Circuit Court for Baltimore City
Case No.: 118228004

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 660

September Term, 2019

WILLIAM BLANDING

v.

STATE OF MARYLAND

Fader, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 12, 2020

*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.

Following trial in the Circuit Court for Baltimore City, a jury found William Blanding, appellant, guilty of: (1) two counts of possession of a firearm with a nexus to drug trafficking crime; (2) two counts of unlawful possession of a firearm by a prohibited person; (3) two counts of unlawful possession of ammunition; (4) possession of a controlled dangerous substance (CDS) with intent to distribute; and (5) possession of CDS paraphernalia. The court imposed an aggregate sentence of twenty years' imprisonment with all but twelve years suspended in favor of five years' probation. The court ordered the first five years of the sentence to be served without the possibility of parole.[1]

Appellant contends that the circuit court erred by not granting his motion to suppress physical evidence, and by not granting his motion for judgment of acquittal. We disagree and shall affirm.

I. Motion to Suppress Evidence.

Prior to trial, appellant moved to suppress evidence (including a quantity of marijuana, a scale, and two loaded handguns) that was obtained from a residence at 702 North Glover Street by the police pursuant to a search warrant for those premises which had been signed about eleven days before it was executed on July 17, 2018.[2]

When reviewing a motion to suppress evidence seized, pursuant to a warrant, we must determine whether, based on the "four corners" of the warrant and its attachments,

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[1] The court also imposed a fully suspended $100 fine.

[2] Appellant affirmatively waived any argument that the warrant was stale when it was executed because appellant's counsel conceded during the hearing on his motion to suppress evidence that "We are not suggesting that [the warrant] is stale[.]"

Sweeney v. State, 242 Md. App. 160, 185 (2019), the issuing judge had a "substantial basis" for finding probable cause to issue the warrant. *Carroll v. State*, 240 Md. App. 629, 649 (2019); *State v. Faulkner*, 190 Md. App. 37, 46-47 (2010). The "substantial basis" standard is less than probable cause, resulting from the presumptive validity that "the warrant will be able to cover over flaws that might be more compromising if one were examining probable cause in a warrantless setting." *State v. Johnson*, 208 Md. App. 573, 586-87 (2012). In reviewing the affidavit, we are mindful that we must "assess affidavits for search warrants in a commonsense and realistic fashion, keeping in mind that they are normally drafted by nonlawyers in the midst and haste of a criminal investigation." *Faulkner*, 190 Md. App. at 47 (internal quotation omitted).

In the instant case, the suppression court denied appellant's motion to suppress after reviewing the following information gleaned from the affidavit[3] in support of the search warrant: Appellant was observed by a police officer, via city watch camera, in an area known for violence and open-air drug distribution, carrying a "Champion" satchel, walking aimlessly, and eventually entering the residence at 702 North Glover Street. The police officer's attention was drawn to appellant because he had, in the past, utilizing the same camera, seen him engaging in what he believed were street level illegal drug solicitations and sales.

[3] Only a portion of the affidavit supporting the search warrant is contained in the appellate record. Nevertheless, it is obvious from the transcript of the hearing on the motion to suppress that the complete affidavit was available to the suppression court. Neither party disputes its contents.

Shortly after appellant re-emerged from 702 North Glover Street a few minutes later, a gold Lexus arrived in the area. A person later identified as Jonathan Henson met with the driver. The police observed the driver pull something out of his pocket and count it before giving Henson a clear plastic bag containing "small objects consistent in shape and size of illegal" drugs.[4] Henson and Blanding then met with each other before they were approached by a third party with whom Blanding engaged in a hand-to-hand transaction. At some point, Blanding was observed placing suspected drugs in his "Champion" satchel.

Once Blanding had completed the hand-to-hand transaction, a call was made for an arrest team to stop Henson and Blanding. After a marked patrol car with two police officers inside it arrived, Henson and Blanding ran away. After a brief foot chase, both were stopped, but Blanding was able to break free whereupon he re-entered 702 North Glover Street. The police were able to maintain custody of Henson and they seized drugs from him. As indicated earlier, the police thereafter sought, and obtained, a search warrant for 702 North Glover Street.

