NOTICE
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2026 IL App (5th) 250037-U

NO. 5-25-0037

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 21-CF-1535
	)	
GEORGE C. EDWARDS,	)	Honorable
	)	Roger B. Webber,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE McHANEY delivered the judgment of the court.
Justice Sholar concurred in the judgment.
Justice Bollinger dissented in the judgment.

ORDER

¶ 1 *Held*: The trial court erred in denying the defendant's third motion to suppress. After information derived from the unlawful vehicle search was excised from the search warrant complaint, the remaining allegations failed to establish a sufficient nexus between the defendant's suspected narcotics trafficking and the Windsor Road residence. The good-faith exception did not apply, and because suppression eliminated the evidence necessary to convict, the defendant's convictions were reversed outright.

¶ 2 Following a bench trial, the defendant, George C. Edwards, was convicted of possession with intent to deliver a controlled substance (720 ILCS 570/401(a)(2)(B) (West 2020)) and two counts of unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2020)). The trial court sentenced the defendant to 12 years and 6 months' imprisonment for possession with intent to deliver and concurrent terms of 6 years' imprisonment for each unlawful possession of a weapon conviction, followed by 18 months of mandatory supervised release. On appeal, the

defendant contends that the trial court erred in denying his third motion to suppress the evidence recovered from the Windsor Road residence (Windsor Road). Specifically, the defendant argues that, after excluding the evidence obtained from the warrantless search of his vehicle, the remaining allegations in the complaint failed to establish probable cause to search Windsor Road. The defendant further argues that the good-faith exception does not provide an alternative basis for admitting the evidence recovered from that residence. We agree and, for the reasons that follow, reverse.

¶ 3 I. BACKGROUND

¶ 4 In early December 2021 Champaign police detective Lance Carpenter received information from a new confidential source that the defendant was selling ecstasy from his residence at 1415 Holly Hill Drive (Holly Hill). The confidential source reported purchasing ecstasy from the defendant on at least 20 occasions during the preceding year, most of which occurred at or near Holly Hill. The source also reported recently observing the defendant possess between 300 and 500 ecstasy pills inside Holly Hill. The source provided identifying information concerning the defendant that Detective Carpenter corroborated during his investigation.

¶ 5 On December 14, 2021, Detective Carpenter and the confidential source, acting as co-affiants, applied for and obtained a search warrant for Holly Hill. After obtaining the warrant, Detective Carpenter conducted surveillance of Holly Hill but did not observe the defendant or his vehicle. Detective Carpenter then reviewed a police report documenting an aggravated domestic battery allegedly committed by the defendant against R.C. at Holly Hill on December 12, 2021. Officers had unsuccessfully attempted to locate the defendant following that incident. After reviewing the report, Detective Carpenter concluded there was probable cause to arrest the defendant for aggravated domestic battery. The report also indicated that the defendant "presently utilize[d]" another address located at 4809 West Windsor Road.

¶ 6 The following morning, Detective Carpenter met with other members of the Street Crimes Task Force and advised them that officers would attempt to locate and arrest the defendant before executing the Holly Hill search warrant. Officers established surveillance at both Holly Hill and Windsor Road. The defendant's vehicle was not initially present at Windsor Road, but officers later observed it parked in the driveway. Approximately one hour later, the defendant exited the residence and entered his vehicle. Officers arrested the defendant for aggravated domestic battery in the driveway. The defendant possessed keys to both the vehicle and Windsor Road at the time of his arrest.

¶ 7 Detective Carpenter later testified that, after the defendant had exited his vehicle and was being detained, he detected the odor of fresh cannabis while standing outside the vehicle. The defendant's vehicle remained parked in the Windsor Road driveway with its doors closed and windows up. Sergeant John Lieb separately reported detecting what he believed was the odor of burnt cannabis on the driver's side of the vehicle. Officers searched the defendant's vehicle and recovered suspected ecstasy pills and suspected cocaine.

