

STATE OF MINNESOTA
COUNTY OF SCOTT

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Court File No. 70-CR-24-4741

State of Minnesota

Plaintiff,

vs

Raven Marie Bock

Defendant.

ORDER

The above-entitled matter came before the Honorable Eric J. Braaten, Judge of the District Court, for a Contested Omnibus hearing on May 9, 2024, at the Scott County Government Center. Andrew Harris, Esq., appeared with and on behalf of Defendant. Robb Hunter, Esq., appeared on behalf of the State of Minnesota. The issues presented to the Court were: 1) Probable Cause for the Search Warrant, and (2) Probable Cause for the Charges against Defendant.

The State submitted six (6) exhibits which were received without objection. No testimony was offered. The parties were given time to brief the issues. The State moved the Court to Amend Counts 1-7 and Add Count 8. The Court took this matter under advisement on June 14, 2024.

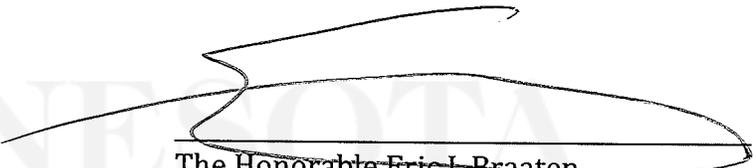
Based upon all the files, records, and proceedings herein and the Court being duly advised:

IT IS HEREBY ORDERED:

1. The State's motion to amend all Counts 1-7 to add the aid and abet designation to each charge pursuant to Minn. Stat. § 609.05.1 "Liability for Crimes of Another" is hereby **GRANTED**.

2. The State's motion to add Count 8, 5th Degree Possession pursuant to Minn. Stat. § 152.025.2(1); Penalty Statute Minn. Stat. § 152.025.4(a), a Gross Misdemeanor, is hereby **GRANTED**.
3. Defendant's motion to dismiss due to lack of probable cause for the issuance of the search warrant is hereby **DENIED**.
4. Defendant's motion to dismiss all charges due to a lack of probable cause is hereby **DENIED**.
5. Counts 1 through 7 are hereby **DISMISSED** due to lack of probable cause.
6. Defendant's motion to dismiss Count 8 due to lack of probable cause is hereby **DENIED**.
7. This matter shall proceed to an uncontested Omnibus Hearing.
8. Scott County Court Administration shall work with the parties to schedule the hearing and send out appropriate Notices of Hearing.

BY THE COURT:



The Honorable Eric J. Braaten
Judge of District Court

7/3/2024

MEMORANDUM

The above matter came before the Court for a contested omnibus hearing before the Honorable Eric J. Braaten, Judge of the District Court on May 9, 2024, at the Scott County Government Center. The State was represented by Assistant Scott County Attorney, Robb Hunter, Esq. Defendant was represented by Andrew Harris, Esq. The issues presented to the Court were: 1) probable cause for the search warrant; and 2) probable cause for the charges against Defendant.

The State submitted six (6) exhibits including: 1) T-00001: Inventory Receipt and Return, Bates 83; 2) T-000002: Application for Search Warrant, Bates 69-78; 3) T-000003: Discovery, Bates 1-65; 4) T-000004: Search Warrant, Bates 79-82; 5) T-000005: Order to Seal Search Warrant; Search Warrant App., Affidavits and Inventories, Bates 66-67 and 6) T-000006: Affidavit, Bates 68¹. All six exhibits were received without objection. No testimony was taken, and Defendant did not submit any exhibits. The parties were given time to brief the issues. Defendant's brief was due on May 24, 2024, and the State's brief due June 7, 2024. Defendant submitted her brief on May 31, 2024, so the State's response was extended to June 14, 2024. This matter was taken under advisement at that time.

After examining the submissions and considering counsel's arguments, the Court finds there was probable cause for the issuance of the search warrant. The Court also grants the State's motion to amend Counts 1-7 and add a Count 8. However, the Court finds there is not probable Cause to proceed on Counts 1-7. There exists probable cause to proceed on the added Count 8.

