

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES NICKOLAS ZARR,

Defendant-Appellant.

UNPUBLISHED
November 4, 1997

No. 196073
Jackson Circuit Court
LC No. 96-075029 FH

Before: Holbrook, Jr., P.J., and Michael J. Kelly and Gribbs, JJ.

MEMORANDUM.

Defendant appeals by right from his conviction of manufacture of marijuana, contending that the evidence forming the basis for the prosecution's case was the product of an illegal search and seizure in violation of his Fourth Amendment rights. This case is being decided without oral argument pursuant to MCR 7.214(E).

The search of defendant's residence was pursuant to a warrant issued October 19, 1995, by a district court judge. The proper standard of review requires that the warrant and underlying affidavit be read in a common sense and realistic manner and that deference be paid to the magistrate's determination that probable cause existed, the reviewing court asking only whether a reasonably cautious person could have concluded that there was a "substantial basis" for the finding of probable cause. *People v Russo*, 439 Mich 584, 603-604; 487 NW2d 698 (1992). Here, any information which was the product of an unconstitutional invasion of defendant's privacy must be ignored, and the issue is whether what remains supports a finding of probable cause. *People v Melotik*, 221 Mich App 190, 200-201; 561 NW2d 453 (1997). The mere fact that the police originally may have entered defendant's residence illegally does not require suppression of the evidence which was obtained pursuant to a subsequently issued warrant that was otherwise valid. *People v Smith*, 191 Mich App 644, 648; 478 NW2d 741 (1991).

The key portion of the supporting affidavit was information relayed by State Police Trooper Avery from an unidentified woman who claimed to have lived with defendant, identifiable as defendant's former girlfriend, or, if deemed unidentified, self-authenticating as to both reliability and credibility by

virtue of being a citizen, not “a confidential informer from the criminal milieu,” containing details that could only be known by a person having the relationship to defendant claimed, or some equivalent close and trusted personal relationship involving actual observation on defendant’s premises. *People v Powell*, 201 Mich App 516, 522-523; 506 NW2d 894 (1993); *People v Stumpf*, 196 Mich App 218, 222-223; 492 NW2d 795 (1992). On the basis of that information, a reasonably cautious person could find probable cause to believe that marijuana would be found on defendant’s premises, whether or not it was being grown there. In this regard, we note that where one police officer transmits the information received from an informant to another, such transmission is deemed “transparent” as police officers are presumptively reliable for Fourth Amendment purposes. *People v Goeckerman*, 126 Mich App 517, 522; 337 NW2d 557 (1983); see also *People v Bell*, 74 Mich App 270, 277; 253 NW2d 726 (1977). As the search warrant was based on probable cause, the resulting seizure of the evidence used to prosecute this case did not violate defendant’s Fourth Amendment rights.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Michael J. Kelly

/s/ Roman S. Gribbs