

AUG 13 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLEY WILLIAM ELLISON, JR.,

Defendant - Appellant.

No. 09-50646

D.C. No. 2:08-cr-01292-CAS-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Argued and Submitted August 2, 2010
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **REINHARDT**, Circuit Judge and
WHYTE, District Judge.**

Because an informant who gave accurate information in the past may be presumed trustworthy, even with the informant's criminal history included, the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Ronald M. Whyte, Senior United States District Judge for the Northern District of California, sitting by designation.

affidavit would have supported a finding of probable cause. United States v. Angulo-Lopez, 791 F.2d 1394, 1396–97 (9th Cir. 1986). Thus, the district court did not err in denying Ellison’s motion to suppress physical evidence and motion for a hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978). See United States v. Reeves, 210 F.3d 1041, 1044–45 (9th Cir. 2000); United States v. Meling, 47 F.3d 1546, 1554–56 (9th Cir. 1995).

Ellison’s statement “should I have a lawyer,” even considered in light of his stated desire to avoid self-incrimination, was not an unequivocal request for counsel. See Davis v. United States, 512 U.S. 452, 461–62 (1994); United States v. Younger, 398 F.3d 1179, 1186–88 (9th Cir. 2005). The district court did not err in denying Ellison’s motion to suppress statements made after his arrest.

AFFIRMED.