

State of Minnesota,
Plaintiff,

v.

RASHEED RICHARDSON
Defendant.

**ORDER DENYING DEFENDANT'S
MOTION TO SUPPRESS**

27-CR- 20-26577

This matter came before the undersigned Judge on Rasheed Richardson's Motion to Suppress, filed on April 29, 2021. The warrant application was submitted separately by the Defense. Mr. Richardson is represented by Assistant Public Defender Tanya Bishop. The State is represented by Assistant County Attorney Christopher Freeman, who filed a response on May 21, 2021. The Parties agreed to have the motion decided on the pleadings. No evidentiary hearing was held.

Based upon applicable case law, and all the files and pleadings in this case, the Court makes the following:

FINDINGS OF FACT¹

1. Frances Mosley's home was vandalized on nine occasions between March and December 2020.

2. Police investigated the incidents and Sgt. Sara Metcalf applied for a warrant to search 3508 Park Avenue South, the known residence of Rasheed Richardson.² This warrant application compiled information gathered from surveillance videos and interviews conducted by police. In the warrant application, Sgt. Metcalf requested to search the residence for a number of items, including clothing, a hammer, keys, documents, cellphones, computers, and work schedules.³ Judge Luis

¹ These findings are based on the complaint and Parties' submissions. Facts from the warrant application are cited accordingly.

² Mr. Richardson has also been known as "Shawn" as well as "Lamar Johnson." Application for Search Warrant 1.

³ In whole, the application requests to search for:

SKI MASK (BLACK/DARK COLORED), HOODY (BLACK/DARK COLORED), JACKET (WITH TAILS/SPLIT LOWER BACK), LIGHT COLORED GLOVES, DARK COLORED GLOVES, DARK COLORED PANTS, DARK COLORED SHOES WITH WHITE SOLE/TRIM

RED HAMMER, DUCT TAPE, KEYS TO FORD TAURUS MN AJS292, CELL PHONES, COURT DOCUMENTS, SURVEILLANCE SYSTEM, WORK SCHEDULES, VEHICLE INFORMATION

Bartolomei signed the warrant, and a search of Mr. Richardson's residence was conducted, yielding several guns and narcotics.

3. During their investigation, police determined from surveillance videos the suspect drove a "silver/grey Ford Taurus."⁴ Police were unable to see the license plate of the vehicle because it was covered with tape.⁵ Police noted the suspect appeared to wear the same clothing on many occasions and used a hammer to break windows on many occasions.⁶

4. In an interview with Ms. Mosley's family, police learned of a civil lawsuit involving a property of Ms. Mosley's grandson at 3508 Park Avenue South.⁷ Police visited that location and found a silver/grey Ford Taurus matching the car seen in the surveillance videos.⁸ In the warrant application, Sgt. Metcalf explained how a "large" rust patch with a "unique shape" on the vehicle matched the rust patch seen on the vehicle in the surveillance videos.⁹ As detailed in the warrant application, police "researched 3508 Park Av S and found that RASHEED RICHARDSON is living there with his mother VICTORIA RICHARDSON."¹⁰ Police went on to note "[r]ecords show Rasheed lives at the house."¹¹ Ms. Mosley's grandson, Jerone, told police:

He has known Rasheed and Victoria for about 25 years. They lived at 3508 Park Av S. Jerone stated he purchased the house from them and then allowed Rasheed and Victoria to rent the home. According to Jerone, they "brokered a deal" for the renting of the home. Victoria then sued Jerone over ownership/occupancy of the home.¹²

5. Through investigation, police determined the Ford Taurus belonged to Rasheed Richardson.¹³ When police visited 3508 Park Avenue South, the car was parked on the same block, "about 500 feet away."¹⁴

(PURCHASE OF TAURUS, OWNERSHIP/SALE/PURCHASE OF OTHER VEHICLES), MAILINGS, DOCUMENTS WITH NAMES, ADDRESSES, PHONE NUMBERS, CALENDAR, COMPUTERS

Id. at 1.

⁴ Application for Search Warrant 2.

⁵ *Id.*

⁶ Specifically, the suspect was observed wearing "what appears on video to be a black ski mask with holes for his eyes, a black hoody, a black jacket with 'tails' (a split in the back of the jacket), dark pants and dark colored shoes with white soles." *Id.*

⁷ Application for Search Warrant 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Id.*

¹³ See *id.* at 2–3 (linking the vehicle to a dealership where records show the car was sold to Mr. Richardson).

¹⁴ Def.'s Memo in Supp. of Mtn. to Suppress Evidence 4.