Police are not required to possess personal knowledge or direct evidence that the items sought are located in the place to be searched. *Holmes v. State*, 368 Md. 506, 522 (2002). It is enough that the affidavit establishes "a reasonable basis to infer from the nature of the illegal activity observed, that relevant evidence will be found in the

[4] It is a little unclear from the transcript whether the driver sold drugs to Henson, or whether Henson sold drugs to the driver. The suppression court believed the former. Nevertheless, the identity of the seller or buyer is irrelevant to our analysis.

residence." *Id*. (internal quotation marks omitted). In cases involving suspected drug dealing,

> [t]he reasoning, supported by both experience and logic, is that, if a person is dealing in drugs, he or she is likely to have a stash of the product, along with records and other evidence incidental to the business, that those items have to be kept somewhere, that if not found on the person of the defendant, they are likely to be found in a place that is readily accessible to the defendant but not accessible to others and that the defendant's home is such a place.

Id. at 521-22.

We believe that, based on the foregoing information, the warrant-issuing judge had a substantial basis to infer that evidence or instrumentalities of illegal drug dealing could be found in 702 North Glover Street given that Blanding, who had been seen engaging in suspected street level drug transactions in the area in the past, had been seen on the day in question coming from that residence prior to engaging in suspected illegal drug dealing, placing suspected illegal drugs in his satchel, meeting with Henson, who had just engaged in his own suspected drug dealing, running when approached by police, and seeking refuge there after a police pursuit. We therefore affirm the suppression court's decision not to suppress the evidence at trial.

II. Sufficiency of the Evidence.

Upon entering 702 North Glover Street to execute the search warrant, the police officers first secured the premises. While doing that, they located appellant lying in bed with his girlfriend and a child in an upstairs bedroom. Appellant was then taken aside, told why the police were there, and asked whether they would find anything illegal, to which appellant responded that there was some "weed" in the house.

The police then went to the bedroom where appellant had been earlier found and recovered marijuana from a drawer. In that same drawer, the police found appellant's State-issued identification card. At some point appellant was brought up to the bedroom and the police noticed that he looked to an area behind one of the police officers causing them to search that area, where they then found a loaded handgun. Shortly thereafter, they found another loaded handgun in the same room. Body-worn camera footage of the search was played for the jury at trial.

The gravamen of appellant's sufficiency argument appears to be that the foregoing evidence is insufficient to demonstrate that appellant was in actual or constructive possession[5] of any of the items recovered by police because there was no evidence of drug dealing taking place on the day of the search, the firearms and marijuana were not found in plain view, a police officer mistakenly referred to appellant as Mr. Henson during trial, and no DNA evidence linked appellant to the crime. In addition, appellant argues that, because a police officer who testified that the marijuana had been packaged for sale admitted that it could have been purchased that way, the evidence was not sufficient to show that appellant possessed the marijuana with the intent to distribute it.

Fatal to appellant's sufficiency claims are that he raises the foregoing arguments for the first time on appeal. Except for the counts charging conspiracy,[6] appellant did not

[5] With the exception of the marijuana, which appellant admitted to the police to possessing.

[6] The court granted appellant's motion for judgment of acquittal with respect to the counts charging conspiracy.

elaborate on his sufficiency of the evidence argument at trial when making his motion for judgment of acquittal at the close of the State's case. At the close of all of the evidence, appellant said only "Renew my motion. And submit."

"A criminal defendant who moves for judgment of acquittal is required by Md. Rule 4-324(a) to state with particularity all reasons why the motion should be granted and is not entitled to appellate review of reasons stated for the first time on appeal." *Starr v. State*, 405 Md. 293, 302 (2008) (cleaned up). The "'language of the rule is mandatory.'" *Hobby v. State*, 436 Md. 526, 540 (2014) (quoting *State v. Lyles*, 308 Md. 129, 135

(1986). As a result, we decline to address appellant's arguments that the evidence was legally insufficient to support his convictions. [7]

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

[7] However, even if appellant had preserved these issues for appeal, he would fare no better, as the evidence is legally sufficient. In reviewing the sufficiency of the evidence, we review the record to determine whether, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). All but one of appellant's arguments dealing with sufficiency address whether there was sufficient evidence to show he was in possession of the items recovered from the room where he was found by police. All of those arguments address the weight of the evidence, which is a matter for the jury to decide. His remaining argument is that the evidence is insufficient to show that the marijuana, which he admittedly possessed, was possessed with the intent to distribute. He claims that, because he could have bought it packaged the same way it was found by the police in his room, the State presented legally insufficient evidence that he possessed it with the intent to distribute it. This argument is based on competing inferences, and we are not bound to accept his. Which inference to draw from the evidence is quintessentially for the jury to decide.