NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued March 4, 2025
Decided March 26, 2025

Before

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-1969

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

PAYNE T. RANDLE,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Indiana, Fort Wayne Division.

No. 1:21-CR-32-HAB

Holly A. Brady,
Chief Judge.

O R D E R

Police officers in Fort Wayne, Indiana, executed a search warrant at Payne Randle's house and found drugs and guns. Randle soon faced federal charges for attempting to possess methamphetamine with intent to distribute, 21 U.S.C. § 846, possessing methamphetamine with intent to distribute, *id.* § 841(a)(1), possessing a gun in furtherance of a drug-trafficking crime, 18 U.S.C. § 924(c), and possessing a gun as a felon, *id.* § 922(g)(1). Randle moved to suppress the evidence because, he asserted, the officer who supplied the warrant affidavit had lied about smelling raw marijuana outdoors from 25 to 30 feet away. The district court held a hearing under *Franks v.*

Delaware, 438 U.S. 154 (1978), and five other officers testified and corroborated the affiant's statements about the odor. The district court denied Randle's motion to suppress because he had not proved by a preponderance of the evidence that the affidavit included false statements. A jury convicted Payne, and the district court sentenced Payne to 240 months' imprisonment. He appeals, seizing on some improvident phrasing in the district court's opinion to argue that the judge clearly erred and misapplied the rules for assessing evidence at a *Franks* hearing. We affirm.

In February 2021, a FedEx worker told Detective Daniel Radecki about a suspicious package addressed to a Fort Wayne home. Radecki suspected it contained narcotics because it was heavily taped, shipped from a drop box, and addressed to recipients not tied to the home (with invalid phone numbers listed). A drug-detecting dog sniffed the package and alerted to it.

Radecki and other officers went to the address to investigate. Radecki described this visit in a search-warrant affidavit. He stated that he parked 25 to 30 feet from the house and immediately noticed an "overwhelming odor of raw/green marijuana" that grew stronger as he approached the front of the house. Other officers smelled "a very strong odor" at the rear of the house. Radecki knocked on the door, but no one answered.

A few hours later, Radecki obtained a warrant to open the package and found 500 grams of marijuana and 391 grams of methamphetamine. He then sought a warrant to search the house based on both the contents of the package and the purported smell of raw marijuana nearby.

While Radecki awaited that warrant, another officer saw a car back into the driveway and watched Randle come outside and place two buckets and a gym bag in the trunk. Officers stopped the car. After a drug-detecting canine alerted to it, officers searched it, finding 100 grams of methamphetamine, 280 grams of marijuana, some other drugs, a handgun, ammunition, and scales. After the warrant for the house arrived, a SWAT team executed it and found guns, methamphetamine, 3.5 grams of marijuana, and drug paraphernalia.

Randle faced a variety of federal charges. He moved to suppress the evidence from his house, arguing that Radecki had lied in the warrant affidavit about smelling raw marijuana. (Although Randle also challenged the search of the car, he does not raise that issue on appeal.) The district court granted Randle a hearing under *Franks*, voicing

"incredul[ity]" and "suspicions" about Detective Radecki's ability to smell an overwhelming odor of raw marijuana so far from the house.

At the *Franks* hearing, Randle needed to show by a preponderance of the evidence that the warrant affidavit contained deliberately or recklessly false statements whose correction would defeat probable cause. *See United States v. Hueston*, 90 F.4th 897, 902 (7th Cir. 2024). This was a tall order, because several officers testified consistent with Randle's representations about the smell, and no expert evidence reinforced the district court's initial concern about its plausibility. Detective Radecki testified first. He explained that he had conducted "several thousand" investigations involving marijuana and was trained to identify its smell. He also testified that the day of the search was cold and that all windows and doors at the home were closed. Another witness testified that the house was 100 years old and that windows on older houses tend to deteriorate over time, letting odors through. Five other officers took the stand to reinforce Radecki's testimony about the strong smell of raw marijuana that day, which they said intensified as they neared the house.