Factual Background

In August 2023, Agent Alex Nelson with the Minnesota River Valley Drug Task Force, spoke with a cooperating defendant. (hereinafter CD 1.) CD 1 identified Matthew John Brandt (herein after Brandt) as a person who was supplying large volumes of fentanyl and other controlled substances to the greater Mankato area. *See Exhibit 2 at Bates 70-71.* Agent Nelson received information from Agent Cayer with the Southwest Metro Drug Task Force (SWMDTF) regarding Brennan Lee Burnham. (hereinafter Burnham.) *Id.* Agent Crayer conducted an interview with a Source of information (hereinafter SO 2) SO 2 informed Agent Cayer that they wanted to provide information about drugs/controlled substances to aid resolution on their criminal charges. *Id.* SO 2 informed Agent Cayer that Burnham lives in the Mankato area and is actively selling powder fentanyl. SO 2 reported they have purchased fentanyl from Burnham in the past, and Burnham is traveling to Shakopee twice a week to pick up powder fentanyl from a Mexican cartel member. Burnham then brings the contraband back to Mankato. *Id.* In September 2023, a concerned citizen reported high traffic and hand to hand transactions indicating drug sales from a residence believed to be owned by Burnham. *Id.*

In October 2023, Agents executed a search warrant at 112 Joyce Drive, Mankato, Minnesota. The target of this investigation was identified as Heather Jean Boone. (hereinafter Boone.) *Id.* Burnham was at the residence in his vehicle as officers arrived. While the search warrant was being executed, officers located suspected

methamphetamine, which field tested positive for two counterfeit oxycodone tablets believed to contain fentanyl, and numerous pieces of tinfoil with burnt residue consistent with fentanyl use. *Id.*

On October 23, 2023, Agent Nelson observed Brandt and Burnham meeting in the city of Mankato. Agent Nelson learned the two then traveled to the Twin Cities, along with another unknown male, in Burnham's vehicle. *Id.* The parties quickly returned to Mankato. Agent Nelson is aware the Twin Cities are a source of drugs for the greater Mankato area. This quick turnaround trip was consistent with drug trafficking. They passed through the city of Shakopee, however they did not stop. *Id.*

On February 15th, 2024, Mankato first responders were dispatched to a fentanyl overdose. The only other person present at the address was Boone. *Id. at Bates 72.*

On Monday, March 11th, 2024, Agent Matt Date and Agent Nelson met with a Confidential informant. (hereinafter CI 1.) *Id.* CI 1 identified Brandt as a source for fentanyl in the Mankato area. CI 1 stated they have purchased fentanyl from Brandt in the past; including counterfeit oxycodone pills containing fentanyl and powder fentanyl. *Id.* CI 1 stated Brandt goes to the Twin Cities metro area to purchase large volumes of fentanyl and other drugs. Brandt then transports the drugs back to the Mankato area for distribution to lower-level street dealers. *Id.* CI 1 stated Brandt goes to the Twin Cities every day or every other day. Brandt also sources his fentanyl supply from Burnham according to CI 1. *Id.* CI 1 explained, if Brandt picks up fentanyl from Burnham, Brandt does not have to go to the Twin Cities as frequently because Burnham has large quantities. In his Affidavit for Probable Cause, Agent Nelson noted factors relating to

Cl1's reliability. *See Id. Bates at 72.*

On Tuesday, March 12, 2024, Agent Nelson spoke with victim 1 regarding the February 15th overdose. *Id.* Victim 1 informed Agent Nelson that Brandt has been supplying the greater Mankato area with fentanyl and on that date, Victim 1 had used fentanyl supplied by Brandt. *Id.* Agent Nelson asked Victim 1 if they knew of anyone else that had overdosed on Brandt's product. Victim 1 identified another female who had overdosed on fentanyl supplied by Brandt within the last month or so. *Id.* That victim never reported the incident to law enforcement and according to victim 1, survived the incident. *Id.* Victim 1 stated that Burnham supplies Brandt with fentanyl and that there are sources that Brandt goes to in the Twin Cities metro area. *Id.*