6. Additionally, blood collected at the scene by Ms. Mosley's family matched Mr. Richardson.¹⁵

7. After watching surveillance video, Jerone told police "the suspect moved and jogged like Rasheed who he has known for 25 years."¹⁶

CONCLUSIONS OF LAW

8. Warrants must be based in probable cause, sufficiently particular, and issue on information that is not stale. The Defense raises a probable cause challenge, arguing the warrant application lacked a sufficient nexus between Mr. Richardson's residence and the evidence sought. The warrant was appropriately based on probable cause, and there was a sufficient nexus between Mr. Richardson's house and the evidence sought therein. The court finds no reason to overturn the issuing magistrate's probable-cause determination.

9. The Fourth Amendment to the United States Constitution and Article I Section 10 of the Minnesota Constitution protect people against warrantless searches of their person, houses, papers, and effects.¹⁷ A neutral and detached magistrate may issue a search warrant only upon a finding of probable cause.¹⁸ In determining if there was probable cause to properly issue a warrant, the court should consider if there is a "fair probability" the evidence sought will be in the site searched.¹⁹ Aiding in that inquiry is the "nexus" analysis, which requires the warrant application contain sufficient information to establish a nexus between the thing searched and the evidence sought.²⁰

10. In *Yarbrough*, police applied for a warrant to search for a handgun and drug evidence at Mr. Yarbrough's apartment. In considering whether the warrant to search for these items was appropriately issued, the court examined the nexus between the evidence sought and Mr. Yarbrough's residence. The court considered the items separately. For the handgun:

The search warrant affidavit stated that Yarbrough not only made threats with a handgun in a public park, but fled the scene in a vehicle that was later parked at, and registered to a resident of, the apartment. The inference is that the vehicle's driver was Yarbrough's roommate. It was therefore reasonable to infer that Yarbrough or the driver would store the handgun at the apartment.²¹

It should also be noted the license plate of the vehicle found at the apartment building matched the license plate noted at the scene.²² For the drug evidence, the information in the warrant application

¹⁵ Application for Search Warrant 4.

¹⁶ *Id.* at 3.

¹⁷ U.S. Const. amend. IV; Minn. Const. art. 1, § 10.

¹⁸ *State v. Harris*, 589 N.W.2d 782, 787 (Minn. 1999).

¹⁹ *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014).

²⁰ *See State v. Holland*, 865 N.W.2d 666, 675 (Minn. 2015).

²¹ *Yarbrough*, 841 N.W.2d at 623.

²² *Id.* at 621.

painted Mr. Yarbrough as a “wholesale” drug dealer, and there was “a substantial basis to conclude that there was a fair probability that drug evidence would be found at the apartment.”²³ In both instances, the court considered whether it was reasonable to believe Mr. Yarbrough could have these items in the apartment based on the information provided in the warrant application.

11. The Defense relies on distinguishing this case from *Yarbrough*. The court is not persuaded by these distinctions. In *Yarbrough*, the suspect car was found parked at an apartment building. Here, the car was found on the same block as the house where Mr. Richardson lives, only 500 feet from the house. In *Yarbrough*, there was a license plate match. Here, the officer was able to examine surveillance stills of the car and match a unique rust patch on the vehicle to the vehicle on the stills. There is little meaningful factual difference here,²⁴ and certainly no legal difference.

12. More broadly, the analysis in *Yarbrough* is more concerned with the “totality of the circumstances” rather than specific details about how closely a suspect vehicle is associated with a residence to be searched. The relevant circumstances are “the type of crime, the nature of the items sought, the extent of the defendant’s opportunity for concealment, and the normal inferences as to where the defendant would usually keep the items.”²⁵ For instance, the court distinguishes between a casual drug user and a “wholesaler,” finding it reasonable a wholesaler would have drugs at their residence, but more information is required to draw the same inference about a drug user.²⁶

13. The vehicle in *Yarbrough* is an important piece in the “totality of the circumstances” linking Mr. Yarbrough to the scene of the crime and to the apartment building where the vehicle was eventually found. That is not to say a vehicle is the only thing that can link someone—and the evidence they may possess—to a residence. As quoted by the Defense, *Yarbrough* makes clear the possession of a gun outside a residence alone does not justify searching the residence.²⁷ This draws out the principle behind the nexus requirement, as illustrated in cases before *Yarbrough*. While connection to a residence alone absent other information is not enough to justify searching it for evidence, the other information establishing the nexus does not need to be overwhelming.²⁸

14. The warrant application clearly and repeatedly connects Mr. Richardson with the residence searched by police. Not only were police told Mr. Richardson lived at the residence, the residence was the subject of a civil suit between Ms. Mosley’s grandson and Mr. Richardson and/or his

²³ *Id.* at 624.

²⁴ Indeed, one could argue a distinctive rust pattern—which cannot be easily removed or replicated—is more convincing of a positive “match” than a license plate, which can be removed and installed on a similar looking car with a couple of turns of a wrench or screwdriver.

²⁵ *Yarbrough*, 841 N.W.2d at 623 (citing *State v. Pierce*, 358 N.W.2d 672, 673 (Minn.1984)).

