

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

WYATT M. MITCHELL,

Appellant.

DOCKET NUMBER WD77401

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 8, 2015

APPEAL FROM

The Circuit Court of Pettis County, Missouri
The Honorable Robert L. Koffman, Judge

JUDGES

Division II: Pfeiffer, P.J., and Hardwick and Welsh, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **December 8, 2015**
WYATT M. MITCHELL,)
)
) **Appellant.**)

WD77401

Pettis County

Before Division II Judges: Mark D. Pfeiffer, Presiding Judge, and Lisa White Hardwick and James Edward Welsh, Judges

Wyatt Mitchell appeals the judgment of the Circuit Court of Pettis County, Missouri, finding him guilty, after a jury trial, of one count of possession of marijuana with intent to deliver and three counts of possession of a controlled substance (hydrocodone, alprazolam, and clonazepam). On appeal, Mitchell claims that the circuit court erred in admitting certain evidence against him that he claims was obtained in violation of his constitutional rights.

AFFIRMED.

Division II holds:

Although defendant Mitchell alleged that the affidavit police submitted with the application for a warrant to search his home contained false statements, the trial court held a hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978), and determined that an informant did, in fact, make the statements to police that the officer making the affidavit indicated. The trial court thus determined that the police's reliance on the informant's statements was not in reckless disregard for the truth. We agree, even though the police affidavit did not expressly disclose to the warrant court that the informant had himself been found with drugs and was cooperating with police in hopes of receiving leniency in his own case. Giving deference to the trial court's credibility findings, we look to the four corners of the warrant application and the supporting affidavit to determine whether the court issuing the warrant could reasonably have

found a fair probability that contraband or evidence of criminal activity would be located at Mitchell's residence—the place to be searched.

The warrant application and the accompanying affidavit are sufficient to support the warrant court's finding of probable cause. The informant was named in the affidavit, the information that the informant gave to the police was based upon the informant's own personal knowledge and was fresh, and the suspect whose residence was to be searched was known to associate with local gang members.

The police officers executing the search warrant in this case did not exceed the scope of the search warrant. The warrant allowed officers to search for marijuana, and the officers were searching in areas where marijuana could be found and was, in fact, found. When officers found, in plain view, various pills in an unmarked bottle, the incriminating character of the pills was immediately apparent to the searching officer based upon his training and the surrounding circumstances. It was, therefore, proper for the officer to seize the pills pursuant to the warrant search.

Opinion by: Mark D. Pfeiffer, Presiding Judge

December 8, 2015

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