

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 6, 2007**

A. John Voelker  
Acting Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2006AP2181-CR**

**Cir. Ct. No. 2005CF338**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

---

**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**LINDA KAYE KNOTTS,**

**DEFENDANT-APPELLANT.**

---

APPEAL from a judgment of the circuit court for Dunn County:  
ROD W. SMELTZER, Judge. *Affirmed.*

¶1 PETERSON, J.<sup>1</sup> Linda Knotts appeals a judgment of conviction for possession of THC and possession of methamphetamine. Knotts argues the circuit

---

<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

court erred when it denied her motion to suppress evidence seized pursuant to a search warrant. Knotts contends the warrant was not supported by probable cause to believe any of the items sought would be found in the residence searched.<sup>2</sup> We disagree and affirm the judgment.

### **BACKGROUND**

¶2 On April 14, 2005, Deputy Brett Kohnke contacted Sergeant Russ Cragin, an Investigator with the West Central Drug Task Force, regarding a motorcycle accident involving Phillip Olson. Kohnke told Cragin that in searching the saddle bags of the motorcycle for an operator's license, he discovered a plastic pouch containing a white powdery substance, a handgun, and two glass pipes. Cragin tested the substance and determined it was approximately three grams of cocaine.

¶3 Cragin applied for a search warrant for Phillip Olson's home. In the search warrant application, Cragin stated the following. He had sixteen years of experience as a drug investigator. Based on his experience, someone in possession of three grams of cocaine "is either a frequent user or dealer of cocaine and would likely have paraphernalia related to cocaine use at his residence." Cragin also stated that Olson told Deputy Kohnke "he had been on his way from his home to his cabin when the crash occurred." A judge issued the warrant.

¶4 When police arrived at the Olson home to execute the warrant, Knotts, a friend of Olson, was at the residence. During the search of the residence,

---

<sup>2</sup> Knotts also argues the "good faith" exception to the exclusionary rule does not apply. Because we conclude there was probable cause, we need not determine whether the "good faith" exception applies.

police searched a purse, which Knotts later admitted belonged to her. The purse contained methamphetamine and marijuana.

¶5 The State charged Knotts with one count of possession of methamphetamine and one count of possession of THC. Knotts filed a motion to suppress the evidence seized from Olson’s residence. The trial court denied the motion, concluding that Knotts had standing to challenge the validity of the warrant, the warrant was supported by probable cause and, therefore, the search of her purse was valid. Knotts then entered a no contest plea.

### STANDARD OF REVIEW

¶6 We give great deference to the warrant issuing judge’s determination that probable cause supported the search warrant. *State v. Ward*, 2000 WI 3, ¶ 21, 231 Wis. 2d 723, 604 N.W.2d 517. Determining whether probable cause supports a search warrant involves making a “practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him ... there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Id.*, ¶23 (citing *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). We consider “whether objectively viewed, the record before the warrant-issuing judge provided ‘sufficient facts to excite an honest belief in a reasonable mind that the objects sought ... will be found in the place to be searched.’” *Id.*, ¶27 (citation omitted).

### DISCUSSION

¶7 Knotts argues the affidavit does not provide sufficient particularized facts to determine that drugs would be found in Olson’s house. She contends the affidavit contains only generalized statements because “[t]he only information ... is a boiler-plate statement by the affiant that drug users ‘often’ have certain items

in their homes.” Indeed, in the affidavit, Cragin stated that based on his sixteen years’ experience as a drug investigator, the amount of cocaine found in Olson’s possession was a large amount for personal use and therefore Olson was, “either a frequent user or dealer of cocaine and would likely have paraphernalia related to cocaine use at his residence.” If this were the only information in the affidavit, we might agree with Knotts.

¶8 However, Knotts omits a critical piece of information from the affidavit. Olson told the investigating officer that he was on his way from his home when the crash occurred.<sup>3</sup> Because his home was in the same county where the accident occurred, it is likely that Olson had been at his home quite recently. Combined with Cragin’s generalized statements, this particularized information leads to the inference that Olson probably got the cocaine at his home and that therefore there could be other drugs or paraphernalia at the home. In other words, there was probable cause to issue the search warrant.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

---

<sup>3</sup> Indeed, Knotts omitted this quote from her Statement of the Facts where she quoted a substantial portion of the affidavit and failed entirely to address this fact in her brief.



