

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-250360
Plaintiff-Appellee,	:	TRIAL NO. B-2404027
vs.	:	
CLARENCE CODY,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

KINSLEY, Presiding Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Defendant-appellant Clarence Cody appeals the judgment of the Hamilton County Court of Common Pleas convicting him of possession of cocaine in violation of R.C. 2925.11(A), a felony of the fifth degree, and having weapons under disability in violation of R.C. 2923.13(A)(3), a felony of the third degree. Cody pleaded no contest to these offenses. He argues on appeal that the trial court erred in denying his motion to suppress evidence that was discovered by police pursuant to a search warrant for his residence.

Cody's motion challenged (1) whether the search warrant was supported by probable cause and (2) whether information relayed by Officer Justin Kay in his search warrant affidavit was lawfully obtained. The motion was eight pages long and cited

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extensive authority. Appended to it were Kay's affidavit, the search warrant for Cody's house, and the written inventory of items taken during the search.

Kay's affidavit detailed the basis for probable cause to search Cody's residence, which Kay described as a three-story single-family home. In the affidavit, Kay indicated that investigators from the violent crimes squad had received "several recent complaints of drug activity related to [the residence]" and that, as a result, police had conducted "several months" of surveillance on the residence. Kay also relayed that he had seven years of experience with the Cincinnati Police Department and had worked on numerous narcotics investigations.

According to Kay's affidavit, on August 20, 2024, officers observed a group of people playing an illegal gambling game near the residence. When officers approached, a man, later determined to be Jason Evans, fled on foot. Despite being told to stop, Evans ran into the residence, slammed the side door shut, and locked it. A short time later, Evans came out of the residence covered in a white powdery substance Kay recognized as being "consistent with illegal narcotics." Evans was then placed in custody, and officers conducted a protective sweep of the residence to assess whether other people were inside and to prevent evidence from being destroyed.

During the protective sweep, officers spotted "contraband consistent with narcotics trafficking and firearms offenses" inside Cody's home. Officers also observed "[a] rifle magazine, a quantity of substance that appeared consistent with crack cocaine, digital scales, and ammunitions" in their plain view. According to Kay, both Evans and Cody were legally disabled from possessing firearms because both had previously been convicted of drug trafficking.

The trial court denied Cody's motion to suppress without a hearing, as no party sought to put on evidence or asked for an evidentiary hearing. The trial court

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accordingly considered Cody’s motion by reviewing the filings and the materials attached to Cody’s motion, including the search warrant and affidavit. The trial court then denied the motion for four separate reasons. First, it concluded that Cody’s written motion lacked the specificity required by Crim.R. 47, but instead contained “conclusory assertions challenging probable cause and . . . generalized Fourth Amendment concerns.” Second, it determined that Kay lawfully obtained information from inside Cody’s house, because the protective sweep was “based on articulable facts suggesting the presence of other individuals [inside the home] who could pose a danger” and further found that exigent circumstances justified police entering the residence. Third, it held that the complaints and surveillance established sufficient probable cause to search the house. Lastly, the trial court found that, even if the warrant was deficient, the good faith exception made suppression improper.

In a single assignment of error, Cody argues that the trial court erred in denying his motion to suppress. We review a motion to suppress under a blended standard of review. *See In re J.T.*, 2023-Ohio-2695, ¶ 15-16 (1st Dist.). Under this standard, we accept the trial court’s findings of fact if they are supported by competent, credible evidence. *Id.* at ¶ 15. We then review de novo whether the facts meet the applicable legal standard. *Id.*

We agree with Cody that the trial court erred in finding his motion deficient under Crim.R. 47. “Whether the motion to suppress satisfied Crim.R. 47’s minimum standards is a legal question.” *State v. Codehuppi*, 2014-Ohio-1574, ¶ 8. To satisfy Crim.R. 47, a defendant must “state the motion’s legal and factual bases with sufficient particularity to place the prosecutor and court on notice of the issues to be decided.” *State v. Shindler*, 70 Ohio St.3d 54, 58 (1994). This need not be in excruciating detail; instead, the question is whether the motion provides sufficient notice to the State.

