IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

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| UNITED STATES OF AMERICA, | ) | |
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| Plaintiff, | ) | Criminal No. 02-148 |
| | ) | |
| vs. | ) | |
| | ) | |
| MARTY WAYNE INGLE, | ) | |
| | ) | ORDER |
| Defendant | ) | |

Before the Court is defendant's motion to suppress evidence allegedly obtained in violation of the Fourth Amendment. The government resisted this motion, and the Court held an evidentiary hearing on December 18, 2002 . Defendant filed an additional memorandum in support of his motion on January 7, 2003. The matter is now ready for ruling.

## I. BACKGROUND

On February 28, 2002, police officer Jason Bell applied for a warrant to search defendant's residence located at 313 Half Street, Hedrick, Keokuk County, Iowa. A magistrate judge for the Eighth Judicial District of Iowa signed the search warrant, and police executed it that day. Numerous items relating to drug trafficking were found and seized from the residence. Defendant seeks exclusion of this evidence, claiming that the facts contained in the warrant application were insufficient to establish probable cause.

The affidavit for the search warrant outlined statements made to law enforcement officers[1] by Adolfo Sosa-Cambray ("Cambray") on February 27, 2002. At the time Cambray made his statements, he was incarcerated at the Wapello County Jail on charges of Possession with Intent to Deliver Methamphetamine and Delivery of Methamphetamine. Police had executed a search warrant at his residence on February 25, 2002 and discovered drug paraphernalia consistent with the use and distribution of methamphetamine. Cambray shared the following information:

- A woman named "Susan" and her boyfriend, "Marty," were Cambray's drug suppliers.

- Cambray purchased drugs from Susan approximately every other week over the preceding three-month period. He made six or seven purchases from Susan during that time, the most recent of which occurred on February 20, 2002. Cambray purchased two ounces of methamphetamine for $2,200.00 in each of these transactions except the most recent one, in which Susan "fronted him" four ounces.

- All of the mentioned drug deals took place at Cambray's residence.

- Marty was with Susan at Cambray's home during three of the mentioned drug transactions.

- Cambray contacted Susan by calling 653-2521, which Cambray believed was the telephone number of Marty's residence.

- Susan told Cambray that Susan and Marty kept their drug supply at Marty's residence.

- Susan told Cambray that she and Marty flew to an unidentified location and obtained one pound of drugs per trip.

- Susan is tall and skinny with long blonde hair.

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[1] Cambray spoke with Investigator Justin Klodt, who then relayed the information to Investigator Jason Bell. Mr. Bell made the application for the search warrant.

- Susan drives a red Camero that is in poor condition
- Cambray has seen Susan with a lot of money.

After talking with Cambray, officers ran a search on the telephone number Cambray said he called to contact Susan. A search of the E911 computer system showed that the number belonged to M.W. Ingle of 313 Half Street, Hedrick, Iowa. An investigator then entered "M Ingle" into Iowa's computerized system of licensed drivers, and Marty Wayne Ingle was one of the names listed in the results.

Later on February 27, 2002, Keokuk County Sheriff, Ron George, surveilled defendant's residence. He observed a red Camero, license plate number 655 GXY, arrive at 10:00 p.m. The license number was registered to both Susan Helm and Marty Ingle.

The next day, Officer Bell showed Cambray a photograph of Susan Helm and defendant. Cambray identified the woman as the "Susan" from whom he had been obtaining methamphetamine. He identified the man as "Marty."

Officer Bell included all of the above information in his search warrant application. He also noted that evidence obtained during the search of Cambray's residence, which occurred two days before Officer Bell applied for the warrant to search defendant's residence, corroborated some of Cambray's statements. Among the evidence obtained during the search of Cambray's residence were 2.5 ounces of methamphetamine and a piece of paper on which the name "Susan" appeared next to the number 653-2521.