¶ 8 Detective Carpenter then prepared a complaint and affidavit seeking a search warrant for Windsor Road. The complaint explained that a judge had authorized the Holly Hill search warrant the previous day. Paragraphs two through ten incorporated the allegations contained in the Holly Hill complaint and affidavit, including the confidential source's reports concerning the defendant's narcotics trafficking. Paragraphs eleven through thirteen added information concerning Detective Carpenter's surveillance of Holly Hill, the defendant's arrest at Windsor Road, and the narcotics recovered from the defendant's vehicle. Detective Carpenter averred that he had served as a Champaign police officer since 2016 and had been assigned to the Street Crimes Task Force since October 2018 apart from approximately seven months as a general-crimes detective. He explained that the task force primarily investigated narcotics and firearms offenses and that he had

participated in numerous investigations involving the unlawful sale of controlled substances. Based upon that training and experience, Detective Carpenter averred that narcotics traffickers often utilize multiple residences to store controlled substances and that additional narcotics likely would be found inside Windsor Road.

¶ 9 At 1:32 p.m. on December 15, 2021, a different circuit judge authorized the search warrant for Windsor Road. Officers executed the warrant and recovered firearms and suspected controlled substances that formed the basis of the charges against the defendant. During the search, officers also recovered from a kitchen drawer a piece of mail addressed to the defendant at Windsor Road. Officers thereafter executed the Holly Hill search warrant but recovered nothing of evidentiary value. The State subsequently charged the defendant with multiple felony offenses arising from the evidence recovered during the search of Windsor Road.

¶ 10 A. Suppression Proceedings

¶ 11 Prior to the bench trial, the defendant extensively litigated the legality of the Windsor Road search warrant. Through two different attorneys, the defendant filed three motions to suppress and a motion to reconsider. The trial court conducted two evidentiary hearings addressing the various suppression issues raised throughout the proceedings. The defendant filed his first motion to suppress on March 3, 2022.

¶ 12 The defendant's first motion challenged the warrantless search of his vehicle and sought suppression of both the narcotics recovered from the vehicle and the evidence subsequently seized from Windsor Road. The defendant maintained that the vehicle search violated the fourth amendment and that, because Detective Carpenter relied upon the narcotics recovered from the vehicle in obtaining the Windsor Road search warrant, the evidence recovered from that residence constituted fruit of the poisonous tree.

¶ 13 At the evidentiary hearing, Detective Carpenter testified extensively regarding his training and experience identifying cannabis. He explained that his police training included exposure to both fresh and burnt cannabis and that he had encountered those odors hundreds of times while working in patrol. As a member of the Street Crimes Task Force, Detective Carpenter had participated in at least 100 seizures or controlled purchases of cannabis and had personally arranged for suspected cannabis to be submitted to the crime laboratory for confirmation on approximately 50 occasions. In contrast, although Sergeant Lieb testified that he detected what he believed was burnt cannabis near the defendant's vehicle, no testimony was elicited concerning his training or experience in identifying cannabis odors.

¶ 14 Detective Carpenter testified that after the defendant had been arrested and removed from the immediate area, he approached the defendant's vehicle. The vehicle's doors were closed, and its windows were raised and tinted to the extent that Detective Carpenter could not see inside. From outside the vehicle, Detective Carpenter detected what he identified as the odor of fresh cannabis. Sergeant Lieb testified that he "thought" or "believed" he smelled burnt cannabis on the driver's side of the vehicle. Sergeant Lieb then opened the driver's door and observed what appeared to be loose cannabis "shake" on the center console. Officers thereafter searched the defendant's vehicle and recovered the suspected narcotics.

¶ 15 At the conclusion of the hearing, the trial court denied the defendant's first motion to suppress in a written order entered May 6, 2022. Although the court found both Detective Carpenter and Sergeant Lieb credible concerning their detection of cannabis odor, it did not rely upon the odor alone. Rather, considering the totality of the circumstances known to Detective Carpenter, including the confidential source's information concerning the defendant's ongoing narcotics trafficking, the defendant's association with Windsor Road, Detective Carpenter's training and experience concerning narcotics investigations, and his detection of cannabis odor,

the trial court concluded that probable cause existed to search the defendant's vehicle under the automobile exception. Accordingly, the trial court declined to suppress either the narcotics recovered from the vehicle or the evidence subsequently recovered from Windsor Road.

