

Circuit Court for Talbot County  
Case No. C-20-CR-18-000248  
Circuit Court for Caroline County  
Case No. C-05-CR-19-000080

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

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CONSOLIDATED CASES

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No. 1497  
September Term, 2019

DAMIEN RIONELL WILSON  
v.  
STATE OF MARYLAND

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No. 1279  
September Term, 2019

DAMIEN RIONELL WILSON  
v.  
STATE OF MARYLAND

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Friedman,  
Wells,  
Adkins, Sally D.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Friedman, J.

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Filed: March 9, 2021

\*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.

## **INTRODUCTION**

Damien Rionell Wilson came to law enforcement attention through an investigation by the Talbot County Drug Task Force. Information about Wilson was gathered by two principal means: (1) Wilson's calls and text messages with Kevin Curry, the original target of the investigation, intercepted pursuant to a wiretap order, and (2) a search of Wilson's home conducted pursuant to a warrant, secured in part by information gathered from the Curry wiretap. Wilson was charged in the Circuit Court for Talbot County and the Circuit Court for Caroline County with several drug-related crimes. Wilson filed identical motions to suppress the evidence gathered from both the wiretap and from the search of his home. The trial courts in each county denied those motions, and Wilson entered conditional guilty pleas. Wilson filed appeals in both cases arguing that his motions should have been granted. Because both appeals raise the same issues, they have been consolidated for convenience. For the reasons we explain, we affirm the trial courts' denials of the motions to suppress.

## **FACTS AND PROCEEDINGS**

The Talbot County Drug Task Force believed Kevin Curry was the head of an illegal drug operation. Throughout the summer of 2018, the Task Force sought and received successive orders authorizing a 30-day pen register/trap and trace for Curry's cellphone. In September, the State's Attorney for Talbot County applied for an order authorizing a wiretap for Curry's cellphone. The application was supported by details of the Task Force's investigative efforts, a description of the necessity of the wiretap, and affidavits from the Task Force attesting there was probable cause to suspect Curry was at the center of a drug

operation. The Circuit Court for Talbot County issued an order authorizing the wiretap of Curry's cellphone.

Using the wiretap, the Task Force intercepted several calls and text messages between Curry, Wilson, and their associates. The wiretap of Curry's cellphone revealed Wilson's involvement in the operation. We have summarized the relevant communications:

- October 4, 2018: Cellphone conversation between Curry and Wilson, in which Wilson wanted to meet Curry for money. Wilson was then observed leaving his home and driving to the location where he had agreed to meet Curry.
- October 7, 2018: Cellphone conversation between Curry and Wilson in which they discuss the purchase of guns.
- October 11, 2018: Cellphone conversation between Curry and Wilson in which Curry asked Wilson to drive him to a hotel parking lot where a bottle of Adderall had been left for Curry.
- October 16, 2018: Cellphone conversation between Curry and Wilson in which they discussed transactions involving illegal pills.
- October 18, 2018: Cellphone conversation between Curry and another individual involved in the conspiracy in which Curry referred to an earlier call in which Wilson told Curry that he purchased a gun for him.

Based on these communications and other information gathered by the Task Force, Trooper First Class Teresa Weathers of the Maryland State Police applied for a search warrant for Wilson's home. The application was dated October 22nd and addressed to

Judge William H. Adkins, III of the District Court of Maryland for Talbot County.<sup>1</sup> TFC Weathers' affidavit explained why there was probable cause to believe that evidence of the drug ring would be found at Wilson's home:

1. During September of 2018, an investigation by Talbot County Drug Task Force members resulted in a court authorized Title III wiretap investigation. The main target of the investigation was identified as Kevin Darnell Curry. During the course of the investigation numerous drug related calls and text messages were intercepted between Curry and a subject identified as DAMION RIONELL WILSON, B/M, DOB: [REDACTED]. DAMION WILSON is identified as a habitual user of COCAINE that is being supplied by Curry in addition to someone who also conspires with Curry to store and distribute COCAINE and illegal prescription pills.
2. During the fourth week of July 2018, your Affiant initiated a license check which was conducted through the Maryland Motor Vehicle Administration by a Police Communications Operator currently assigned to the Maryland State Police, Easton Barrack for DAMION RIONELL WILSON, B/M, DOB: [REDACTED]. The results of the check are as follows:

DAMION RIONELL WILSON  
B/M DOB: [REDACTED]  
HEIGHT: [REDACTED], WEIGHT: [REDACTED].  
23125 TUCKAHOE SPRINGS DR.  
DENTON, MD 21629  
SOUNDEX: [REDACTED]  
STATUS: VALID
3. During the fourth week of July 2018, your Affiant initiated a criminal history check which was conducted by a Police Communications Operator currently assigned to the Easton Barrack for DAMION

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<sup>1</sup> Judge William H. Adkins, III is not related to Judge Sally D. Adkins, a Senior Judge of the Court of Appeals of Maryland sitting by designation in this Court pursuant to MD. CONST., Art. IV, §3A.

RIONELL WILSON B/M, DOB: [REDACTED]. The results of the check are as follows:<sup>[2]</sup>

MARYLAND

05/02/2004 -CDS: POSSESS-NOT MARIJUANA  
-CDS: POSSESS-MARIJUANA

06/24/2004 -CDS: POSSESS-NOT MARIJUANA  
-CDS: POSSESS-MARIJUANA

04/15/2006 -CDS: POSSESS-MARIJUANA

09/07/2012 -CDS: POSS PARAPHENILIA

4. During the third week of July 2018, your Affiant conducted a check through the Maryland Department of Assessment and Taxation utilizing the public website, Maryland Real Property Search, for the address 23125 TUCKAHOE SPRINGS DR., DENTON, 21629. The results of the check are as follows:

OWNERS: DSTP PROPERTIES LLC  
11684 KITTY'S CORNER RD  
CORDOVA, MD 21625

TYPE: STANDARD UNIT

Your Affiant believes this to be a rental property.

5. During the fourth week of July 2018, your Affiant initiated a registration check which was conducted through the Maryland Motor Vehicle Administration for DAMION RIONELL WILSON, B/M, DOB: [REDACTED] by a Police Communications operator currently assigned to the Maryland State Police, Easton Barrack for any current registered vehicles. The results of the check are as follows:

MARYLAND REGISTRATION 7CF0105  
2006 HONDA VN  
VIN # 5FNRL38796B079910

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<sup>2</sup> In reproducing the pertinent sections of the Application and Affidavit, we have omitted Wilson's prior unrelated convictions.

OWNER: DAMIEN RIONELL WILSON  
B/M, DOB: [REDACTED]  
23125 TUCKAHOE SPRINGS DR  
DENTON, MD 21629  
EXP: 08/2019

VIRGINIA REGISTRATION UXP3613  
2011 BMW 4S  
VIN # WBAKE3C52BE441599

OWNER: DAMIEN RIONELL WILSON  
B/M DOB: [REDACTED]  
23125 TUCKAHOE SPRINGS DR  
DENTON, MD 21629  
EXP: 06/2019

6. During the months of July 2018 through October 2018 surveillance has observed the 2011 RED BMW 4S BEARING VIRGINIA REGISTRATION UXP3613 to be at the residence of 23125 TUCKAHOE SPRINGS DR, DENTON, CAROLINE COUNTY, MD 21629 on a daily basis during the day and evening.
7. During this investigation it has been revealed that DAMION WILSON has been conspiring with Curry to distribute Controlled Dangerous Substances which has been confirmed through intercepted phone calls, text messages, and surveillance.
8. On October 4, 2018 at approximately 1124 hours, a phone conversation was intercepted from DAMION WILSON [REDACTED] to Kevin Curry [REDACTED], where WILSON was coming to Easton and wanted to meet Curry for money. Surveillance members observed WILSON leave 23125 TUCKAHOE DENTON, MD 21629, in a red Chevrolet truck. Subsequently, surveillance continued to monitor the movements of WILSON and observed him drive to and enter Willis Kemp's apartment, located at 25 N. Harrison St., Apt 4, Easton, MD 21601, which is where WILSON had agreed to meet. A short time later, WILSON exited the residence.
9. On October 7, 2018 at approximately 1800 hours, the following conversation was intercepted on an outgoing call from Kevin Curry to DAMION WILSON.<sup>[3]</sup>

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<sup>3</sup> We have omitted irrelevant portions of the conversations.