## II. APPLICABLE LAW AND DISCUSSION

Defendant argues that the Court should suppress the fruits of the search of his residence,

because the search warrant was not supported by probable cause. "Probable cause requires that the circumstances set forth in an affidavit supporting an application for a search warrant demonstrate 'a fair probability that contraband or evidence of a crime will be found in a particular place.'" *United States v. Tyler*, 238 F.3d 1036, 1038 (8th Cir. 2001) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983). In determining whether probable cause exists, the court does not evaluate each piece of information independently. Instead, it considers all of the facts for their cumulative meaning. *See United States v. Morales*, 923 F.2d 621, 623-24 (8th Cir. 1991). Within this "totality of circumstances" approach, the Court will consider the credibility and reliability of a person providing information to the police, though these are not "separate and independent requirements to be rigidly exacted in every case." *Gates*, 462 U.S. at 230. The Court will give "substantial deference to the original determination of probable cause made by the judge who issued the warrant, and that determination will not be set aside unless the issuing judge lacked a substantial basis for concluding that probable cause existed." *United States v. Edmiston*, 46 F.3d 786, 788-89 (8th Cir. 1995) (citing *Gates*, 462 U.S. at 236, 238-39).

The affidavit for the search warrant outlined statements made to officers by Cambray. The government argues that these statements are presumptively reliable, as they were made "against his penal interest." The Court is not convinced by this argument. Cambray was incarcerated at the time he made his statements and had recently been charged with drug crimes. Cambray's willingness to cooperate with the government may have been prompted by his desire to decrease any criminal penalties that he might incur. His willingness to speak with investigators under such circumstances does not bolster his credibility.

While not presumptively reliable, the Court finds that the officers' independent investigation

sufficiently corroborated the information given by Cambray. Cambray identified defendant as one of his drug suppliers, and he stated that Susan told him the drugs were kept at defendant's residence. The telephone number Cambray said he called to set up drug deals matched defendant's residence, and a piece of paper with Susan's name and that telephone number was found during the search of Cambray's home. In addition, a vehicle matching Cambray's description, which was registered to Susan and defendant, was observed at defendant's residence. *See United States v. Tyler*, 238 F.3d 1036, 1039 (8th Cir. 2001) ("Even 'the corroboration of minor, innocent details can suffice to establish probable cause.'"); *United States v. Murphy*, 69 F.3d 237, 240 (8th Cir. 1995) (finding sufficient corroboration where confidential informant told police that defendant was a recently released convicted murderer who possessed prohibited firearms at his home, and officer later verified defendant's address and his release from prison); and *United States v. Edmiston*, 46 F.3d 786, 789 (8th Cir. 1995) ("[I]f some 'information from an informant is shown to be reliable because of independent corroboration, then it is a permissible inference that the informant is reliable and that therefore other information that the informant provides, *though uncorroborated*, is also reliable.'") (quoting *United States v. Williams*, 10 F.3d 590, 593 (8th Cir. 1993)).

The Court also holds that the information provided in the search warrant application established probable cause. The issuing magistrate had a substantial basis to conclude, under the totality of circumstances, that there was a fair probability evidence of crime would be found at defendant's residence. *See, e.g., United States v. Tyler*, 238 F.3d 1036, 1038-1039 (8th Cir. 2001) (holding that probable cause existed to search defendant's residence where an informant told police that defendant was his drug supplier, identified defendant by his alias, described defendant's two automobiles, and

recited defendant's telephone number and address).

Even if the Court found probable cause lacking, the evidence would nevertheless be admissible under the exception set forth in *United States v. Leon*, 468 U.S. 897, 922-23 (1984). There, the Supreme Court held that evidence obtained in absence of probable cause need not be suppressed if two conditions are present: "(1) the executing officers relied in good faith on a search warrant signed by a neutral and detached magistrate; and (2) the officers' reliance on the warrant was objectively reasonable." *United States v. Jackson*, 67 F.3d 1359, 1365 (8th Cir. 1995) (citing *United States v. Leon*, 468 U.S. 897, 922-23 (1984). Nothing in the record suggests that Officer Bell's reliance on the search warrant was not in good faith, and nothing in the record indicates that the issuing judge failed to act in a neutral and detached manner. Furthermore, the Court finds that the facts known by the government at the time the search warrant was obtained "are close enough to the line of validity to make the officers' belief in the validity of the warrant objectively reasonable." *United States v. White*, 890 F.2d 1413, 1419 (8th Cir. 1989).

## III. CONCLUSION

Based on the foregoing, defendant's motion to suppress evidence seized during the search of his residence is denied.

IT IS SO ORDERED.

Dated this 16th day of January, 2003.

RONALD E. LONGSTAFF, Chief Judge
United States District Court