

**NONPRECEDENTIAL DISPOSITION**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**

Submitted March 22, 2024

Decided April 2, 2024

**Before**

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-1700

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

KEVIN C. BEASLEY,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Central District of Illinois.

No. 22-20011-001

Colin S. Bruce,  
*Judge.*

**ORDER**

Kevin Beasley pleaded guilty to possessing a firearm as a felon, 18 U.S.C. § 922(g)(1), but he preserved the right to challenge the denial of his motion to suppress evidence. FED. R. CRIM. P. 11(a)(2). The district court sentenced him to 36 months' imprisonment and 2 years' supervised release. Beasley appeals, but his appointed lawyer asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). We notified Beasley of counsel's motion, and he did not respond to it. *See* CIR. R. 51(b). Counsel's brief explains the nature of the case and addresses potential issues that an appeal of this kind would typically involve. Because

counsel's analysis appears thorough, we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

In December 2021, Beasley gave cash to Ahzhnae Vassar to purchase a Glock semiautomatic pistol for him. A week later, Vassar contacted the Champaign, Illinois Police Department to report that her gun had been stolen from her vehicle. Detective Cully Schweska of the Champaign Police Department interviewed Vassar and suspected her of lying. She then stated that she had purchased it for someone named "Brandon Smith." She later admitted to police detectives that she had bought the gun for "Kevin," who used the Facebook profile "Kevo Stackitup." She explained that Kevo had driven her to a gun shop in a dark-colored Jeep, once to select the gun and again to pick it up. She also showed Detective Schweska the messages arranging the transaction.

Detectives obtained video surveillance footage from the gun shop, which showed the Jeep (but not the driver's face). They confirmed that the Jeep was registered to Beasley's girlfriend and that Beasley resided with her in an apartment in Urbana. Detective Schweska then located in a police database an individual named "Kevin Beasley" whose photo appeared to be the same person as "Kevo Stackitup." Vassar confirmed that Beasley was "Kevo Stackitup," the person who engaged in the firearm transaction.

Based on this information, Detective Schweska sought a warrant to search Beasley's home. In the affidavit, Detective Schweska described the investigation and the steps he took to identify Beasley as the person who purchased the Glock through Vassar. Detective Schweska appeared personally before a state judge to attest to the truthfulness of the information included in the affidavit, and the judge issued the search warrant. When law enforcement officers arrived at the apartment in Urbana, Beasley admitted that he lived there and that he, and no one else, used the "Kevo Stackitup" profile on Facebook. He also admitted to buying the gun from Vassar but said that he had sold it because he was not permitted to possess firearms. After searching the home, officers found the firearm that Vassar had purchased.

A grand jury later indicted Beasley, who had a previous conviction for aggravated robbery, with one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).

Beasley moved to suppress the evidence obtained during the search, arguing that the officers lacked probable cause to search the apartment because it was his girlfriend's

home, there was no reason to believe that a firearm would be located there, and the informant (Vassar) was unreliable. He also argued that the good faith exception should not apply. The district court denied Beasley's motion, concluding that the officers had probable cause to search Beasley's residence. The court explained that although Vassar was untruthful during her first encounter with Detective Schweska, the detective corroborated the relevant information independently. In addition, the court noted that the affidavit outlined Vassar's prior inconsistencies so that the issuing judge could consider her reliability. The court also ruled, alternatively, that the good faith exception applied.

Beasley then conditionally pleaded guilty pursuant to a written plea agreement under Rule 11(a)(2), preserving his right to appellate review of the denial of his suppression motion. In exchange for Beasley pleading guilty to the firearm-possession charge, the government agreed to forgo additional charges relating to the firearm transaction. Under the plea agreement, Beasley also waived "all rights" to appeal or collaterally attack his conviction and sentence, except that he could raise a claim that he received ineffective assistance of counsel and challenge the denial of his motion to suppress. At the change-of-plea hearing, the district court placed Beasley under oath, conducted a Rule 11 colloquy, determined that there was an adequate factual basis, and accepted Beasley's plea.