Agent Nelson continued surveillance on Brandt and learned of other conversations and dealings regarding Fentanyl. A traffic stop ensued, Brandt's vehicle was searched, and multiple narcotics were found including 118 counterfeit oxycodone pills believed to contain fentanyl. Agent Nelson noted the 118 counterfeit oxycodone tablets believed to contain fentanyl field tested positive for acetaminophen. He knew from his training and experience that acetaminophen is a commonly used binding agent in the illicit manufacturing of counterfeit oxycodone tablets that typically contain fentanyl. The controlled substances were packaged in a manner more consistent with street drugs and not prescriptions. *Id.* The number of controlled substances and the variety of controlled substances within the vehicle is more consistent with a sales and trafficking amount and would not be consistent with a mere user. *Id.* The Blue Earth County Sheriff's Office and the Minnesota River Valley Drug Task Force had probable

cause to arrest Brandt for 1st Degree sale and possession of a controlled substance stemming from the March 26th, 2024, traffic stop. At this point in his investigation Agent Nelson believed, based on the totality of circumstances, that Brandt, Boone, and Burnham were co-conspiring to traffic controlled substance throughout Minnesota and are distributing in the greater Mankato area. *Id. at Bates 74-75.*

On March 26, 2024, Agent Nelson was granted a search warrant to install an electronic monitoring device on a Ford Fusion used by Brandt, Boone, and Burnham. *Id.*

On Friday, April 5, 2024, Agent Nelson was monitoring the vehicle's movements. *Id.* The vehicle traveled to Minneapolis and stayed for a short period of time. Minneapolis is a known source city for fentanyl and other controlled substances for the Mankato area. *Id.* Agent Nelson was aware through surveillance measures that Brandt and Boone were in the Ford Fusion on the way to Minneapolis. *Id.* Brandt and Boone arrived in Minneapolis at approximately 3:49 a.m. on this same date. They traveled to and arrived at the AmericInn by Wyndham, 4100 12th Avenue East, Shakopee, Scott County, Minnesota at 5:45 a.m. where they checked into the hotel. *Id.* Commander Chad Ruch with the Minnesota River Valley Drug Task Force (MRVDTF) was able to verify that they obtained room #202. The room was booked under Brandt's name. Agent Nelson began conducting surveillance at the hotel. *Id.*

At 07:42 a.m., a 2010 gray Chevrolet Impala arrived at the hotel. Taylor Mitchel Spence was a passenger in the vehicle. Spence is a known fentanyl and methamphetamine user. *Id.* The unknown driver of this vehicle approached the front desk asking for Brandt and Boone's room number. *Id.* He and Spence went in and out of

room #202 a couple times and back out to their vehicle. Agents observed Spence interacting with Boone in the parking lot near the open trunk of the Fusion. *Id.*

A vehicle registered to Brett Scott Waltermann arrived on scene. The passenger was Raven Marie Bock (Defendant). *Id.* Both Waltermann and Defendant are known users of controlled substances. *Id.* After they parked, Agent Nelson observed Defendant hunched over in the passenger's seat and appeared to be actively smoking something, possibly fentanyl. *Id.* The substance smoked did not have a prolonged and consistent smoke emission like a cigarette. *Id.* When Spence and Boone were outside, Agent Nelson observed Waltermann and Defendant interacting with Spence and Boone. *Id.* Later another vehicle driven by Levone William Adams approached. *Id. at Bates 76.* Adams is a known drug dealer in the Mankato area. Adams was observed using his cell phone while parked in the lot. *Id.* Adams parked in the lot and remained in his vehicle for an extended period of time. *Id.* During the surveillance, agents noted Adams appeared to possibly be under the influence in his vehicle. Adams was flailing around and consuming something from a bottle. Adams and an unknown female exited the Jeep and eventually went into the hotel. *Id.* Adams and the unknown female carried bags into the hotel. The unknown female later carried a black backpack back out to the Jeep Liberty that Adams had brought into the hotel. *Id.*