²⁶ *Yarbrough*, 841 N.W.2d at 623 (citing *State v. Harris*, 589 N.W.2d 782, 789 (Minn. 1999) and *Novak v. State*, 349 N.W.2d 830, 832–33 (Minn.1984)).

²⁷ Def.’s Memo in Supp. of Mtn. to Suppress Evidence 4 (quoting *Yarbrough*, 841 N.W.2d at 623.)

²⁸ See e.g. *State v. Gail*, 713 N.W.2d 851, 859 (Minn. 2006) (finding a nexus between an apartment and a murder weapon because the defendant called his probation officer from the address and was arrested there 10 days after the murder); *Rosillo v. State*, 278 N.W.2d 747, 748-749 (Minn. 1979) (“All that is required is that the affidavit, interpreted in a common-sense and realistic manner, contain information which would warrant a person of reasonable caution to believe that the articles sought are located at the place to be searched.”).

mother. It is reasonable the State could argue this dispute was the motive for the criminal behavior the State is alleging. Records connected Mr. Richardson to the address. The warrant application connects the 3508 Park Avenue address to the Mosley family as well. A vehicle matching the one seen on surveillance was then found on this block, connecting the address with the alleged crimes. This establishes a sufficient nexus between the residence and the evidence sought by police. Just as it is reasonable to believe someone may store their handgun at their residence, it is reasonable, on the facts presented to the issuing magistrate, to believe someone clearly connected to a residence may store a hammer, clothing, documents, keys, computer, cell phones and the other evidence sought at that residence.

15. These findings give the court no reason to overturn the issuing magistrate's probable cause determination. The court has been provided with guidance that the "resolution of doubtful or marginal cases should be 'largely determined by the preference to be accorded to warrants.'"²⁹ This court does not find this to be a particularly "doubtful or marginal" case. Judge Bartolomei's determination of probable cause will not be overturned.

16. The Defense also argues the search is unreasonable because Mr. Richardson's privacy interest in his residence is greater than the State's need for the evidence sought. However, the Defense fails to cite any case excluding evidence in a criminal case based on this standard, much less one excluding evidence after a lawful search conducted pursuant to a warrant issued on probable cause.³⁰

²⁹ State v. Albrecht, 465 N.W.2d 107, 109 (Minn. Ct. App. 1991) (citing *Massachusetts v. Upton*, 466 U.S. 727, 734 (1984)).

³⁰ This balancing language of the reasonableness standard has been applied to warrantless searches usually by actors not directly affiliated with law enforcement. See e.g. *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523, 534 (1967) (finding administrative searches by municipal inspectors required a warrant, the traditional safeguard of the Fourth Amendment); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (examining a search on school grounds by school official). In the law enforcement context, the standard is perhaps most applicable to broad police practices affecting people's privacy, such as road blocks. See e.g. *Michigan Dep't of State Police v. Sitz*, 496 U.S. 444 (1990) (upholding a police road block because the State's interest in detecting drunk driving was greater than individual privacy interests). Following the citation history backwards from *Virginia v. Moore*, the case cited by Defense, one finds the balancing language immediately followed by:

Where a search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing, this Court has said that reasonableness generally requires the obtaining of a judicial warrant. Warrants cannot be issued, of course, without the showing of probable cause required by the Warrant Clause. But a warrant is not required to establish the reasonableness of *all* government searches; and when a warrant is not required (and the Warrant Clause therefore not applicable), probable cause is not invariably required either.

Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 653 (1995) (internal citation omitted). *Acton* cites to a 1989 Court opinion which, immediately following the balancing language, states in no uncertain terms "[i]n most criminal cases, we strike this balance in favor of the procedures described by the Warrant Clause of the Fourth Amendment." *Skinner v. Ry. Lab. Executives' Ass'n*, 489 U.S. 602, 619 (1989). And *Skinner* cites to a 1979 opinion invoking the same balancing language:

[T]he permissibility of a particular law enforcement practice is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental

While the alleged crime in *Yarbrough* involved drugs and a handgun, the alleged crime in this case involves surveillance video, specific clothing, and a hammer. The Defense argues these items are commonplace, and therefore carry less evidentiary value to the State. Commonplace or not, their evidentiary value in this case is clear and so is the State's interest in them. The search in this case was based on a valid warrant and was not unreasonable.

IT IS ORDERED:

The Defendant's Motion to Suppress is **DENIED**.

BY THE COURT

June 23, 2021

Date

William H. Koch
Judge of District Court

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interests. Implemented in this manner, the reasonableness standard usually requires, at a minimum, that the facts upon which an intrusion is based be capable of measurement against "an objective standard," whether this be probable cause or a less stringent test.

Delaware v. Prouse, 440 U.S. 648, 654 (1979). Thus, the reasonableness standard, including the balance between privacy rights and the State's interest in prosecution inherent in that standard, has been historically satisfied by police procedures that follow the legally established practice of obtaining warrants based in probable cause.