WILSON: “You make some-you make some money in there last night?”

CURRY: “I didn’t. I made a few. Why, what’s up?”

WILSON: “I got something for us. Um, I need some bread later—pick it up for us.”

CURRY: “Alright.”

WILSON: “I got that thing for us, we need it. You hear me? You want it or what?”

CURRY: “Yeah, I do but why’d you uhh...”

WILSON: “Huh?”

CURRY: “Why you-why you just telling me now? You know I didn’t even come out, I don’t come out [unintelligible].”

WILSON: “I just got, I mean, I’m at Six Flags.”

CURRY: “Oh”

WILSON: “I probably won’t be ‘til 11 or 12 when I get back. I’m just telling you, dude just called me with [unintelligible].”

CURRY: “Oh, alright. Yeah what’s the number?”

WILSON: “I don’t know. He’s gonna text to me and I’ll send it to you.”

CURRY: “Alright, let it make sense though.”

WILSON: “I know. I ain’t got that. That’s n\*\*\*a rich boy, but I asked for it anyway with the baby 9s though.”

CURRY: “Alright”

WILSON: “Uh.”

CURRY: “Alright.”

Your Affiant knows from her training, knowledge, and experience that the above cited conversation between Curry and DAMION WILSON on October 9, 2018 is about the illegal acquisition of firearms. WILSON tells Kevin Curry that he asked an unknown subject for “the baby 9s”; a baby 9 is a semi-automatic, subcompact 9mm handgun. WILSON has initiated this firearm purchase and is waiting to hear back from the seller on the price but has advised Curry to have the money ready for him later.<sup>4</sup>

Your Affiant knows this conversation is about a firearm sale because of another intercepted conversation that occurred on October 18, 2018 at 0052 hours between Kevin Curry and Glen Lewis, Jr. [REDACTED]. The following is an excerpt of what Curry tells Lewis about what DAMION WILSON, or “Dame” just before the call ends:

You know Dame’s dumb ass bought that Baby 9 for us and shit. You know I just bought another hammer and shit. Dis hot n\*\*\*a. Guess what he do? He tell the n\*\*\*a who it’s for! I screenshot that shit to Durrell. Man, Durrell don’t even wanna fuck wit him, cuz n\*\*\*a said he can get em fresh out the box. But Dame gonna tell the n\*\*\*a, ‘Uh, yeah, fresh out the box. Silk want it.’ But the n\*\*\*a ain’t respond to him. Cuz you know I be asleep during the day and shit. But he gonna tell the n\*\*\*a like, “Yeah, the n\*\*\*a Silk want it.” I was like, ‘Yo, why would you tell the n\*\*\*a like that?! For real, man, that’s my people, man, but that n\*\*\*a talk too much, dawg. He gonna tell the n\*\*\*a that the gun for me. I don’t even know this n\*\*\*a.

10. On October 11, 2018 at approximately 2052 hours, the following conversation was intercepted as an outgoing call from Kevin Curry to DAMION WILSON [REDACTED].<sup>[5]</sup>

CURRY: “Yeah, well look. Drive me back over Tidewater parking lot. Man, this bitch put my bottle of

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<sup>4</sup> Because the copies of these documents in the Court’s record have certain words and dates circled, and because we will address these words and dates later in this opinion, we have reproduced the circles.

<sup>5</sup> We have omitted irrelevant portions of the conversation.



Adderalls on my-I told him to put it on my fucking tire, the driver side tire. It wasn't there, so I pulled the fuck off. Now he text back and said it was on my back passenger side tire.”

WILSON: “Alright, c'mon hurry up, I'm right down steps.”

CURRY: “Alright, here I come, coming now. Alright.”

Your Affiant knows from her training, knowledge, and experience that the above cited conversation between Curry and DAMION WILSON October 11, 2018 is about the loss of a bottle of the prescription Adderall, which is a Schedule II Controlled Dangerous Substance (CDS). The conversation reveals a level of familiarity and the type of involvement DAMION WILSON has with Curry's CDS distribution. Curry enlists the help of WILSON to assist in the search and recovery effort for the missing bottle of Adderall that had been delivered to his vehicle while it was parked in the parking lot of Tidewater Inn.