Before sentencing, the probation office prepared a presentence investigation report (PSR). Based on a total offense level of 23 and a criminal history category of III, the PSR set the applicable ranges under the Sentencing Guidelines at 57 to 71 months' imprisonment and 1 to 3 years of supervised release. Neither side objected to these calculations. In his sentencing memorandum, Beasley requested a sentence of 36 months, while the government requested 57 months.

At the sentencing hearing, the district court confirmed that there were no objections to the PSR and adopted it in full. The court then heard the parties' arguments and weighed the sentencing factors under 18 U.S.C. § 3553(a). It explained that Beasley's relative youth (age 22 at the time of sentencing), his age when he committed his prior offenses, along with the potential for his rehabilitation, weighed in favor of a below-guidelines prison sentence of 36 months, and 2 years of supervised release.

In reviewing potential issues for appeal, counsel informs us that Beasley does not wish to challenge his conviction. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012). As for any potential challenges to Beasley's sentence, counsel discusses the

validity of the plea agreement because, if it is valid, the appeal waiver in the agreement would preclude them. *See United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020). As counsel correctly concludes, it would be frivolous to argue on appeal that the guilty plea was not knowing and voluntary. The district court fully complied with Rule 11 in taking the plea, and Beasley acknowledged in the written agreement, and at the hearing where he was under oath, that he was voluntarily pleading guilty and that he understood the charge and potential penalties and the rights he was giving up, including the right to appeal. Further, no exception to the appeal waiver would apply because his sentence does not exceed the statutory maximum, *see* 18 U.S.C. § 924(a)(2), and the district court did not base the sentence on any constitutionally impermissible factors, *see United States v. Campbell*, 813 F.3d 1016, 1018 (7th Cir. 2016). Therefore, the only issues that Beasley could raise on appeal are those specifically excluded from the appeal waiver.

Accordingly, counsel contemplates challenging the denial of Beasley's motion to suppress. When reviewing the denial of a motion to suppress, we consider the legal conclusions de novo and review factual findings for clear error. *United States v. Edgeworth*, 889 F.3d 350, 353 (7th Cir. 2018).

Counsel first discusses potential challenges to the state judge's finding of probable cause to support the search warrant. On this issue, we would afford "great deference" to the judge who issued the warrant. *United States v. Zamudio*, 909 F.3d 172, 175 (7th Cir. 2018). Probable cause exists when the "supporting affidavit presents a total set of circumstances creating a 'fair probability' that evidence of a crime will be found." *Id.* Where, as here, the affidavit relies on information provided by an informant, we consider various factors relevant to the informant's reliability, including the detail and specificity of the information, whether it was acquired through firsthand observation, and the extent to which law enforcement corroborated it independently. *United States v. Adams*, 934 F.3d 720, 725 (7th Cir. 2019). Based on these factors, the district court rightly determined that the use of information provided by Vassar did not invalidate the warrant. Detective Schweska's affidavit explained that although Vassar lied during her first encounter with him, she later gave highly detailed information which Detective Schweska corroborated through further investigation. For example, he viewed the gun shop's surveillance footage, connected the Jeep to Beasley, reviewed Vassar's messages negotiating the firearm transaction with "Kevo Stackitup," and confirmed that "Kevo Stackitup" was Beasley.

Counsel further concludes, and we agree, that Beasley has no plausible argument that the search-warrant affidavit failed to link the potential evidence to the apartment. On this issue, an affidavit must only establish a “fair probability” that evidence of criminal conduct will be found at a particular place. *United States v. Aljabari*, 626 F.3d 940, 944 (7th Cir. 2010). Detective Schweska confirmed Beasley’s residence through reviewing information that Beasley himself had provided to law enforcement on a previous occasion. This information, which Detective Schweska included in his affidavit, demonstrates a fair probability that a firearm would be found at Beasley’s residence, so it would be pointless to challenge the judge’s probable cause determination. *See id.* at 945. Finally, because we would conclude that there was probable cause to support the search warrant, we would not need to address the district court’s alternate conclusion that the good-faith exception applied. *See Zamudio*, 909 F.3d at 177.

Therefore, we GRANT counsel’s motion to withdraw and DISMISS the appeal.