MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Appellant,
v.
ISRAEL BARRERA, Respondent.

DOCKET NUMBER WD87670

DATE: May 27, 2025

Appeal From:

The Circuit Court of Cass County, Missouri
The Honorable Stacey J. Lett, Judge

Appellate Judges:

Division One: Karen King Mitchell, Presiding Judge, and Lisa White Hardwick and Mark D. Pfeiffer, Judges

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Attorneys:

Andrew Bailey, Attorney General, and Nathan J. Aquino, Assistant Attorney General, Jefferson City, MO, Attorneys for Appellant.

Damien de Loyola, District Defender, and Shajiah Jaffri, Assistant Public Defender, Kansas City, MO, Attorneys for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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v.
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WD87670 Cass County

Before Division One Judges: Karen King Mitchell, Presiding Judge, and Lisa White Hardwick and Mark D. Pfeiffer, Judges

The State of Missouri, in its criminal prosecutorial capacity, appeals the ruling of the Circuit Court of Cass County, Missouri ("motion court"), which granted Mr. Israel Barrera's ("Barrera") motion to suppress the test results of a urine sample seized and tested pursuant to two separate warrants.

On July 12, 2021, the Cass County Sheriff's Office received a tip that alleged Barrera had molested his fourteen-year-old stepdaughter ("Victim"). A medical examination later confirmed that Victim had contracted a sexually transmitted disease ("STD").

Barrera was taken into custody on September 1, 2021. That same day, the police seized a urine sample from him, pursuant to a warrant, in order to test it for the presence of the same STD. The testing facility could not use the sample, however, because it was improperly preserved.

On September 14, 2021, Detective M.B. ("Detective") requested two warrants simultaneously, one for seizing a urine sample from Barrera and one for testing the sample for the STD. To support the warrants, Detective swore across two affidavits that police had received a tip alleging Barrera molested Victim; that Victim had tested positive for an STD; that Victim reported having no consensual sexual partners; and that his years of experience and training led him to believe he had probable cause for the warrants. One affidavit also stated: "A search warrant was obtained and a urine sample was obtained from Mr. Israel Barrera on September 14, 2021." A judge issued both warrants, and Detective seized the sample.

Barrera filed a pre-trial motion to suppress the sample's test results. At a hearing on the motion, Detective acknowledged his statement in the affidavit that he had obtained a search warrant and a urine sample on September 14 was false and that he knew it was false when he submitted the affidavit. The motion court concluded that the affidavits did

not include enough information to justify the issuance of the warrants. It further concluded that Detective did not conduct the seizure in good-faith reliance on the warrants because a reasonably well-trained officer would have known the affidavits were insufficient. Thus, the motion court suppressed the test results. The State timely filed an interlocutory appeal, raising two points. In Point I, the State argues the motion court erred in concluding the affidavits were insufficient. In Point II, the State argues the motion court erred in suppressing the test results because Detective acted in good-faith reliance on the issued warrants.

AFFIRMED.

Division One holds:

1. A search or seizure conducted pursuant to a judicially issued warrant is presumed to comply with the Fourth Amendment. However, if the affidavit supporting the warrant did not provide the issuing judge with a basis for finding probable cause to justify the warrant, the search or seizure nonetheless violates the Fourth Amendment. To supply probable cause, a warrant must recite enough credible information to allow a person to believe there is a fair probability that evidence of a crime will be found by the search or that contraband will be seized. Hearsay statements may supply probable cause when they can be properly credited based on the identity of the declarant or the source of the declarant's information. Here, the affidavit provided no information on the identity of the declarant or the source of the declarant's information. Nonetheless, a purely anonymous tip may supply probable cause, if it can be corroborated. Here, the anonymous tip was simply a conclusory allegation that Barrera sexually molested Victim and included no specific details of the misconduct that could be corroborated. The officer attempted to corroborate the tip in the warrant with additional information by noting that Victim, a minor who reported having no consensual sexual partners, contracted a disease that could be transmitted sexually. But, the officer provided no explanation for why the sexual molestation alleged in the tip would result in the transmission of the disease. Furthermore, the affidavit provided no information regarding the timing of the alleged molestation or the length of time the disease remains in the body following transmission. Thus, the affidavit provided no reason to believe the disease might still be found in Barrera's urine, even if the anonymous tip were assumed true. Therefore, the affidavit failed to supply any basis to support a finding of probable cause sufficient to justify the issuance of the warrants, so the seizure of Barrera's urine sample violated his Fourth Amendment rights.

2. When evidence is obtained in violation of the Fourth Amendment, it will be excluded from trial only if its exclusion would have a future deterrent effect on police misconduct that outweighs the cost of suppressing the evidence. Therefore, if police obtained the evidence in good-faith reliance on a judicially issued warrant, not through willful misconduct, the evidence will not be suppressed. This good-faith exception is not available in cases where a reasonably well-trained officer should know that the warrant

was insufficient to supply probable cause to the issuing judge or where the officer intentionally included information in the warrant that the officer knew to be false. A reasonably well-trained officer should know that an affidavit that relies entirely on anonymous hearsay and a conclusory assertion of probable cause is an insufficient "bare bones" affidavit. Here, the affidavits were so lacking in corroborative information that they were indistinguishable from a "bare bones" affidavit, demonstrating a lack of good faith. Furthermore, the officer stated in the affidavits that a urine sample had already been obtained from Barrera on September 14, which the officer knew to be false. Thus, the urine sample here was not obtained in good-faith reliance on a judicially issued warrant, so the motion court did not err in excluding it.

Opinion by: Mark D. Pfeiffer, Judge May 27, 2025

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