Your Affiant knows from her training, knowledge, and experience that the above listed conversation from October 9 2018 further exemplifies that DAMION RIONELL WILSON and Curry conspire to utilize.

11. On October 16, 2018 at approximately 1706 hours, the following conversation was intercepted as an outgoing call to DAMION WILSON from Kevin Curry [REDACTED].

CURRY: “Alright. You got them demons you got them demonstrations today?”

WILSON: “Yeah. I'm ready to run around now n\*\*\*a.”

CURRY: “Sell me-sell me a couple of em.”

WILSON: “What, uh I don't know about that. I need money man. I owe you money I owe-I owe money man. I got shit to do.”

CURRY: “Oh, matter a fact, don't even sell me none. I want-I want two.”

WILSON: “What?”

CURRY: “I want two of em.”

WILSON: “Alright, we’ll work it out when I get to you. Alright.”

CURRY: “I ain’t workin’ out shit. I want two of em n\*\*\*a fuck you mean?”

Your Affiant knows from her training, knowledge, and experience that the above cited conversation between Curry and DAMION WILSON on October 16, 2018 is about the distribution of illegal pills. WILSON informs Curry that he is about to go sell some pills. Curry asks to purchase some of WILSON’s supply of illegal pills at wholesale price. WILSON is reluctant because he wants to make a profit and sell them at retail price.

12. Your Affiant believes from her training, knowledge and experience gained while investigating numerous unrelated cases into the manufacture and distribution of controlled dangerous substances that based on investigation, surveillance, numerous intercepted drug related calls and text messages and a criminal record dating back to 2014 including an arrest for possessing a Controlled Dangerous Substance, that there is currently an ongoing and regenerating criminal conspiracy and that there is currently stored controlled dangerous substances, United States currency, and paraphernalia involved with the distribution of these drugs at 23125 TUCKAHOE SPRINGS DR, DENTON, CAROLINE COUNTY, MARYLAND 21629 and on the person of DAMION RIONELL WILSON, B/M, [REDACTED].

Your Affiant believes that in light of a past Controlled Dangerous Substance arrest, DAMION RIONELL WILSON continues to create a common nuisance by receiving, storing and concealing Controlled Dangerous Substances in a continuing course of criminal conduct from 23125 TUCKAHOE SPRING DR, DENTON, CAROLINE COUNTY, MARYLAND 21629. Further, WILSON and Curry had numerous drug related conversations implicating a conspiracy to distribute COCAINE and illegal prescription pills; throughout, attempting to obtain an illegal sale of a firearm.

[TFC Weathers recites her training and qualifications.]<sup>[6]</sup>

Your Affiant believes that as a result of investigation, training, knowledge and experience, I have probable cause to believe, and I do believe[,] that the laws regulating the manufacturing, sale, and/or possession with intent to distribute controlled dangerous substances as described, are being violated on the premises of and hidden upon the person completely described above.

Your Affiant therefore prays that a Search and Seizure Warrant be issued authorizing (him) with the necessary and proper assistance to: [enter and search the premises ... open and search any boxes, bags, luggage ... which contain CDS ... seize all evidence ... search any outbuildings ... search any vehicle under control of WILSON....]

SUBSCRIBED AND SWORN TO, this (22) day of October 2018

Judge Adkins then signed and dated the following.

Before me, a District Court Judge of the State of Maryland in and for Talbot County, this (22) day of October 2018 personally appeared TFC Teresa Weathers personally known to me or properly identified, and (he) made oath that the contents of the foregoing Application and Affidavit are true and correct.

Judge Adkins issued the search warrant on October 22nd. He handwrote the time and date of issuance.<sup>7</sup> The Task Force conducted the search of Wilson's home two days later and seized illegal firearms and ammunition. Wilson was charged in the Circuit Court for Talbot County with offenses related to possession, distribution, and conspiracy to distribute CDS, and in the Circuit Court for Caroline County with three counts of

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<sup>6</sup> In this portion of the Affidavit, TFC Weathers uses male pronouns to refer to herself three times.

<sup>7</sup> As we will discuss later, Judge Adkins' handwriting was not very clear.

possession of a regulated firearm due to a prior disqualifying offense, and three counts of illegal possession of ammunition.

