer could have believed there was probable cause to search Agurs' home under these circumstances. . . . [and determined that] . . . the evidence recovered during that search must be excluded." *Id.*

This Court in *Johnson*, however, clarified that "[t]he authoritative majority opinion of the Court [in *Agurs*], . . . is limited to Part A of Judge Greene's opinion." 208 Md. App. at 600. This is because

> Judge Greene wrote the opinion of the Court and was joined by Chief Judge Bell and Judge Harrell for a solid core of three judges. Judge Battaglia, on the other hand, declined to join in the opinion, albeit agreeing with the decision. She is not committed to any statement made nor any analysis engaged in, except that Agurs goes free. Judge Barbera and Judge Adkins were in complete dissent. Judge Murphy concurred in Part A of Judge Greene's opinion but otherwise dissented.

Id. at 599-600.

In *Agurs,* Part A of the opinion addressed whether the police should have been aware of the nexus requirement, which mandates that some connection "be established, even in the absence of direct evidence, between the nature of the items sought and the place where they are to be seized" *Agurs*, 415 Md. at 86 (internal quotation marks and citations omitted). The Court held that the nexus requirement, was "sufficiently well-established that the police must be aware of [it]." *Id.* at 87.

Part B, which is not part of the majority opinion in *Agurs*, addressed whether the officers relied on the warrant in good faith. Therefore, the holding, which appellant relies

on, that "no reasonably well-trained police officer could have believed there was probable cause to search Agurs' home under these circumstances" and the related analysis is not controlling in this case. 415 Md. at 98. *See Johnson*, 208 Md. App. at 600 ("Only Part A, however, speaks for the majority of the Court and only Part A, therefore, is the prevailing law of Maryland.").

Appellant has not cited and we have not found any other case, except in circumstances when the probable cause was stale, where an appellate court has held that the good faith exception did not apply.[2] *See e.g. Greenstreet,* 392 Md. at 683 ("[W]e do not conclude that a reasonable, well-trained police officer executing the warrant would believe that the warrant authorized the search because the lack of probable cause is apparent on the face of the affidavit when the evidence giving rise to a belief in probable cause is a year old and does not indicate continuing criminal activity.").

In the instant case, the warrant was not supported by a "bare bones" affidavit and a lack of probable cause was not apparent on the face of the affidavit. Rather, the affidavit presented some evidence to suggest that appellant might have been storing drugs at the residence. The affidavit contained more than just conclusory statements and included Detective Jones' first hand observations of appellant's actions surrounding the pre-arranged controlled drug buy. *See Patterson*, 401 Md. at 108-09 ("The warrant under review is supported by an affidavit based in part on the first-hand knowledge and the observations of

[2] Appellant does not contend that staleness was an issue in this case.

police officers and not information from an unnamed informant or other similarly unreliable source.").

Further, in issuing the warrant, the judge determined that the affidavit contained probable cause to believe that drugs were being stored at 2865 E. Lake Avenue. Then, unlike the suppression hearing judge in *Agurs* who granted the motion to suppress, the suppression hearing judge in the instant case concluded that there was a substantial basis for the issuing judge's finding of probable cause and denied the motion to suppress.[3] "To that end, we cannot say as a matter of law that [Detective Jones] should have second-guessed the issuing-judge's determination that probable cause existed." *Patterson v. State*, 401 Md. at 109.

After review of all the facts set forth in the affidavit, the police officers's reliance on the warrant was reasonable based on the fact that the target met with appellant immediately prior to both drug transactions and based on the fact that appellant left 2865 E. Lake Avenue,

[3] The Court explained the procedural history in *Agurs*, as follows:

> Agurs asked the trial court to suppress the items seized during the search. The trial judge granted that request, concluding that there had been no substantial basis for the issuing judge to find probable cause to search Agurs' home and vehicles. The State appealed and the Court of Special Appeals reversed the trial judge's ruling, agreeing with the trial court that there had been no substantial basis for the warrant, but concluding that exclusion was nonetheless inappropriate because the officers had relied on the warrant in good faith. Agurs petitioned this Court for certiorari, which we granted.

Agurs, 415 Md. at 74-75 (footnote omitted).

drove straight to the area of the second controlled drug buy, and then returned to 2865 E. Lake Avenue following the transaction.

We give preference to the warrant and presume that the warrant issued was valid. Because the lack of probable cause was not apparent on the face of the affidavit and there was some evidence to support that drugs were likely to be found at 2865 E. Lake Avenue, the police officer's reliance on the warrant was objectively reasonable. Accordingly, the good faith exception applied, and therefore, the court did not err in denying the motion to suppress.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.