Later, the Impala driven by Spence was stopped in Nicollet County at 9:45 a.m. as part of this investigation. *Id.* Agent Nelson learned the vehicle contained Spence and other known fentanyl users. In the vehicle, Officers found 3 yellow suspected Alprazolam tablets. *Id.* One of the passengers, Kuek, who did not have a prescription for

the drugs, admitted to flushing 10 additional pills in a Kwik Trip bathroom in St. Peter after they suspected law enforcement was following them. Kuek was also in possession of 2 MBox 30 pills believed to contain fentanyl. *Id.* Spence told MRVDTF Agents that there was an ounce of fentanyl powder in Brandt's hotel room. *Id.*

Based on the totality of circumstances, Agent Nelson believed Brandt was actively selling controlled substances out of his hotel room in Shakopee. *Id. at Bates 76-77.* Based on his training and experience, Agent Nelson is aware that people engaged in criminal activity, including but not limited to drug trafficking, often utilize hotels as temporary residences as they can move around often and evade detection from law enforcement. *Id.*

Officers executed the search warrant on the AmericInn in Shakopee, room #202. *See Exhibit 3 Discovery: Bates 10-12.* In total, agents recovered 50.1 grams of suspected fentanyl powder which field tested presumptively positive for the presence of fentanyl, 90.1 grams of methamphetamine which field tested presumptively positive for the presence of methamphetamine, 16 fluid ounces of Promethazine Hydrochloride 6.25 mg/5 mL, 87.5 dosage units of alprazolam, 1076 grams or 2.3 pounds of suspected marijuana, and 4 grams of an unknown powder. *Id.* The suspects also had a variety of controlled substances which appeal to various customers. They possessed a digital scale which is commonly used to weigh out smaller amounts of controlled substances to be prepared for street level sales. *Id.* There were also controlled substances pre-packaged into street level sale quantities. The quantity of controlled substances far exceeds a user amount and would be more consistent with a trafficking/sales amounts. *Id.*

Additionally, Officers searched the room and found: Two baggies recovered from the roof, which field tested positive for fentanyl, a Schedule I Controlled Substance. *Id.* Also from the roof was a bag with several pills. *Id.* Next to the bed was a digital scale with white residue. A black duffel bag that contained a large amount of marijuana, prepackaged into one-ounce bags, without any labeling was also recovered. *Id.* Inside the bag were documents with the name of Boone and Brandt. The bag also contained a 16 fluid ounce bottle of Promethazine Hydrochloride 6.25 mg/5 mL which appeared to be full and unopened. Next to the duffel bag was a wallet with Brandt's driver's license. *Id.*

In the hotel room when the search warrant was executed was Defendant, Brandt and Walterman. All were taken into custody. *Id.* Defendant was discovered possessing four pills of Alprazolam without a valid prescription. *Id.*

Subsequent interviews with Brandt and Walterman were conducted which revealed significant information. *See Exhibit 3.* Brandt and Walterman both stated that Walterman and Defendant were there to buy, and they were there to pick up fentanyl *Id.* Brandt also said he and Walterman "would help each other out sometimes." *Id. at Bates 50.* This seemed to imply he would help him in the sale of drugs. Brandt also stated Bock knew where to meet him as he was messaging her. *Id.* Walterman stated he drove to the hotel to purchase drugs. *Id. at Bates 56-57.* They were at the hotel for 1 hour and went towards the door when police arrived. *Id.* He stated Defendant was communicating with Boone before their arrival. *Id.*

Legal Analysis

1. Search warrant was valid and supported by probable cause.

Here, there was sufficient information for the issuance of a search warrant supported by probable cause. The United States and Minnesota Constitutions guarantee “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause.” U.S. Const. amend. IV; Minn. Const. art. 1, § 10. Simply, a search warrant may only be obtained upon a finding of probable cause. *Id.*; Minn. Stat. § 626.08.

Minnesota Statute Section 626.11 governs the issuance of search warrants. It provides, “If the judge is satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, the judge must issue a signed search warrant, naming the judge’s judicial office, to a peace officer inside or outside the officer’s jurisdiction.” Section 626.11(a) (2017).