In each case, Wilson filed a motion to suppress the evidence gathered from the wiretaps and the search of his home. In each case, the motion was denied. Wilson entered conditional guilty pleas in each case to preserve the issues for appeal.

### **DISCUSSION**

Wilson contends that the circuit courts erred by denying his motion to suppress. *First*, he argues that the wiretap application did not meet the so-called exhaustion requirement, which requires police to exhaust other investigative methods before applying for a wiretap, and that therefore the communications must be suppressed.<sup>8</sup> MD. CODE, CTS. & JUD. PROC. (CJP), §10-408(a)(1)(iii). *Second*, he argues that there was no substantial basis for Judge Adkins to find probable cause and issue the search warrant for his home. Within that argument, Wilson calls attention to typographical errors in the warrant application and warrant. We reject each of these arguments, affirm the denials of the motions to suppress, and affirm Wilson’s convictions.

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<sup>8</sup> Although it was Curry’s cellphone that was subject to the wiretap order, Wilson has standing to challenge the admissibility of the wiretap evidence. Any “aggrieved person” has standing to challenge the admissibility of intercepted communications. CJP §10-408(i)(1). The Maryland Wiretap Act defines an aggrieved person as anyone, “who was a party to an intercepted wire, oral, or electronic communication or a person against who the interception was directed.” CJP §10-401(1).

**I. THE CIRCUIT COURTS CORRECTLY DENIED WILSON’S MOTIONS TO SUPPRESS THE WIRETAP EVIDENCE.**

Wilson argues that the wiretap application did not demonstrate that the Task Force had exhausted traditional investigative measures before submitting the application, thus the wiretap order must be voided, and evidence flowing from the wiretap suppressed.<sup>9</sup> We disagree.

Among other requirements, a wiretap application must provide a, “full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous[.]” CJP §10-408(a)(1)(iii). Before a court can issue a wiretap order, the State must demonstrate that this exhaustion requirement has been satisfied. *Allen v. State*, 89 Md. App. 25, 33 (1989). If the State has not demonstrated that it has exhausted other investigative techniques, the appellate court will void the order and the evidence flowing from the wiretap will be suppressed. *Id.*

This exhaustion requirement ensures that “where traditional techniques could have led to the successful infiltration of the criminal enterprise, a wiretap order will not be granted.” *Id.* at 34-35 (quotations omitted). A judge cannot infer from the mere submission of an application for a wiretap that normal investigative procedures will not work. *Id.*

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<sup>9</sup> The State argues that we should not consider this argument because its cursory treatment in Wilson’s brief did not satisfy the requirement that an argument be presented with particularity to be considered on appeal. MD. RULE 8-504(a)(6); *Klaunberg v. State*, 355 Md. 528, 552 (1999). We agree with the State but nevertheless exercise our discretion to reach the merits of Wilson’s argument.

(citing *Calhoun v. State*, 34 Md. App. 365, 376 (1977)). On the other end of the spectrum, the State “need not exhaust every conceivable investigative possibility before seeking a wiretap order.” *Allen*, 89 Md. App. at 35 (quoting *Salzman v. State*, 49 Md. App. 25, 33 (1981)); see also *Vandegrift v. State*, 82 Md. App. 617, 627 (1990) (“There is sufficient need for electronic surveillance where, in light of the objectives of the investigation, it appears that normal investigative techniques have been unsuccessful and, if continued, would be unlikely to yield the evidence sought.”).

An affidavit in support of a wiretap must demonstrate either that, “investigative procedures have been tried and failed” or “why they appear to be unlikely to succeed if tried or to be too dangerous.” CJP §10-408(a)(1)(iii) (emphasis added). The two clauses in the exhaustion requirement are in the disjunctive. Theoretically, law enforcement could employ a single investigative technique, fail to satisfy the objective of the investigation, explain why other techniques are too dangerous, and lawfully secure a wiretap order.