¶ 16 Through newly appointed counsel, the defendant filed a second motion to suppress on October 4, 2023, followed by an addendum on December 18, 2023. The defendant challenged the legality of his warrantless arrest for aggravated domestic battery and again sought suppression of the narcotics recovered from the defendant's vehicle and the evidence subsequently recovered from Windsor Road. The defendant also renewed his challenge to the vehicle search, relying upon intervening Illinois authority concerning the significance of cannabis odor following legalization[1] and arguing that officers lacked probable cause to search the defendant's vehicle. The defendant maintained that the evidence recovered from Windsor Road should be suppressed as fruit of the allegedly unlawful arrest and vehicle search.

¶ 17 The trial court conducted a second evidentiary hearing on the defendant's renewed motion to suppress. The trial court concluded that Detective Carpenter possessed probable cause to arrest the defendant for aggravated domestic battery. During the hearing, however, the State conceded that, under intervening Illinois authority, the odor of cannabis no longer supplied probable cause to search the defendant's vehicle. The trial court accepted the State's concession and suppressed the narcotics recovered from the vehicle. However, the trial court declined to suppress the evidence recovered from Windsor Road because the defendant had not yet challenged whether the search warrant remained supported by probable cause after the suppressed vehicle evidence was removed from consideration.

[1]410 ILCS 705/10-35(a)(2)(D) (West 2020); 625 ILCS 5/11-502.15 (West 2020).

¶ 18 Following suppression of the evidence recovered from the defendant's vehicle, the focus of the litigation shifted from the legality of the vehicle search to whether the remaining allegations contained in Detective Carpenter's complaint and affidavit independently established probable cause to search Windsor Road. Through newly appointed counsel, the defendant filed a third motion to suppress on March 8, 2024. Unlike the first two motions, the third motion no longer challenged the legality of the defendant's arrest or the warrantless search of his vehicle. Instead, the defendant argued that, once the suppressed vehicle evidence was removed from consideration, the remaining allegations failed to establish probable cause to search Windsor Road.

¶ 19 The defendant maintained that the allegations incorporated from the Holly Hill warrant established, at most, probable cause to search that residence and did not establish a sufficient nexus between narcotics trafficking and Windsor Road. He further argued that Detective Carpenter's opinion that narcotics would be found at Windsor Road amounted to an unsupported conclusion because the remaining affidavit contained no facts demonstrating that controlled substances had been observed at Windsor Road, that narcotics transactions had occurred there, or that law enforcement had otherwise corroborated narcotics activity at that location.

¶ 20 At the hearing on the third motion, Detective Carpenter testified that, after obtaining the Holly Hill search warrant on December 14, 2021, officers conducted surveillance there but did not observe the defendant or his vehicle. Detective Carpenter then reviewed the December 12, 2021, domestic battery report, learned that the defendant "presently utilizes" Windsor Road, and directed officers to conduct surveillance there before executing the Holly Hill warrant. Officers subsequently observed the defendant exit Windsor Road. Detective Carpenter acknowledged that the confidential source had never reported purchasing narcotics at Windsor Road and that law enforcement had not conducted any controlled purchases or surveillance establishing narcotics trafficking at that location before seeking the warrant. Although officers observed the defendant

leave Windsor Road and enter his vehicle, Detective Carpenter further acknowledged that he did not know how long the narcotics subsequently recovered from the vehicle had been inside it. The State nevertheless maintained that the remaining allegations established probable cause based upon the confidential source's information concerning the defendant's ongoing narcotics trafficking, the defendant's connection to Windsor Road, and Detective Carpenter's training and experience that narcotics traffickers frequently utilize multiple residences to store controlled substances. Detective Carpenter further explained that, in his experience investigating illegal activity, persons who fall out with another occupant of a residence generally do not leave their illegal items behind.

¶ 21 The trial court concluded that, after excluding the suppressed vehicle evidence, the remaining allegations independently established probable cause to search Windsor Road. The trial court relied upon the confidential source's information, Detective Carpenter's corroboration of identifying information provided by the source, the defendant's connection to Windsor Road, and Detective Carpenter's training and experience concerning narcotics investigations. Accordingly, the trial court denied the defendant's third motion to suppress. The defendant subsequently filed a motion to reconsider, which the court denied.

