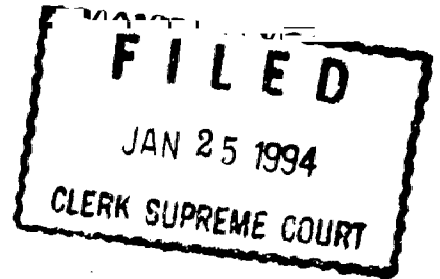


IN THE COURT OF APPEALS OF IOWA

No. 3-595 / 92-2004



STATE OF IOWA,

Appellee,

vs.

JERRY DEAN BURT,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, George Stigler, Judge and James C. Bauch, Judge.

Defendant appeals from judgment and sentence, following trial to the court, entered upon his convictions of possession of a controlled substance with intent to deliver and for failure to affix a drug tax stamp. **AFFIRMED.**

Leslie Knock of Mershon, Snow & Knock, Cedar Falls, for appellant.

Bonnie J. Campbell, Attorney General, Thomas G. Fisher, Jr., Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kimberly Griffith, Assistant County Attorney, for appellee.

Heard by Oxberger, C.J., Habhab, J., and McCartney, S.J.*

* Senior judge from the 2nd Judicial District serving on this court by order of the Iowa Supreme Court.

OXBERGER, C.J.

Jerry Dean Burt appeals from his convictions of possession of a controlled substance with intent to deliver, in violation of Iowa Code section 204.401(1)(b) (1991), and for failure to affix a drug tax stamp, in violation of Iowa Code section 421A.12 (1991). We affirm.

On May 11, 1991, police officer Mark Meyer submitted an application for a search warrant. The application was based on an affidavit in which the officer stated he had received information from several separate confidential informants that Jerry Dean Burt: had been selling crack cocaine from his residence and his place of employment; traveled out of state to pick up his supply and bring it back to Iowa; and, within the past twenty-four hours had been seen at his residence in possession of crack cocaine. The affidavit noted Burt's address and that he had a blue 1977 Buick Electra, license plate LMS299, registered to him. A warrant was issued for the search of Burt's residence, its curtilage, "and any and all vehicles located on the property."

When officers gathered to coordinate the execution of the search warrant they were informed that Burt had left his residence driving his blue vehicle. Burt's vehicle was located, stopped and searched on a street away from his residence. Crack cocaine was found in the vehicle.

Burt was charged with possession of a controlled substance with intent to deliver and failure to affix a drug tax stamp. He filed a motion to suppress the fruits of the vehicle search. The district court denied the motion to suppress and found Burt guilty as charged.

Burt now appeals, contending that the search of the vehicle was improper because: (1) the warrant application made no showing that the blue 1977 Buick Electra named in the affidavit was in any way implicated in the alleged illegal activity, and (2) even if the warrant was based on probable cause, the vehicle was not "located on the property" and, therefore, was not within the scope of the search warrant.

Burt alleges a violation of his constitutional right to be free from unreasonable search and seizure and our review is thus de novo. State v. Ballew, 456 N.W.2d 230, 231 (Iowa App. 1990). To show probable cause for the issuance of a search warrant a nexus between the place to be searched and the items to be seized must be established. State v. Leto, 305 N.W.2d 482, 486 (Iowa 1981). "The nexus can be found by considering the type of crime, the nature of the items involved, the extent of the defendant's opportunity for concealment, and the normal inferences as to where the defendant would be likely to conceal the items." State v. Groff, 323 N.W.2d 204, 212 (Iowa 1982).

We find probable cause existed to search Burt's vehicle. The facts in the affidavit support an inference that Burt was transporting drugs in and out of his residence, and it is a reasonable inference that he used his vehicle for this purpose. See State v. Ballew, 456 N.W.2d at 232, and explanation in State v. Jamison, 482 N.W.2d 409, 412 (Iowa 1992). The warrant to search Burt's vehicle was properly issued.

Burt contends however that his vehicle was not "located on the property" at the time of the search and therefore was not within the scope of the warrant. "Because of the preference for warrants, we must construe them in a common sense manner and resolve doubtful cases in favor of their validity." State v. Hannon, 314 N.W.2d 405, 407 (Iowa 1983). We conclude that the search of the specific vehicle described in the warrant and recently located on the property was reasonably within the scope of the warrant. Cf. State v. Hill, 465 N.W.2d 309, 311 (Iowa App. 1990) (vehicle under control of person at apartment sufficiently specific to authorize search of vehicle stopped a short distance from named apartment).

AFFIRMED.