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the “veracity” and “basis of knowledge” of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. *State v. Wiley*, 366 N.W.2d 265, 268 (Minn.1985) (quoting *Illinois v. Gates*, 462 U.S. 213, 238, 103 S.Ct. 2317, 2332, 76 L.Ed.2d 527 (1983)). In reviewing the sufficiency of the search warrant affidavit under the totality-of-the-circumstances test, “courts must be careful not to review each component of the affidavit in isolation.” *Id.* “[A] collection of pieces of

information that would not be substantial alone can combine to create sufficient probable cause *State v. Jones*, 678 N.W.2d 1, 11 (Minn.2004). Furthermore, “the resolution of doubtful or marginal cases should be largely determined by the preference to be accorded warrants.” *Wiley*, 366 N.W.2d at 268 (quotation omitted). The law of probable cause prevents the issuance of a search warrant on the basis of vague and uncertain information.

Probable cause has been defined by the United States Supreme Court as facts and circumstances sufficient to warrant that a prudent man would believe that the suspect has committed an offense. *Gerstein v. Pugh*, 420 U.S. 103, 111, 95 S. Ct. 854, 862, 43 L.Ed.2d 54 (1975). Minnesota courts, in expressing the standard, have stated that “the objective facts are such that under the circumstances a person of ordinary care and prudence would entertain an honest and strong suspicion that a crime has been committed.” *State v. Johnson*, 314 N.W.2d 229, 230 (Minn. 1982) (citing *State v. Carlson*, 267 N.W.2d 170, 173 (Minn. 1978)). Probable cause is to be determined by the totality of the circumstances. *State v. Perkins*, 582 N.W.2d 876 (Minn. 1998).

Law enforcement’s detailed and thorough investigation leads to a strong suspicion that a crime has been committed and evidence of such a crime would be found at the AmericInn. Law enforcement learned of Brandt’s involvement in the possession and sale of fentanyl. Brandt was connected to other accomplices, including Burnham and Boone, and to drug sales occurring at the AmericInn. Law enforcement was aware that Brandt would travel to the Twin Cities to both obtain and sell drugs. Such information led law enforcement to Shakopee, Scott County and the AmericInn. Therefore, Defendant’s

motion to suppress and dismiss for lack of probable cause regarding the issuance of the search warrant is denied. The search warrant was valid.

2. The State lacks probable cause to support Counts 1-7 under the 'aiding and abetting theory' which requires dismissal of Counts 1-7. Probable cause exists for the amended Count 8.

Probable cause has been defined by the United States Supreme Court as facts and circumstances sufficient to warrant that a prudent person would believe that the suspect has committed an offense. *Gerstein v. Pugh*, 420 U.S. 103, 111, 95 S. Ct. 854, 862, 43 L.Ed.2d 54 (1975). Minnesota courts, in expressing the standard, have stated that "the objective facts are such that under the circumstances a person of ordinary care and prudence would entertain an honest and strong suspicion that a crime has been committed." *State v. Johnson*, 314 N.W.2d 229, 230 (Minn. 1982) (citing *State v. Carlson*, 267 N.W.2d 170, 173 (Minn. 1978)).

In determining probable cause, the court must decide whether, given the facts disclosed by the record, it is fair and reasonable to require the defendant to stand trial. *State v. Florence*, 306 Minn. 442, 457, 239 N.W.2d 892, 902 (Minn. 1976). Probable cause is to be determined by the totality of the circumstances. *State v. Perkins*, 582 N.W.2d 876 (Minn. 1998). The Court may consider the complaint or the entire record, including reliable hearsay. Minn. R. Crim. P. 11.04, subd. 1(c). When determining probable cause, the evidence is viewed in the light most favorable to the State. *See State v. Simion*, 745 N.W.2d 830, 841 (Minn. 2008). Probable cause is determined by the evidence as a whole and requires only a preponderance of the evidence. *State v. Clark*, 270 Minn. 538, 558, 134 N.W.2d 857, 870-71

(Minn. 1965).