¶ 22 B. Bench Trial

¶ 23 Following the denial of the defendant's suppression motions, the matter proceeded to a bench trial. The trial court found the defendant guilty of possession with intent to deliver between 15 and 100 grams of cocaine and two counts of unlawful possession of a weapon by a felon. In announcing its verdicts, the trial court observed that "everything center[ed] around items found in the pink duffle bag" recovered from Windsor Road and whether the defendant possessed those items. The trial court relied upon the defendant's statements in recorded jail calls concerning his bag, mail addressed to him at Windsor Road, and DNA evidence connecting him to three of the four firearms recovered during the search. As to count I, the court found that the 21.2 grams of

cocaine recovered from the bag, together with the scales, cash, other suspected controlled substances, and firearms, established possession with intent to deliver. As to counts VI and VII, the trial court found that the Smith & Wesson .40-caliber handgun and the Rossi .357 Magnum revolver recovered from the bag constituted firearms and that the defendant possessed them despite his prior felony conviction. The trial court sentenced the defendant to an aggregate term of 12 years and 6 months' imprisonment. The defendant filed a timely notice of appeal.

¶ 24 II. ANALYSIS

¶ 25 A. Probable Cause to Search Windsor Road

¶ 26 The defendant contends that the trial court erred in denying his third motion to suppress the evidence recovered from Windsor Road. By the time the trial court considered that motion, the evidence recovered from the defendant's vehicle had already been suppressed, and the third motion no longer challenged the legality of the defendant's arrest or the warrantless vehicle search. Thus, he argues, the issue before the trial court was whether, after excluding the evidence recovered from the defendant's vehicle, the remaining allegations contained in Detective Carpenter's complaint for search warrant independently established probable cause to search Windsor Road. The defendant argues the remaining allegations failed to establish the required nexus between his suspected narcotics trafficking and Windsor Road.

¶ 27 The State responds that, viewed under the totality of the circumstances, the remaining allegations independently established probable cause to search that residence. Accordingly, the dispositive issue before us is whether the allegations properly remaining within the four corners of the complaint provided the issuing judge with a substantial basis for concluding that probable cause existed to search Windsor Road.

¶ 28 A trial court's ruling on a motion to suppress presents mixed questions of law and fact. *People v. Manzo*, 2018 IL 122761, ¶ 25. We afford deference to the trial court's factual findings

and will reverse those findings only if they are against the manifest weight of the evidence. *Id.* We review *de novo*, however, the ultimate question of whether suppression was warranted under those facts. *Id.*

¶ 29 Probable cause to issue a search warrant is determined by a detached judicial officer based upon the information contained in the sworn statements or affidavits presented in support of the warrant. *People v. Caro*, 381 Ill. App. 3d 1056, 1061-62 (2008) (citing *People v. Tisler*, 103 Ill. 2d 226, 236 (1984)). Whether probable cause exists depends upon the totality of the circumstances known to the officers and the issuing judge at the time the warrant is sought. *Id.* at 1062.

¶ 30 The fourth amendment to the United States Constitution and article I, section 6, of the Illinois Constitution require that search warrants issue only upon a showing of probable cause. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Those facts and circumstances must be " 'sufficient to warrant a person of reasonable caution to believe that the law was violated and evidence of it is on the premises to be searched.' " *Manzo*, 2018 IL 122761, ¶ 29 (quoting *People v. Griffin*, 178 Ill. 2d 65, 77 (1997)). Probable cause requires a probability of criminal activity, rather than proof beyond a reasonable doubt. *Id.* Commonsense considerations govern whether the necessary probability exists. *Id.* ¶ 30. In reviewing the issuance of a search warrant, we do not substitute our judgment for that of the issuing judge. *Id.* ¶ 31. Rather, we determine whether the issuing judge had a substantial basis for concluding that probable cause existed. *Id.*