The district court denied Randle's motion to suppress. On one hand, the court was "deeply skeptical" of the witnesses' story and asserted that it "conflict[ed] with the physical characteristics" of the situation. The court even said the story "doesn't make sense." Yet on the other hand, the court was not prepared to "conclude that all six [officers] committed perjury" when they testified "consistently and credibly." It specifically found that "all six testified consistently and credibly." Their narrative, the court continued, was not "so untethered from reality to hold that the stories themselves are evidence of perjury." Lacking precise grounds to "call those law enforcement officers liars"—aside from the court's "own misgivings"—it was "bound" to credit them and had "little choice" but to accept the testimony "as true." In the end, Randle had not "shown by a preponderance of the evidence that Radecki lied."

On appeal, Randle argues that the district court clearly erred by crediting an otherwise-implausible story based solely on the number of witnesses and their status as law-enforcement officers. We review a district court's factual findings on a motion to suppress for clear error, *see United States v. Hansmeier*, 867 F.3d 807, 813 (7th Cir. 2017), although we review related questions of law de novo. *See United States v. Spears*, 673 F.3d 598, 604 (7th Cir. 2012). This court must determine "whether, based on the totality of the circumstances, it was reasonable for the [district] court to conclude that law enforcement did not doubt the truth of the affidavit." *See United States v. Edwards*, 34 F.4th 570, 580 (7th Cir. 2022) (citation omitted).

Randle first argues that the district court placed undue weight on the number of testifying officers and their status as police officers. We disagree. A trial court may consider the mutually corroborating effect of officers' testimony (not to mention the number of officers providing corroboration), *see United States v. Contreras*, 820 F.3d 255, 267 (7th Cir. 2016), and evaluate the officers' training and experience. *See United States v. Sweeney*, 688 F.2d 1131, 1137–38 (7th Cir. 1982). That is precisely what happened here. And Randle did not present any evidence to contradict the officers' testimony. The district court knew that police officers, like other witnesses, are capable of lying under oath. At the same time, nothing required the district court to infer that these particular officers were lying. The court was free to conclude that on balance, it was more likely that these officers acted conscientiously and believed their own testimony.

Even so, Randle argues that the officers' claim to have smelled raw marijuana was too implausible on its face for any judge to credit. Again, we disagree. Our review of a district court's credibility determination is highly deferential, and we will not reverse unless we are sure it was "physically impossible for the witness to have observed that which he claims occurred, or impossible under the laws of nature for the occurrence to have taken place at all." *Contreras*, 820 F.3d at 264 (citation omitted). Here, based on the full context of the *Franks* hearing, we are unable to say it was physically impossible for the officers to have smelled the odor of raw marijuana from 25 to 30 feet away. There was no expert testimony to rule it out. Further, when Radecki and the other officers smelled the raw marijuana, Randle had yet to move a large quantity of it from his house to the car. None of the cases or scientific studies cited in Randle's appellate briefs render these officers' testimony incredible as a matter of law.

And Randle did not otherwise impeach the officers' testimony, or identify contradictions or omissions of the sort we discussed in *United States v. Whitley*, 249 F.3d 614, 621 (7th Cir. 2001). We will not disturb a district court's credibility determination where the "trial judge's finding is based on [her] decision to credit the testimony of one or two or more witnesses, each of whom has told a coherent and facially plausible story that is not contradicted by extrinsic evidence." *Contreras*, 820 F.3d at 264.

Still, we owe a word about some imprecise language in the district court's opinion. To be sure, we are confident that the court ultimately recognized both its duty to make an independent credibility determination and its authority to reject police testimony if the court disbelieved it by a preponderance of the evidence. The heart of the district court's ruling is that the officers testified "consistently and credibly," and

Randle did not show otherwise "by a preponderance of the evidence." But some turns of phrase—the court's statements that it was "bound" to credit the officers and had "little choice" in the matter—needlessly obscured that bottom line. So did the court's express reluctance to "call" police "liars," which in isolation could be mistaken for a thumb on the scale in favor of police testimony over that of other witnesses. *Cf. United States v. Alexander*, 741 F.3d 866, 870 (7th Cir. 2014) (holding it improper for prosecutor to imply to jurors that police officers' professional oath and duties will prevent lying). Yet despite some inapt word choices here, we are confident, based on the full context of the *Franks* hearing and ruling, that the district court did not clearly err in crediting the officers' testimony.

AFFIRMED