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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1226**

State of Minnesota,  
Respondent,

vs.

Angelo Bernard Fischer,  
Appellant.

**Filed April 23, 2012  
Affirmed  
Bjorkman, Judge**

Hennepin County District Court  
File Nos. 27-CR-08-47599, 27-CR-09-44342

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Craig E. Cascarano, Minneapolis, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Kalitowski, Judge; and Schellhas, Judge.

**UNPUBLISHED OPINION**

**BJORKMAN**, Judge

Appellant challenges his controlled-substance and ineligible-person-in-possession-of-a-firearm convictions, arguing that the district court erred when it determined the

search warrants were supported by probable cause and that evidence discovered during the searches need not be suppressed. We affirm.

## FACTS

In July 2008, Deputy Terry J. Bean of the Hennepin County Sheriff's Department began investigating A.B. in connection with reported drug sales. An informant told Deputy Bean that A.B. was selling large quantities of drugs from her residence and that A.B.'s supplier was appellant Angelo Fischer.<sup>1</sup> The informant stated that he saw A.B. obtain cocaine from Fischer. On July 6, 2008, Deputy Bean used the informant to conduct a controlled buy of drugs at A.B.'s residence. During the buy, A.B. told the informant that she needed to obtain more cocaine from her source. Officers followed A.B. to a residence in Golden Valley. A records check verified that Fischer resided at the address. While at Fischer's residence, A.B. called the informant and stated that she could get more drugs while she was there.

Within three days of the successful controlled buy, Deputy Bean applied for a warrant to search Fischer's Golden Valley residence. The search revealed a gun inside Fischer's residence and a second gun and 142 tablets of ecstasy in a vehicle located in Fischer's garage.

Approximately one year later, an officer with the New Hope Police Department received information from a concerned citizen regarding possible drug activity at an apartment complex on Quebec Avenue. The citizen reported observing a black male

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<sup>1</sup> The district court records reflect appellant's last name is "Fisher." But the appeal pleadings and briefs refer to appellant as "Fischer." Accordingly, we will refer to appellant as "Fischer."

driving a red Cadillac Escalade in the parking lot during the middle of the night and meeting with various people for short periods of time. The citizen also saw people entering and leaving one of the buildings nightly between the hours of 12:00 a.m. and 5:00 a.m., but the citizen did not know which apartment the visitors entered.

The officer checked the license-plate number the citizen provided and determined that the Escalade was registered to Fischer. The officer obtained a photo of Fischer and went to the apartment complex where he observed Fischer driving the Escalade. The officer located Fischer's name on the resident list, which indicated Fischer lived in apartment 303B. The officer checked Fischer's criminal history and discovered he had been arrested in the past for drug crimes and possession of firearms. With this information, the officer arranged for a dog-sniff of the third-floor common hallway. The dog gave a positive indication for the presence of narcotics inside apartment 303B.

On August 26, 2009, the officer applied for and obtained a warrant to search apartment 303B. During the search, officers discovered two bags of cocaine totaling approximately 360 grams.

Fischer was charged in separate complaints with controlled-substance crimes and possession of a firearm by an ineligible person as a result of evidence obtained during the two searches. Fischer moved to suppress the evidence, arguing that the search warrants were not supported by probable cause. The district court denied the motions and Fischer submitted both cases to the court on stipulated facts. He was convicted and sentenced on all three counts. This appeal follows.

## DECISION

The United States and Minnesota Constitutions require that a search warrant be supported by probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. In determining whether a warrant is supported by probable cause, this court gives great deference to the issuing court's probable-cause determination. *State v. Rochefort*, 631 N.W.2d 802, 804 (Minn. 2001). Our review is limited to ensuring “that the issuing judge had a ‘substantial basis’ for concluding that probable cause existed.” *State v. Zanter*, 535 N.W.2d 624, 633 (Minn. 1995) (quoting *Illinois v. Gates*, 462 U.S. 213, 238-39, 103 S. Ct. 2317, 2332 (1983)).