¶ 31 Where a search warrant affidavit contains information that should not have been considered, the inclusion of that information does not automatically invalidate the warrant. *People v. Bielawski*, 255 Ill. App. 3d 635, 642 (1994), overruled on other grounds by *People v. Johnson*, 208 Ill. 2d 118, 138 (2003). Rather, the improperly obtained information is excised, and the court determines whether the remaining information is sufficient to establish probable cause. *Franks v. Delaware*, 438 U.S. 154, 171-72 (1978); *Bielawski*, 255 Ill. App. 3d at 642-43. Where the

remaining information independently establishes probable cause, the warrant is not invalidated by the inclusion of the improperly obtained information. *Id*. at 644.

¶ 32 When the place to be searched is a home, " 'the critical element in a reasonable search is not that the owner of the property is suspected of crime but that there is reasonable cause to believe that the specific "things" to be searched for and seized are located on the property to which entry is sought.' " *Manzo*, 2018 IL 122761, ¶ 35 (quoting *Zurcher v. Stanford Daily*, 436 U.S. 547, 556 (1978)). Thus, there must be a nexus between the place to be searched and the evidence sought. *Id.* A warrant application must give a person of reasonable caution reason to believe that evidence of a crime will be found at the particular place to be searched. *Id.* Although the issuing judge may draw reasonable inferences from the information presented in the warrant application, sufficient information must be presented to permit an independent determination of probable cause rather than a mere ratification of the affiant's conclusions. *Id.* ¶ 36.

¶ 33 A warrant application fails to establish the required nexus where it provides no basis to limit the possible locations where the contraband might be found or to conclude that the place to be searched is more likely than other possible locations to contain the evidence sought. *Id.* ¶ 45. Accordingly, where the information in the warrant application fails to connect the place to be searched to the suspected criminal activity, it does not establish a sufficient nexus between that place and the evidence sought to support a finding of probable cause. *Id.* ¶ 46.

¶ 34 Applying these principles, we consider whether Detective Carpenter's complaint for search warrant established probable cause to search Windsor Road after excising the information obtained from the search of the defendant's vehicle. See *Bielawski*, 255 Ill. App. 3d at 643. We conclude that it did not.

¶ 35 We find *Manzo* instructive. There, the police arranged a controlled purchase of cocaine from Casillas, who was suspected of supplying narcotics to Manzo. *Manzo*, 2018 IL 122761, ¶ 39.

Before the transaction, officers observed Casillas enter Manzo's residence without carrying anything and leave approximately 20 minutes later carrying a white plastic bag. *Id.* Casillas then drove directly to the location of the controlled purchase, where he delivered cocaine to a confidential source. *Id.* Although those circumstances established Casillas's involvement in narcotics trafficking and his connection to Manzo's residence, the supreme court concluded that the warrant application failed to establish probable cause to search the residence. *Id.* ¶ 49.

¶ 36 In reaching that conclusion, the supreme court rejected the inference that, because Casillas left the residence carrying the cocaine he later sold, the cocaine necessarily came from inside the residence. *Id.* ¶ 48. The court explained that absent additional information connecting the residence to the cocaine, it was equally possible that Casillas already possessed the cocaine when he entered the residence. *Id.* The warrant application therefore failed to establish the necessary nexus between the residence and the evidence sought. *Id.* ¶ 49. The same fundamental deficiency is present here.

¶ 37 After the information obtained from the defendant's vehicle is excised, we assume, without deciding, that the confidential source's firsthand information concerning the defendant's narcotics trafficking, together with Detective Carpenter's corroboration of the identifying information provided by the source, was sufficient to establish probable cause to believe that the defendant was engaged in ongoing narcotics trafficking. We likewise assume, without deciding, that the remaining allegations sufficiently established that Windsor Road was a residence utilized by the defendant. Neither assumption, however, resolves the dispositive question—whether the complaint established a fair probability that evidence of the defendant's narcotics trafficking would be found at Windsor Road. The defendant's connection to Windsor Road is one thing; a connection between his narcotics trafficking and Windsor Road is another. Establishing the former does not establish the latter.

