

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 6, 2011

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. 2011AP356-CR

Cir. Ct. No. 2009CF561

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

GERONIMO GONZALEZ-NAVARRO,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Brown County:
KENDALL M. KELLEY, Judge. *Affirmed.*

Before Hoover, P.J., Peterson, J., and Thomas Cane, Reserve Judge.

¶1 PER CURIAM. Geronimo Gonzalez-Navarro appeals a judgment convicting him of three drug offenses.¹ He argues the affidavit in support of the

¹ Gonzalez-Navarro pled no contest to the three charges after the circuit court denied his motion to suppress evidence seized pursuant to a search warrant. Pursuant to WIS. STAT. § 971.31(10) (2009-10), he challenges the order denying suppression. All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

search warrant failed to state sufficient facts to show that drugs would be found in his apartment. We affirm the judgment.

BACKGROUND

¶2 Investigator Bradley Dernbach of the Brown County Drug Task Force applied for a search warrant. The sixty-four page affidavit requested warrants involving seven locations related to a drug trafficking organization. The investigation centered on individuals who had suspicious or incriminatory telephone conversations with Jesus Martinez-Orozco, whose calls were monitored pursuant to a Title III² court order. The calls were conducted in Spanish and translated by interpreters under contract by the Drug Enforcement Agency.

¶3 According to the translated summaries, on April 18, 2009, an unknown male told Martinez-Orozco he had “very good news, cousin, but not yet, they are not here yet.” Martinez-Orozco asked if “they are at least on the other side of the door already,” and the unknown male answered “Yes.” In another call on the same day, Martinez-Orozco asked if the “workers” arrived and the other party responded “Yes, they did.” Dernbach, based on his training and experience, believed this conversation involved a shipment of cocaine. The warrant application says Dernbach spent seven years with the Brown County Sheriff’s Department, three of those years with the drug task force, including participation in 600 drug investigations.

² Title III of the Omnibus Crime Control and Safe Streets Act of 1968, *18 U.S.C. §§ 2510-20* (1993).

¶4 On April 20, officers intercepted another telephone call between Martinez-Orozco and an unknown male. Martinez-Orozco indicated that he wanted “the whole ride,” but didn’t have enough money for the whole ride. Martinez-Orozco said he would take “the same as last time” and the next time it will be “the complete ride.” The parties agreed to meet “where you rent to watch on T.V.”

¶5 Approximately one-half hour later, investigators observed Martinez-Orozco arrive at a video store. There, he entered a blue 2000 Chevrolet Monte Carlo registered to Gonzalez-Navarro, 1707 Velp Avenue, Green Bay. The auto left the area, drove around the neighborhood and returned to the video store lot. Martinez-Orozco exited the car and officers then followed the car to 1707 Velp Avenue.

¶6 The next day, Dernbach showed a photograph of Gonzalez-Navarro to the manager of the Velp Avenue apartments, who identified the subject as Jorge Cruz, who “stays at apartment #1 and drives the blue Monte Carlo.” On that basis, Dernbach applied for a warrant to search for drugs at 1707 Velp Avenue, apartment number one.

DISCUSSION

¶7 A search warrant may be issued when the application establishes probable cause to believe that evidence connected with a crime will be found at the place to be searched. *State v. Gralinski*, 2007 WI App 233, ¶14, 306 Wis. 2d 101, 743 N.W.2d 448. Probable cause is not a technical, legalistic concept, but a flexible, common-sense measure of the plausibility of specific conclusions. *State v. Higginbotham*, 162 Wis. 2d 978, 989, 471 N.W.2d 24 (1991). Elaborate specificity is not required, and probable cause may be supported by inferences as

well as facts. *Gralinski*, 306 Wis. 2d 101, ¶15. A supporting inference need not be the only one that can be drawn. *Id.*, ¶25. A defendant challenging the warrant has the burden of establishing that the application is clearly insufficient to establish probable cause. *Id.*, ¶¶14, 16. This court gives great deference to the magistrate’s determination of probable cause. *Higginbotham*, 162 Wis. 2d at 989. Doubtful or marginal cases should be resolved in favor of the warrant. *Id.* at 990.

¶8 The warrant application recites sufficient facts to establish probable cause that drugs would be found at Gonzalez-Navarro’s apartment. The meeting at the video store establishes that Gonzalez-Navarro was the unknown male in the intercepted telephone calls with Martinez-Orozco. The calls do not explicitly mention drugs, but a reasonable inference can be drawn that the calls involved drugs. The references to “workers” and “the whole ride” suggest intentional vagueness and speaking in code. Dernbach indicated that the term “ride” is used to refer to narcotics because he had heard the term used in other drug cases. The meeting in a parking lot and driving around the neighborhood also add reason to believe that the car’s occupants were involved in an illegal transaction, particularly when Martinez-Orozco was a known drug dealer. The intercepted calls suggested that the parties set up a drug transaction.

¶9 The warrant application establishes that Gonzalez-Navarro was probably the driver of the Monte Carlo. The car was registered to him, and the apartment manager identified a photograph of him as the person who drove the blue Monte Carlo. The manager’s statement that the owner of the Monte Carlo “stays” in apartment number one indicates an ongoing occupancy, making it likely that Gonzalez-Navarro lived in that apartment on the day of the sale. The second telephone call suggested that Martinez-Orozco would not be purchasing the entire delivery on this occasion. Thus, it can be reasonably inferred that Gonzalez-

Navarro did not sell Martinez-Orozco the entire inventory of drugs, and that the remaining drugs and/or evidence of the sale to Martinez-Orozco would be found in Gonzalez-Navarro's apartment.

¶10 While some of these conclusions require that inferences be drawn from other inferences, it is permissible to “connect the dots” as long as it does not amount to mere speculation. *State v. Sarnowski*, 2005 WI App 48, ¶12, 280 Wis. 2d 243, 694 N.W.2d 498; *Belich v. Szymanszek*, 224 Wis. 2d 419, 425, 592 N.W.2d 254 (Ct. App. 1999). Although there may be innocent explanations for some of the facts recited in the warrant application, supporting inferences need not be the only inferences that could be drawn. *Gralinski*, 306 Wis. 2d 101, ¶25. Therefore, the warrant application recited sufficient facts to establish probable cause to believe drugs would be found in Gonzalez-Navarro's apartment. Because we conclude there was no defect in the warrant application, we need not review whether the officers acted in good faith when executing the search.

By the Court.—Judgment affirmed.

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