When reviewing a trial court’s decision to grant or deny a motion to suppress, this Court limits our review to the record of the suppression hearing and does not consider evidence admitted or arguments made at trial. *Angulo-Gil v. State*, 198 Md. App. 124, 137 (2011) (citing *Knight v. State*, 381 Md. 517, 535 (2004); *Christian v. State*, 172 Md. App. 212, 216 (2007)). The suppression court’s factual findings are accepted unless clearly erroneous, and those findings are reviewed in the light most favorable to the prevailing party. *Id.* (citing *Cooper v. State*, 163 Md. App. 70, 84 (2005); *Conboy v. State*, 155 Md. App. 353, 361 (2004)).

Wilson argues (1) that there was insufficient use of confidential informants and associate cooperation; (2) that the Task Force should have executed a search warrant before seeking the wiretap order; (3) that there was insufficient use of surveillance; (4) that it was unreasonable to conclude the grand jury investigation; and (5) that other electronic and financial investigations should have been employed.

Both trial courts found that the affidavits submitted with the wiretap application satisfied the exhaustion requirement. As Judge Paul M. Bowman of the Circuit Court for Talbot County<sup>10</sup> found,

[t]he affidavit supporting the application for the September 11 wiretap order included an extensive section detailing the other investigatory methods that investigators averred had either been tried and failed, were unlikely to succeed, or were too dangerous to attempt. The affiants described: (1) informant information; (2) associate cooperation; (3) search warrants/other investigative data; (4) surveillance; (5) grand jury; (6) undercover investigatory techniques; (7) dialed number recorders (DNR)/caller ID; (8) telephone subscriber information; (9) financial investigation; (10) clone pagers; (11) criminal histories; (12) GPS devices; (13) trash searches; and (14) record checks.

After recounting the efforts of the Task Force, Judge Bowman concluded that, “the affidavits clearly show that some methods have been tried and failed and that other methods appear either dangerous or unlikely to succeed.” The central purpose of the exhaustion requirement is to prevent police from utilizing electronic surveillance where there are other

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<sup>10</sup> Judge Bowman is a Senior Judge, formerly of the Circuit Court for Kent County, and was sitting by designation in Talbot County.

viable, untried measures to safely accomplish the objectives of an investigation. The police are not required to negate every possible investigative alternative.

Here, the affidavit explained that the Task Force’s objective was to dismantle the drug operation and prosecute those involved. The affidavit recounted the investigative efforts, why those had proven unfruitful, and why the untried investigative techniques were dangerous or unlikely to further the investigation. As Judge Bowman stated:<sup>11</sup>

[T]he September 11 affidavit shows that the goal of the Task Force investigation was to collect sufficient evidence to identify and prosecute all members of the suspected criminal organization, its suppliers, and other co-conspirators, many of whom remained unknown to the Task Force at the time they filed the application.

\* \* \*

The affidavit describes at least eleven instances in which investigators received information from confidential information or concerned citizens between February and September 2018. These informants provided information regarding Mr. Curry that was consistent with both one another’s tips and with information gathered independently by the Task Force. [Wilson] placed particular weight on the statement in the affidavit that, ‘There has been very little to no Confidential Informant information in this case.’ However, the next sentence [in the affidavit] provides the relevant statement for determining exhaustion: ‘[t]hose persons who initially stepped forward as confidential informants either changed their minds, fell out of favor and professed their loyalty to [Curry] before presenting details sufficient to cover the entire breadth and scope of the distribution organization and all conspiracies.’

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As to associate cooperation the investigators averred that they were unaware of any of [Curry’s] associates who would be willing to cooperate

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<sup>11</sup> Judge Jonathan G. Newell of the Circuit Court for Caroline County adopted Judge Bowman’s reasoning in his own written opinion.



and provide information that would advance the investigation’s goal of identifying major sources of supply.

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The affidavit provides even stronger grounds for demonstrating exhaustion of the use of search warrants. Investigators averred: (1) executing a search warrant would alert [Curry] and his alleged co-conspirators to the investigation; (2) this would undermine efforts to identify and prosecute [Curry’s] alleged suppliers; and (3) prior warrants had been executed and did not lead to the seizure of large quantities of CDS or sufficient information to dismantle the alleged criminal organization ....

Investigators averred that they conducted surveillance on [Curry] to the extent they could do so without being detected [and] why further surveillance ... was unlikely to accomplish the goals of the investigation....

Defendants also argue that the [pen register/cellular location tracking orders] had proven extremely successful.... That these orders were highly successful ... does not mean that they had been successful in achieving or advancing all of the goals of the investigation.