¶ 38 The remaining allegations supplied no particularized facts connecting narcotics trafficking to Windsor Road. The confidential source did not report purchasing narcotics from the defendant at Windsor Road, observing narcotics there, or seeing narcotics transported into or out of the residence. The complaint did not allege that anyone had observed narcotics inside Windsor Road or being carried into or out of that residence. Nor did it allege that law enforcement had conducted a controlled purchase at Windsor Road or observed activity there indicative of narcotics trafficking before Detective Carpenter sought the warrant.

¶ 39 The State nevertheless argues that Detective Carpenter's training and experience supplied the necessary nexus. In the complaint, Detective Carpenter averred that, based upon his training and experience, narcotics traffickers frequently utilize multiple residences to store controlled substances. According to the State, Detective Carpenter could reasonably infer from the defendant's ongoing narcotics trafficking and his connection to Windsor Road that additional narcotics would be found inside that residence. We disagree that Detective Carpenter's generalized experience, without particularized facts connecting the defendant's narcotics trafficking to Windsor Road, was sufficient to establish probable cause.

¶ 40 *Manzo* is again instructive. There, the State argued that Casillas's ability to produce drugs shortly after receiving requests for them suggested that he had access to a ready supply of narcotics and that drug dealers sometimes use "stash" houses to store drugs and related items. *Id.* ¶ 50. The supreme court rejected the State's proposed inference because it was not supported by the particular facts contained in the warrant application. *Id.* ¶ 51. Significantly, the *Manzo* court explained that, even assuming Casillas had access to a ready supply of drugs, the complaint nevertheless failed to establish a nexus between the home and that supply. *Id.*

¶ 41 The same reasoning applies here. We do not question Detective Carpenter's experience that narcotics traffickers may utilize multiple residences to store controlled substances. Nor do we

hold that an issuing judge may never consider an officer's training and experience in determining whether probable cause exists. The difficulty is that Detective Carpenter's experience supplied only a generalized proposition about the practices of narcotics traffickers; the complaint still needed particularized facts providing a reasonable basis to infer that the defendant utilized Windsor Road to store narcotics or other evidence of narcotics trafficking. As discussed, after the information obtained from the defendant's vehicle is excised, no such facts remained.

¶ 42 Viewed collectively, the remaining allegations established that the confidential source had purchased ecstasy from the defendant on multiple occasions and recently observed him possess hundreds of ecstasy pills, from which it reasonably could be inferred that the pills were intended for distribution; that Windsor Road was a residence utilized by the defendant; that officers observed him leave that residence and enter his defendant's vehicle; and that, based upon Detective Carpenter's training and experience, narcotics traffickers frequently utilize multiple residences to store controlled substances. These circumstances provided ample reason to suspect that the defendant was engaged in narcotics trafficking and established his association with Windsor Road. What they did not provide was a particularized factual basis to believe that evidence of the defendant's narcotics trafficking would be found inside Windsor Road.

¶ 43 Nor do the remaining circumstances, considered together, supply the missing nexus. Although Detective Carpenter did not observe the defendant or his vehicle during surveillance of Holly Hill, that circumstance provided no factual basis to infer that evidence of the defendant's narcotics trafficking had been transferred from Holly Hill to Windsor Road. Similarly, although officers observed the defendant leave Windsor Road and enter his defendant's vehicle, the complaint provided no information establishing how long the narcotics later recovered from the defendant's vehicle had been inside the vehicle. Thus, the sequence of events provided no factual basis to infer that the narcotics had come from Windsor Road. Finally, Detective Carpenter's

training and experience could inform the reasonable inferences drawn from the facts presented, but it could not supply the particularized facts necessary to connect Windsor Road to the evidence sought.

¶ 44 We therefore conclude that the remaining allegations did not provide the issuing judge with a substantial basis for finding a fair probability that evidence of narcotics trafficking would be found at Windsor Road. At most, the allegations established a possibility that the defendant, who was suspected of narcotics trafficking and utilized Windsor Road, might have stored narcotics or related evidence there. As *Manzo* instructs, however, probable cause requires a factual basis to distinguish the place to be searched from the "otherwise endless possibilities" where the evidence might be located. (Internal quotation marks omitted.) *Id.* ¶ 45. The remaining allegations supplied no such basis here. Accordingly, after the information obtained from the defendant's vehicle is excised, the complaint failed to establish the required nexus between the evidence sought and Windsor Road. *Id.* ¶ 46.