A substantial basis means a fair probability, given the totality of the circumstances set forth in the affidavit before the issuing judge, including the veracity and basis of knowledge of persons supplying hearsay information, that contraband or evidence of a crime will be found in a particular place. *Gates*, 462 U.S. at 238, 103 S. Ct. at 2332. “Elements bearing on this probability include information linking the crime to the place to be searched and the freshness of the information.” *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998). In reviewing the sufficiency of a search-warrant affidavit, courts do not “review each component of the affidavit in isolation.” *State v. Wiley*, 366 N.W.2d 265, 268 (Minn. 1985). Thus, “a collection of pieces of information that would not be substantial alone can combine to create sufficient probable cause.” *State v. Jones*, 678 N.W.2d 1, 11 (Minn. 2004).

Fischer argues that the first search warrant was not supported by probable cause because it was based only on the “bald-faced” statement that A.B. was at Fischer’s

address. We disagree. The affidavit provided in support of the warrant application contained far more information than A.B.'s presence in Fischer's residence. Rather, the affidavit stated that (1) during an investigation of suspected drug dealer A.B., an informant told the officers A.B.'s source of drugs was Fischer; (2) the informant witnessed A.B. receive cocaine from Fischer; (3) during a controlled buy in which A.B. sold drugs to the informant, A.B. told the informant that she was leaving to get additional cocaine from her source; (4) surveillance officers followed A.B. to Fischer's address; (5) while at Fischer's address, A.B. called the informant and asked if she needed more cocaine because she was with her source; and (6) a records check confirmed that A.B. drove to Fischer's residence. We conclude that the totality of the circumstances shows that the district court had a substantial basis for concluding probable cause existed. The district court properly denied Fischer's motion to suppress.

Fischer next argues that the second search warrant was not supported by probable cause because the dog-sniff and concerned citizen's tip did not provide the district court with a substantial basis for its probable-cause determination. We are not persuaded. The supporting affidavit provided the following information: (1) officers received information from a concerned citizen that, at an apartment complex on Quebec Avenue, the citizen witnessed a black male drive a red Cadillac Escalade in the parking lot during late hours of the night and meet with different people for short periods of time; (2) between the hours of 12:00 a.m. and 5:00 a.m., the concerned citizen witnessed short-term traffic in front of one of the apartment buildings; (3) the officer checked the license-plate number from the Escalade and learned it was registered to Fischer; (4) the officer observed

Fischer driving the vehicle in the parking lot; (5) the officer found Fischer's name on the resident list assigned to apartment number 303B; (6) the officer checked Fischer's criminal history and found he had a history involving narcotics and firearms; and (7) within 72 hours, a dog-sniff search of the common hallway outside Fischer's apartment revealed a positive indication for drugs inside Fischer's apartment.

This court has stated that tips from concerned citizens are presumptively reliable.

A "concerned citizen" is an informant who provides information in his or her capacity as a witness to a crime, for whom a law enforcement officer is relieved of having to establish credibility and veracity independently through corroboration or a history of providing reliable information. The motive to supply information to police distinguishes a concerned citizen from other informants who are motivated by a desire for leniency or immunity from prosecution. A concerned citizen acts with an intent to aid law enforcement out of concern for society or for personal safety. The term "concerned citizen" therefore, conveys a preferred status as to the credibility of the information supplied.

*State v. McGrath*, 706 N.W.2d 532, 540 (Minn. App. 2005) (citations omitted), *review denied* (Minn. Feb. 22, 2006). Not only is the concerned citizen presumptively reliable, but the officer corroborated much of the information provided by the citizen. And the dog sniff provided additional corroboration.

The concerned citizen's tip, the officer's independent corroboration, and the dog's positive reaction outside Fischer's apartment together created a fair probability that contraband or other evidence of criminal activity would be found in Fischer's apartment. On this record, we conclude that the district court had a substantial basis to conclude that

probable cause existed to issue the warrant. Accordingly, the district court properly denied Fischer's motion to suppress evidence obtained during the search.

**Affirmed.**