

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 23 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30223

Plaintiff-Appellee,

D.C. No. 6:21-cr-00002-BMM-1

v.

MEMORANDUM*

ROY ALLEN SHOSTAK,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Argued and Submitted November 9, 2022
Portland, Oregon

Before: BUMATAY and SANCHEZ, Circuit Judges, and BAKER,** International Trade Judge.

Roy Allen Shostak appeals his conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1). Shostak contends that the district court erred in denying his motion to suppress evidence obtained from

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable M. Miller Baker, Judge for the United States Court of International Trade, sitting by designation.

an allegedly invalid search warrant. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review the validity of a search warrant de novo. *United States v. King*, 985 F.3d 702, 707 (9th Cir. 2021). A search warrant “must be supported by probable cause—meaning a fair probability that contraband or evidence of a crime will be found in a particular place based on the totality of circumstances.” *Id.* (simplified).

Shostak argues that the search warrant authorizing the search of his vehicle lacked probable cause because it was based on information provided by a confidential source with no indication of the informant’s reliability or basis of knowledge. We analyze an informant’s reliability and basis of knowledge under “the totality-of-the-circumstances analysis that has traditionally guided probable cause determinations.” *Illinois v. Gates*, 462 U.S. 213, 233 (1983). And probable cause may be established through a combination of an informant’s tip and “corroboration of details . . . by independent police work.” *Id.* at 241.

Viewed as a whole, the affidavit supporting the search warrant provided probable cause to authorize the search of Shostak’s car. First, officers independently corroborated much of the information given by the informant. The informant told officers that Shostak was selling drugs, driving a black Jaguar car, and known to frequent two addresses in Helena, Montana. Officers then established Shostak’s presence at one of the addresses and linked him with a black Jaguar car found at the

address. Officers also confirmed with the registered owner of the Jaguar that he had recently sold the car to Shostak. Second, the information from the informant made up only a fraction of the details conveyed in the affidavit. The affidavit detailed Shostak's criminal history, his associations with known drug users, officers' observations of Shostak placing items from a trailer in the Jaguar, and the presence of a marijuana pipe in plain view on the seat of the car. Under the "totality of circumstances," the affidavit established a "fair probability that contraband or evidence of a crime" would be found in Shostak's car. *King*, 985 F.3d at 707.

"Probable cause . . . is not a high bar." *Kaley v. United States*, 571 U.S. 320, 338 (2014). It requires "only the probability, and not a prima facie showing, of criminal activity." *Gates*, 462 U.S. at 235 (citation omitted). The informant's information and the extensive corroborating information cited in the affidavit easily meet that standard here.

AFFIRMED.