¶ 45 We also recognize that, during the search of Windsor Road, officers recovered a piece of mail addressed to the defendant at that address. Even assuming that evidence established that the defendant resided at Windsor Road, the mail was discovered only after the search warrant had been issued and while officers were executing the warrant. It therefore was not information presented to the issuing judge and cannot supply probable cause that was otherwise lacking when the warrant issued. Moreover, even if the mail had been known to the issuing judge, it would have strengthened the defendant's connection to Windsor Road but would not have supplied the missing nexus between that residence and evidence of narcotics trafficking.

¶ 46 Accordingly, we conclude that the complaint for search warrant, after excision of the information obtained from the defendant's vehicle, did not establish probable cause to search

Windsor Road. This conclusion does not, however, resolve whether suppression of the evidence recovered pursuant to the warrant is required.

¶ 47 B. Good-Faith Exception

¶ 48 The State invokes the good-faith exception to the exclusionary rule on two grounds. First, although the trial court suppressed the evidence recovered from the defendant's vehicle, the State argues that the officers acted in objectively reasonable reliance on then-existing precedent when they searched the vehicle. If the State prevails on that argument, the information obtained from the defendant's vehicle need not be excluded in determining whether the subsequently issued Windsor Road warrant was supported by probable cause. Second, the State argues that, even if the information obtained from the defendant's vehicle is excluded and the remaining allegations fail to establish probable cause, the officers nevertheless acted in objectively reasonable reliance on the Windsor Road search warrant issued by a neutral judge. We address each argument in turn.

¶ 49 The exclusionary rule generally bars the admission of evidence obtained in violation of the fourth amendment. *People v. Bonilla*, 2018 IL 122484, ¶ 35. The good-faith exception applies, however, where police act with an objectively reasonable good-faith belief that their conduct is lawful. *Id.* We consider each of the State's theories under the form of good-faith reliance applicable to the challenged police conduct.

¶ 50 1. *Good-Faith Reliance on Existing Precedent—Search of the defendant's vehicle*

¶ 51 The State first argues that the evidence recovered from the defendant's vehicle should not be excluded because the officers acted in objectively reasonable reliance on then-existing precedent when they searched the vehicle. The good-faith exception extends to an officer's objectively reasonable reliance upon binding appellate precedent that specifically authorized the particular practice later determined to be unconstitutional. *Id.* ¶ 37.

¶ 52 The State relies upon *People v. Stout*, 106 Ill. 2d 77 (1985), and maintains that *Stout* remained binding precedent when officers searched the defendant's vehicle in December 2021 because the supreme court had not overruled it. The defendant responds that intervening statutory changes governing the possession of cannabis rendered continued reliance upon *Stout* objectively unreasonable. We need not resolve that broader question. Even assuming *Stout* remained precedent upon which officers reasonably could rely at the time of the search, the good-faith exception applies only if *Stout* specifically authorized the particular practice at issue. See *Bonilla*, 2018 IL 122484, ¶ 37.

¶ 53 In *Stout*, an officer stopped the defendant for a traffic violation and approached his vehicle, which had a substantially open driver's side window. *Stout*, 106 Ill. 2d at 79. The officer detected the odor of burning cannabis emanating from the vehicle. *Id.* The officer further testified that his training and experience enabled him to recognize that odor. *Id.* at 79-80. The supreme court emphasized that the officer's identification was not based upon an unfounded assumption because he had smelled burning cannabis on numerous prior occasions. *Id.* at 87. Based upon the "particular facts" before it, including the officer's experience and training in detecting controlled substances, the court concluded that probable cause existed to search the vehicle. *Id.*