[T]he Court accepts the State’s argument that the police were not obligated to cease their investigation as soon as a case against the target could be made. Clearly the purpose of the investigation was to gather evidence regarding suppliers and co-conspirators, not simply prosecuting [Curry] alone.

Both trial courts found that this recitation of investigative efforts satisfied the exhaustion requirement. After careful review, we hold that their findings were not clearly erroneous, and therefore affirm the denials of the motion to suppress the communications gathered from the wiretap.

## II. THERE WAS A SUBSTANTIAL BASIS TO FIND PROBABLE CAUSE AND ISSUE THE SEARCH WARRANT

Wilson argues that Judge Adkins lacked a substantial basis for finding probable cause to issue the search warrant. Wilson also seeks to invalidate the search warrant because of typographical errors and an almost illegible handwritten date in the order issuing the warrant. We hold that the warrant application and affidavit gave Judge Adkins a substantial basis to find probable cause, and therefore affirm the denial of the motions to suppress the evidence found in Wilson’s home.

### A. Judge Adkins Had a Substantial Basis for Finding Probable Cause.

The Fourth Amendment to the United States Constitution provides that, “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.” U.S. CONST. amend. IV.<sup>12</sup> Probable cause is “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).

A judge presented with a warrant application must make a “practical and common-sense decision, given all of the circumstances set forth in the affidavit,” as to whether there is probable cause. *Patterson*, 401 Md. at 89-90 (2007) (citing *Greenstreet v. State*, 392 Md. 652, 667-68 (2006)).

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<sup>12</sup> Although Wilson cites to Article 26 of the Maryland Declaration of Rights, he does not present any argument that he is entitled to different or broader protection under the state constitution than the federal. We therefore address his claims only in the context of the Fourth Amendment.

Both the trial court hearing the suppression motion and the appellate court reviewing the suppression decision must determine whether the issuing judge, “had a substantial basis for ... concluding that probable cause existed.” *Id.* A substantial basis is, “less weighty and less logically probative than probable cause.” *State v. Johnson*, 208 Md. App. 573, 586-87 (2012). Moreover, “the mere observation, documentation, or suspicion of a defendant’s participation in criminal activity” will not necessarily suffice, by itself, to establish probable cause to search the defendant’s home. *Patterson*, 401 Md. at 103 (quoting *Holmes v. State*, 368 Md. 506, 523 (2002)). There must be something more that allows a neutral magistrate to conclude that contraband may be found in the home. *Id.* 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. *Holmes*, 368 Md. at 522. Where a person is alleged to possess illegal drugs, weapons, and paraphernalia, it is reasonable to infer that evidence will be found in their home or vehicle, or on their person. *Id.* at 520-21.

The information in the warrant application supplied by TFC Weathers provided a substantial basis upon which Judge Adkins could conclude that contraband or evidence of a crime would be found at Wilson’s home. The warrant application conveyed to Judge Adkins the content of intercepted communications showing that Wilson was involved in the distribution of illegal drugs, and that Wilson illegally purchased a gun and ammunition. The search warrant application relayed that Wilson has been arrested, charged, and convicted of drug crimes in the past. And although those convictions may not have been

admissible at a subsequent trial to prove that he committed a crime, Judge Adkins was entitled to rely upon them in assessing probable cause.

Moreover, the warrant application explained that surveillance had demonstrated that the two cars registered in Wilson’s name sat outside the address listed on his driver’s license, thus establishing a nexus between Wilson’s criminal activity and his home. We hold that there was a substantial basis to support Judge Adkins’ finding of probable cause.

