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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-688

Filed: 5 May 2020

Watauga County, No. 17CRS050918

STATE OF NORTH CAROLINA

v.

CLIFFORD VERN GREENE, III, Defendant.

Appeal by Defendant from judgment entered 26 March 2019 by Judge Marvin P. Pope, Jr., in Watauga County Superior Court. Heard in the Court of Appeals 19 February 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Scott K. Beaver, for the State.

The Epstein Law Firm PLLC, by Drew Nelson, for Defendant.

DILLON, Judge.

Defendant Clifford Vern Greene, III, appeals from a judgment entered after he entered a guilty plea for three drug-trafficking offenses. Defendant timely appealed to this court.

I. Background

Defendant was charged with a number of offenses after methamphetamine was discovered during a search of his car.

On the afternoon of 29 June 2017, a confidential informant called a detective to tell him of a potential drug sale. The informant told the detective that Defendant was going to meet him later that day off Highway 321 to sell him methamphetamine; that Defendant would be traveling from Tennessee in an “older burgundy four-door car with a Tennessee registration plate”; and that Defendant would be traveling with two other people whom he named specifically. The detective then assigned two officers to specified section of Highway 321.

A burgundy car matching the informant’s description drove by one of the officers. The officer pulled out behind the car and noticed that the car changed its driving pattern, the car had slowed down significantly, and that there was a driver and two passengers in the car. The car then turned into a residential driveway. The officer parked his vehicle behind the car to initiate a stop.

As the officer approached the burgundy car, he noticed that the passenger seated behind the driver was drinking an alcoholic beverage. The detective, arriving minutes later, initiated the search of the car and found a “Velcro black pouch that contained a gram of crystalline substance” located inside the driver’s door. The other officer found a tin-foil package in the glove compartment. Once the package was unwrapped, the officer found a plastic wrap that “contained a large amount of

crystalline substance.” The officer then transported Defendant to the sheriff’s office and then to the hospital for medical attention. While at the hospital, the officer discovered “[a]pproximately another ounce of methamphetamine” in one of Defendant’s boots.

Defendant was charged with a number of drug offenses. After the trial court denied Defendant’s motion to suppress, Defendant entered a guilty plea to three charges. Part of his plea agreement preserved the right to appeal the denial of the motion to suppress. Defendant timely appealed to this court.

II. Analysis

A. Officer’s Testimony

Defendant alleges that the trial court erred in finding that “[t]he occupants of the burgundy vehicle did not appear to [the officer] to be the persons he knew to live at [the residence where the search was conducted].”

To review a trial court’s ruling on a motion to suppress, “we determine only whether the trial court’s findings of fact are supported by competent evidence, and whether these findings of fact support the court’s conclusions of law.” *State v. Brewington*, 170 N.C. App. 264, 271, 612 S.E.2d, 648, 653 (2005) (internal quotation marks omitted) (citation omitted).

Here, the officer testified that he knew who lived at the residence where Defendant parked and that Defendant did not live there. Defendant alleges that the

officer should have testified as to whether the other two occupants of the car lived at the residence for the trial court to make this finding. We conclude, however, that the officer's testimony was sufficient to support the trial court's finding.

B. Confidential Informant

Defendant argues that the trial court erred in depending on the information provided by the informant used by the detective.

The United States Supreme Court has previously held that “a tip from an informant ‘known to [the officer] personally and [who] had provided him with information in the past’ is sufficient to provide reasonable suspicion for a stop.” *State v. McRae*, 203 N.C. App. 319, 324, 691 S.E.2d 56, 60 (2010), *quoting Adams v. Williams*, 407 U.S. 143, 146, 32 L. Ed. 2d 612, 617 (1972)) Our Court has also held that where a tip comes from a reliable confidential informant, the tip may be sufficient to produce *probable cause*. *McRae*, 203 N.C. App. at 324, 691 S.E.2d at 60. Our Court has held that “[s]everal factors are used to assess reliability including: (1) whether the informant was known or anonymous, (2) the informant's history of reliability, and (3) whether information provided by the informant could be and was independently corroborated by the police.” *State v. Green*, 194 N.C. App. 623, 627, 670 S.E.2d 635, 638 (2009) (internal quotation marks omitted) (citation omitted).

Defendant suggests that the confidential informant's history of reliability is insufficient because his information has only led to one other arrest. However, the

trial court made other findings concerning other information that the informant had provided to the detective in other cases, including one which led to someone being held in federal custody. There was no finding that any information provided by the informant in the past was false. We have reviewed the trial court's findings concerning the detective's past interactions with the informant and conclude that they were sufficient to support the trial court's determination that the informant was reliable.

C. Probable Cause

Defendant otherwise argues that the information gleaned from the confidential informant did not provide *probable cause* for the search of the car. Rather, Defendant contends that the information only amounted to reasonable suspicion.

Our Supreme Court has instructed that a search warrant is not required to search a vehicle observed on a public highway, where the search is supported by probable cause. *State v. Isleib*, 319 N.C. 634, 636-37, 356 S.E.2d 573, 575-76 (1987). The term "probable cause" means that there is "a reasonable ground to believe that the proposed search will reveal the presence upon the premises to be searched of the objects sought and that those objects will aid in the apprehension or conviction of the offender." *State v. Campbell*, 282 N.C. 125, 128-29, 191 S.E.2d 752, 755 (1972) (citation omitted). It "does not mean actual and positive cause, nor does it import absolute certainty." *Id.* at 129, 191 S.E.2d at 755.

In *Isleib*, our Supreme Court concluded that there was probable cause to search a vehicle without a warrant based on a tip from a confidential informant that an individual was traveling to a particular location in a specific type of car to conduct a drug deal. 319 N.C. at 639-40, 356 S.E.2d at 577. We have reviewed the findings made by the trial court in the present case and conclude that they were sufficient to establish probable cause in this case. Defendant was found in an older, burgundy car with Tennessee plates at a particular location, as was described by the informant, similar to the facts in *Isleib*.

III. Conclusion

We hold that the detective and the officer properly relied on the information provided by the confidential informant, that the confidential informant was credible, and that there was probable cause to search the vehicle Defendant was traveling in. We uphold the verdict of the trial court.

NO ERROR.

Judges BERGER and ARROWOOD concur in result without separate opinion.

Report per Rule 30(e).