

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080624
	:	TRIAL NO. B-0710715
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
RONALD W. HOPPER,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

The execution of a search warrant at defendant-appellant Ronald W. Hopper's home resulted in the seizure of a large quantity of methamphetamine, as well as tools and materials used in the manufacturing of methamphetamine. Following the denial of his motion to suppress evidence obtained pursuant to the warrant, Hopper pleaded no contest to illegally manufacturing drugs, illegally assembling or possessing chemicals for the manufacture of drugs, aggravated possession of drugs, and possessing criminal tools. Hopper now appeals from his convictions.

In a single assignment of error, Hopper argues that the trial court erred by overruling his motion to suppress evidence seized during the execution of the search warrant. Hopper contends that the affidavit supporting the warrant did not provide a sufficient basis upon which to determine the existence of probable cause.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Specifically, he argues that the affidavit demonstrated no nexus between criminal activity and his home.

In reviewing the affidavit in this case, we are guided by the following instruction by the Ohio Supreme Court: “In conducting any after-the-fact scrutiny of an affidavit submitted in support of a search warrant, trial and appellate courts should accord great deference to the magistrate’s determination of probable cause, and doubtful or marginal cases in this area should be resolved in favor of upholding the warrant.”²

An issuing magistrate’s “probable-cause determination must be ‘a practical, common-sense decision’ based upon the totality of the circumstances that there is a ‘fair probability’ that contraband or evidence of a crime will be found in a particular place.”³ The affidavit must demonstrate that there is probable cause to believe that the specific items to be searched for are located on the property to which entry is sought.⁴

The nexus between the illegal activity and the place to be searched need not be established by direct evidence.⁵ “[I]t is well established that * * * probable cause can be, and often is, inferred by ‘considering the type of crime, the nature and items sought, the suspect’s opportunity for concealment and normal inferences about where the suspect might hide [contraband]’.”⁶

Here the affidavit in support of the search warrant recited in detail the facts supporting the affiant’s belief that methamphetamine and tools and materials used

² *State v. George* (1989), 45 Ohio St.3d 325, 544 N.E.2d 640, paragraph two of the syllabus.

³ *State v. England*, 1st Dist. No. C-040253, 2005-Ohio-375, ¶16, citing *Illinois v. Gates* (1983), 462 U.S. 213, 238, 103 S.Ct. 2317.

⁴ See *Zurcher v. Stanford Daily* (1978), 436 U.S. 547, 556, 98 S.Ct. 1970.

⁵ See *England*, supra, at ¶10.

⁶ Id., quoting *United States v. Whitner* (C.A.3, 2000), 219 F.3d 289, 297.

in its manufacture were concealed in a trailer home and an unattached shed located at 10087 Flora Avenue in Cincinnati. The affiant, William M. Crock, Jr., was an experienced narcotics investigator familiar with methods used in the preparation and distribution of illegal drugs. Agent Crock had been trained to identify and to properly dispose of chemicals used in the production of methamphetamine, and he was certified to enter and disassemble clandestine methamphetamine laboratories.

Agent Crock's affidavit stated the following (without correction of any spelling, punctuation, or grammatical errors):

"On December 18, 2007, the Affiant stated that brother officer Sergeant Greg Morgan received information from a clerk (witness 1) at Small's Hardware in Harrison Avenue that a male white purchased 3 pounds of lye, electrical tape and drain cleaner. Your Affiant states that these items are commonly used in a "NAZI" Methamphetamine Lab. Witness 1 provided information that the male white was driving a Chevrolet Cavalier with Ohio License plate (* * *). A RCIC/LEADS check revealed that the Chevrolet Cavalier is owned by Nancy Dunn (witness 2) from 10006 Flora Avenue Cincinnati Ohio 45030.

"On December 19, 2007, Sergeant Morgan and your Affiant spoke with Nancy Duff at 10006 Flora Avenue and Edwina Dunn (witness 3) and Joseph Richardson (witness 4). Nancy Duff told your Affiant and Sergeant Morgan that she loaned her car to Ronald HOPPER who lives in a trailer on Flora and that HOPPER stated he needed the car to go top the store to buy cigarettes. Edwina Dunn (witness 3) showed your affiant and Sergeant Morgan where HOPPER lives (10087 Flora). Joseph Richardson told Affiant that Ronald HOPPER "has cooked meth" before and lives in a trailer up the street.

“Your Affiant further states Sergeant Greg Morgan talked to the United States Postal Carrier who confirmed that a Ronald HOPPER receives mail at 10087 Flora Avenue.

“An RCIC check on Ronald HOPPER (Cntl# * * *) listed 10087 Flora as his residence when arrested. The check also reveals the following:

- “1. Trafficking in Marijuana Conviction in 1992.
- “2. Possession of Drugs 2000. (OOCRA * * *)
- “3. Possession of Drug Paraphernalia 2006. (06/CRB/* * *)
- “4. Currently Under Indictment for Possession of Methamphetamine.
(07 * * *)”

Our review of the affidavit in this case convinces us that, under the totality of the circumstances, the issuing magistrate could have reasonably concluded that there was a fair probability that evidence of methamphetamine manufacturing would be found at Hopper’s trailer home and shed. A hardware-store clerk had informed police that a white man had bought precursors for a certain type of methamphetamine production. The man had driven a car owned by a neighbor. The next day, police spoke to the neighbor, who was identified in the affidavit. The neighbor confirmed that, the day before, Hooper had used her car for an errand and that he lived in a nearby trailer. Two other identified witnesses corroborated that Hopper lived in the trailer. And a postal carrier confirmed that Hopper received mail at that location.

One of the witnesses indicated that Hopper had cooked methamphetamine in the past. And police learned that Hopper was currently under indictment for possession of methamphetamine. In light of these facts, Agent Crock amply

demonstrated a nexus between the suspected criminal activity and the place to be searched.

Therefore, we overrule the assignment of error and affirm the judgment of the trial court.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on July 1, 2009
per order of the Court _____.
Presiding Judge