COURT OF APPEALS
DECISION
DATED AND FILED

April 6, 2006

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 2004AP2953-CR **Cir. Ct. No. 2003CF86**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

WILLIAM J. COPUS,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for La Crosse County: MICHAEL J. MULROY, Judge. *Affirmed*.

Before Lundsten, P.J., Vergeront and Deininger, JJ.

¶1 PER CURIAM. William Copus appeals from a judgment of conviction and an order denying his postconviction motion. The issues relate to a search. We affirm.

¶2 Copus pleaded no contest to two counts of third-degree sexual assault and one count of capturing an image of nudity. The charges were supported in part by evidence seized during execution of a search warrant. The warrant was originally obtained and executed in November 2002 to investigate possible controlled substance violations.

¶3 Copus first argues that the warrant was invalid because it was not supported by a sufficient showing of probable cause. The law applicable to our review of search warrants is well established. *See, e.g.,* ***State v. Schaefer***, 2003 WI App 164, ¶¶4-6, 266 Wis. 2d 719, 668 N.W.2d 760.

¶4 We conclude that the testimony presented to the issuing magistrate was sufficient. We rely on two portions of the evidence. First, a police officer testified to the statement that was given to her by S.E.'s cousin. In that statement, the cousin said S.E. had told her that S.E. had snuck out of the house very early the preceding morning, been picked up by Copus and his girlfriend, and had gone to their trailer where S.E. had "tried ecstasy." Second, a police investigator testified that during the previous summer "we had received information from several concerned people in that area that said there was a large amount of traffic coming and going at odd hours, staying for a short while and leaving, which would be consistent with dealing drugs out of that residence." Although this is a close case, putting these two items together, and given our deferential standard of review, it was reasonable to infer that evidence of controlled substance possession or trafficking might be found at Copus's residence at the time the warrant was issued.

¶5 Copus next argues that the warrant applicants intentionally or recklessly omitted material facts from their testimony, in violation of ***Franks v.***

Delaware, 438 U.S. 154 (1978), and ***State v. Mann***, 123 Wis. 2d 375, 384-86, 367 N.W.2d 209 (1985). Copus discusses eight specific facts related to S.E. and her cousin that he believes were omitted. We conclude that, even if all of this information had been presented, it would not have vitiated the evidence supporting probable cause that we described above.

¶6 Copus argues that the warrant was overbroad because it authorized the seizure of items for which probable cause had not been established. Specifically, he argues that the evidence in support of the warrant supported a search related only to possession of controlled substances and not to trafficking. As a result, he asserts, the warrant should not have authorized searches for records, currency, safes, computers, and so on. We reject this argument because, as we described above, the evidence permitted a reasonable inference that Copus was involved in trafficking at the time the warrant was issued.

¶7 Finally, Copus argues that in the execution of the warrant, evidence was seized that exceeded the scope of the warrant. Specifically, he focuses on videotapes that were seized after an officer saw a video camera, used the camera to view part of the tape that was in the camera, and saw a sexual act. The State argues that search and seizure of the tapes were proper under item number 4 in the warrant, which covered: "Records of transactions, including but not limited to lists of names, address [sic], telephone numbers and/or dollar amounts." We agree. In addition, we conclude that videotapes were included in item number 12, which covered "[p]agers, cellular telephones, electronic address books, and other electronic means of communication or personal data storage, to include any memory therein," and in item number 14, covering: "Items tending to show gang affiliation, membership, or association, including but not limited to clothing, photographs, drawings, and other documentation."

By the Court.—Judgment and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.