B. The Other Errors Identified in the Search Warrant Application are Minor and Do Not Invalidate the Warrant.

Wilson next argues that certain typographical and other errors, including misgendered pronouns, incorrect dates, and the absence of a copy of the wiretap order in the search warrant application rendered the warrant invalid and, as a result, that Judge Adkins erred by overlooking these errors. Our function in this area isn’t that of the schoolteacher correcting student papers and marking down for each mistake. Rather, we are concerned only with those errors that undermine confidence in the probable cause determination. *Greenstreet*, 392 Md. at 672; *Thompson v. State*, 139 Md. App. 501, 527-28 (2001); *see also U.S. v. Walker*, 534 F.3d 168 (2d Cir. 2008); *Ekwunife v. City of Philadelphia*, 756 Fed. Appx. 165 (3d Cir. 2018). Generally, minor typographical errors do not destroy the validity of otherwise valid documents. *See, e.g., Burton v. Mumford*, 219 Md. App. 673 (2014) (concerning the validity of an extradition document with minor typographical errors). In fact, our cases instruct that even in marginal or doubtful cases, we should uphold a warrant because of our preference for searches pursuant to, rather than in the absence of warrants. *State v. Faulkner*, 190 Md. App. 37, 47 (2010) (quoting *Illinois v.*

*Gates*, 462 U.S. 213, 237 n. 10 (1983)). With this in mind, we turn to the typographical errors to which Wilson has directed our attention.

*First*, Wilson notes a series of odd, misgendered pronouns.<sup>13</sup> TFC Weathers is a woman, but in the warrant application she referred to herself—sometimes, but not always—with male pronouns. Moreover, in the warrant itself, Judge Adkins referred on one occasion to TFC Weathers with a male pronoun. We are not concerned with these types of minor typographical errors. They are not relevant to the probable cause determination and do not undermine our confidence in that determination. We think the more likely explanation is that a busy policewoman, amid a busy investigation, “cut and pasted” from a model document that a male colleague used. This is, frankly, no big deal.

*Second*, Wilson directs us to several dates in the warrant application, and in the warrant itself, that are wrong. TFC Weathers, in the warrant application, wrote that a conversation between Curry and Wilson took place on October 9th, but everybody now agrees that the conversation actually occurred on October 7th. Again, we don’t see this as having been relevant to the probable cause determination. *Burton*, 219 Md. App. at 690. Whether the conversation occurred on a Wednesday, or in fact, on a Monday, just doesn’t matter here. Wilson also points us to date errors that he claims Judge Adkins made in filling out the warrant. The truth of the matter is that Judge Adkins’ handwritten “2” looks a lot

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<sup>13</sup> We have assured ourselves that this was not an issue of pronoun preference.

like a “7.” We understand Wilson’s confusion.<sup>14</sup> But it is clear from the record that Judge Adkins signed the warrant on October 22nd, and it was executed on October 24th. Moreover, even if Judge Adkins wrote the incorrect date on the warrant, that would still not invalidate the warrant. If, as *Thompson* instructs, an undated warrant without more, is not cause for invalidation, neither is a misdated warrant. *Thompson*, 139 Md. App. at 527-28.

*Finally*, as we discussed above, much of the evidence that TFC Weathers submitted with the warrant application came from the wiretap of Curry’s cellphone. Wilson points out that the order authorizing the wiretap of Curry’s cellphone was not attached to the warrant application and claims that this is a defect requiring invalidation of the search warrant. We disagree. The necessary contents of a search warrant application are set forth in State law. MD. CODE, CRIM. PROC. (CP) §1-203 (listing required contents). An underlying order is not among the requirements. And that makes sense. The judge being asked to issue the warrant isn’t reviewing the correctness of the wiretap order.<sup>15</sup> We perceive no error in not attaching a copy of the wiretap order. Moreover, even if there was an error, the failure to provide a copy of the wiretap order was not relevant to the probable cause determination and, therefore, does not invalidate the warrant.

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<sup>14</sup> Parenthetically, we note that Judge Adkins’ handwritten time of the warrant suffers from the same problem: it looks like it says “16:73,” but there is no such time. He obviously meant 4:23 p.m.

<sup>15</sup> Of course, if the wiretap order was later found to be deficient, all evidence collected thereafter would be suppressed. *Allen*, 89 Md. App. at 33.

## CONCLUSION

We affirm the denial of the motion to suppress in both the Caroline County Circuit Court and the Talbot County Circuit Court, and accordingly affirm Wilson’s convictions.

**JUDGMENT OF THE CIRCUIT COURT  
FOR CAROLINE COUNTY IN CASE NO.  
1279 AND THE CIRCUIT COURT FOR  
TALBOT COUNTY IN CASE NO. 1497  
AFFIRMED. COSTS TO BE PAID BY THE  
APPELLANT.**