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State v. Henderson, 2026-Ohio-380, ¶ 19 (1st Dist.). This is accomplished when the defendant’s motion identifies (1) the particular actions alleged to have constituted an unlawful search, (2) the factual and legal bases for why the defendant alleges these actions were not reasonable under the Fourth Amendment, and (3) the relief sought, i.e., suppression. *Id.*

Cody’s eight-page motion easily satisfied this standard. The motion cited relevant statutes, constitutional provisions, and case law and advanced detailed arguments. Cody also attached the search warrant affidavit, the search warrant itself, and the search warrant inventory log—further elucidating the bases for his challenge. The State was not confused about the bases for the motion, as it responded in detail to each of Cody’s arguments.

But the trial court did not err in denying the motion on its merits, as the warrant was supported by probable cause. “To establish probable cause to issue a search warrant, the supporting affidavit must contain sufficient information to allow a magistrate to draw the conclusion that evidence is likely to be found at the place to be searched.” *State v. Lang*, 2023-Ohio-2026, ¶ 12 (1st Dist.). This is a practical, common-sense decision. *State v. George*, 45 Ohio St.3d 325 (1989), paragraph one of the syllabus. “On appeal, the reviewing court is concerned exclusively with the statements contained within the affidavit itself.” (Cleaned up.) *State v. Castagnola*, 2015-Ohio-1565, ¶ 39, 106.

In addition, where information in a search warrant affidavit is illegally obtained, a reviewing court must excise that information to determine whether the remaining untainted information is sufficient to establish probable cause. *See State v. Gross*, 2002-Ohio-5524, ¶ 17. “The ultimate inquiry is not whether the underlying affidavit contained allegations based upon illegally obtained evidence, but

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whether, putting aside all tainted allegations, the independent and lawful information stated in the affidavit suffices to show probable cause.” (Cleaned up.) *State v. Norris*, 2016-Ohio-5729, ¶ 21 (2d Dist.).

Looking to the four corners of Kay’s affidavit, Cody argues that officers violated his Fourth Amendment rights by entering his residence before obtaining a warrant. He therefore argues that any information Kay obtained during the prewarrant entry must be excluded from the probable cause determination. Assuming without deciding that Cody is correct, and excising from consideration the contraband that officers saw when they entered Cody’s home, Kay’s affidavit still establishes probable cause to search the residence.

In this regard, the affidavit conveys that (1) the violent crimes squad had received recent complaints of drug activity at Cody’s residence, (2) investigators had conducted surveillance on Cody’s residence for several months, (3) officers observed illegal public gaming taking place near the residence, (4) Evans fled from police into the residence and locked the side door, (5) a short time later, Evans exited from the residence covered in a white powdery substance consistent with illegal narcotics, and (6) Evans and Cody had previously been convicted of drug trafficking.

Approaching the inquiry practically, as we are required to do, these circumstances create “a fair probability that evidence of a crime” would be found in the residence. *See George*, 45 Ohio St.3d 325, paragraph one of the syllabus. Evans—a person with a known drug trafficking history—entered Cody’s home to get away from police and came out shortly thereafter covered in a white powder Kay recognized as drugs. As Cody concedes, Evans likely tampered with evidence inside the home, which is a felony. Officers therefore reasonably believed that evidence of Evans’s criminal activity was located in the residence. Indeed, there was no other place this evidence

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could be. The fact that police had received complaints of drug activity at the home, although not enough on its own, gave credence to Kay's belief that evidence of Evans's crimes would be found in the residence. *See, e.g., State v. Curry*, 2024-Ohio-4858 (7th Dist.) (holding that probable cause for a search warrant existed in part because an individual was caught leaving a house with cocaine in his pocket, leading officers to believe there was criminal activity happening inside).

Probable cause therefore supported the search warrant for Cody's home, regardless of whether officers were justified in entering it without a warrant beforehand. Cody's assignment of error is overruled, and the judgment of the trial court is affirmed.

The court further orders that (1) a copy of this Judgment constitutes the mandate, (2) the mandate be sent to the trial court for execution under App.R. 27, and (3) costs shall be taxed under App.R. 24.

CROUSE and **BOCK, JJ.**, concur.

To the clerk:

Enter upon the journal of the court on 2/11/2026 per order of the court.

By:  _____
Administrative Judge