A fact may be proven by either direct or circumstantial evidence, or by both. In criminal cases, circumstantial evidence must form a complete chain that, as a whole leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt. *State v. Al-Naseer*, 788 N.W.2d 469, 473-74 (Minn. 2010). However, in deciding probable cause, the court should not “invade the province of the jury.” *State v. Trei*, 624 N.W.2d 595, 597 (Minn. Ct. App. 2001).

Mere presence at a crime scene does not automatically constitute aiding and abetting. *State v. Bahtouh*, 840 N.W.2d 804 (2013); *State v. Hollins*, 765 N.W.2d 125 (2009); *State v. Taylor*, 869 N.W.2d 1 (2015); *State v. Mahkuk*, 736 N.W.2d 675 (2007). To establish criminal liability for aiding and abetting, the State must demonstrate more than just the defendant’s presence at the scene. *Mahkuk* at 683. Specifically, the State needs to prove that the defendant played a knowing role in the commission of the crime and did not take steps to thwart its completion. *Id.* Courts have consistently held that mere presence, inaction, knowledge, or passive acquiescence does not rise to the level of criminal culpability necessary for aiding and abetting. *See State v. Ostem*, 535 N.W.2d 918 (1995).

Importantly, the state must show that defendant’s presence was intentional, and she actually aided or encouraged the commission of the crime. *Hollins* at 129. The intentionality and the actual effect on the commission of the crime are critical components in determining liability for aiding and abetting. *Mahkuk* at 682.

Here, there is no evidence that Defendant actually possessed or actually sold any of the contraband in Counts 1-7. Even considering the State’s aiding and abetting designation

for sale and possession (constructive), the State fails to show probable cause to support the charges. As the State admits, the investigation was detailed, thorough, and located a large quantity of dangerous narcotics. Throughout this investigation, Defendant Raven Bock, was not a known party. The evidence indicates that others possessed and sold the narcotics. Room #202 was booked in Brandt's name. CD 1 informed Agent Nelson that Brandt supplied large volumes of fentanyl to Mankato. CD 1 informed law enforcement that Brandt at times sources fentanyl from Burnham. Brandt allegedly made the trip to Minneapolis to allegedly pick up large amounts of drugs for sale. Agent Nelson's belief that Brandt was actively selling drugs from the AmericInn placed law enforcement there at the date and time in question.

Law enforcement's statement that Defendant was likely smoking fentanyl in the car before entering the hotel room is credible. There is no indication that Defendant was transporting drugs to the hotel room. The facts presented lead to the determination that Defendant was never the subject of an investigation, is not linked to possessing (let alone selling) any of the contraband in Counts 1-7. The facts presented show that Waltermann is alleged to sometimes help Brandt sell drugs. Importantly, the State lacks evidence to prove the intent element of the aiding and abetting crime.

The evidence presented, when viewed in the light most beneficial to the State, show that Defendant arrived at the AmericInn. She then consumed narcotics before going into the hotel room without any contraband, or possessing the limited drugs later found on her person. She was never the subject of the prolonged investigation. The facts presented do not make clear exactly what Defendant was doing for an hour in the room. However, to speculate that Defendant was aiding and abetting the possession and sale of large quantities

of narcotics is conjecture and does not rise to probable cause.

Importantly, Defendant was located possessing 4 (four) pills of a substance alleged to contain Alprazolam, a Schedule IV controlled substance. Defendant did not have a valid prescription for Alprazolam. When viewing the evidence in the light most favorable to the State, Defendant knew the substance was Alprazolam. Defendant was located in Shakopee, Scott County, Minnesota possessing the substance. Because the search warrant was valid, even though Defendant was not the subject of the warrant, she was lawfully located with the illegal drugs. Probable cause exists for Defendant to stand trial on the amended Count 8.

Conclusion

There is probable cause to require Defendant to stand trial on the added Count 8. While the search warrant was issued based on probable cause and a thorough and fruitful investigation, the State can not show probable cause to continue the prosecution on amended Counts 1-7. Counts 1-7 are dismissed.

EJB