¶ 54 The circumstances here differ in the respects relevant to our inquiry. Sergeant Lieb testified that he believed he smelled burnt cannabis "on the driver's side of the vehicle." The record does not establish that the odor emanated from inside the defendant's vehicle. At the time, the vehicle was parked in the Windsor Road driveway with its doors closed and windows up, and the defendant had exited the vehicle before Sergeant Lieb arrested him. Moreover, unlike the officer in *Stout*, Sergeant Lieb provided no testimony concerning training or experience that enabled him to identify the odor of burnt cannabis. Although Detective Carpenter testified concerning his own training and experience distinguishing cannabis odors, it was Sergeant Lieb who testified to

detecting the odor of burnt cannabis upon which the State relies in invoking *Stout*. The defendant likewise emphasizes these distinctions in arguing that *Stout* did not specifically authorize the search conducted here.

¶ 55 The circumstances established here, therefore, differ from those *Stout* expressly identified in describing when cannabis odor, without additional corroboration, supplied probable cause to search a vehicle. The supreme court explained that additional corroboration was unnecessary where a trained and experienced police officer detected the odor of cannabis emanating from the defendant's vehicle. *Id*. at 88. Unlike in *Stout*, where the officer detected the odor through a substantially open driver's side window, the defendant's vehicle doors were closed and its windows were raised when Sergeant Lieb detected what he believed was burnt cannabis on the driver's side of the vehicle. Because the record here does not establish either that Sergeant Lieb was trained and experienced in identifying burnt cannabis or that the odor he detected emanated from inside the defendant's vehicle, *Stout* did not specifically authorize the particular search conducted here. See *Bonilla*, 2018 IL 122484, ¶ 37.

¶ 56 Accordingly, even assuming *Stout* remained precedent upon which officers reasonably could rely in December 2021 the State has not established that the search of the defendant's vehicle fell within the circumstances *Stout* specifically authorized—namely, a vehicle search based upon cannabis odor detected emanating from the vehicle by an officer trained and experienced in identifying that odor. The State, therefore, cannot use good-faith reliance on existing precedent to avoid application of the exclusionary rule to the vehicle search. The information obtained from the defendant's vehicle, thus, remains excluded in determining whether the officers reasonably relied upon the Windsor Road search warrant.

¶ 57 2. *Good-Faith Reliance on the Search Warrant—Search of Windsor Road*

¶ 58 The State separately argues that, although the complaint, after excision of the information obtained from the defendant's vehicle, failed to establish probable cause to search Windsor Road, suppression is nevertheless unwarranted because the officers acted in objectively reasonable reliance on the search warrant issued by a neutral judge. The State specifically contends that an objectively reasonable officer in the position of those executing the warrant would have believed the warrant was valid. In evaluating that contention, however, the objective-reasonableness inquiry also encompasses the officer who obtained the warrant and supplied the material information supporting the probable-cause determination. See *People v. Rojas*, 2013 IL App (1st) 113780, ¶ 22.

¶ 59 The good-faith exception generally applies where officers reasonably rely upon a warrant later determined to lack probable cause. *Manzo*, 2018 IL 122761, ¶ 64. An affidavit that fails to establish probable cause is not necessarily a bare-bones affidavit for purposes of the good-faith exception. *Id.* ¶ 68. The good-faith inquiry is less demanding than the substantial basis inquiry governing probable cause because, if the standards were identical, the good-faith exception would have no independent effect. *Id.* Accordingly, the relevant question is whether the affidavit was "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." (Internal quotation marks omitted.) *Id.* ¶ 64.

¶ 60 Nevertheless, even under that more forgiving standard, the affidavit must provide a minimally sufficient nexus between the place to be searched and the evidence sought. *Id.* ¶ 69. In *Manzo*, although the affidavit contained facts connecting the suspected drug dealer to the residence, the supreme court concluded that the good-faith exception did not apply because there were no facts directly connecting the drug dealing to the residence and the allegations did not otherwise create an inference connecting the two. *Id.*

¶ 61 Similarly, an affidavit may contain substantial information concerning a defendant's criminal activity yet remain bare bones as to the particular residence to be searched. *Rojas*, 2013 IL App (1st) 113780, ¶ 22. In *Rojas*, the court rejected the State's reliance upon extensive evidence of ongoing narcotics trafficking and the affiant's experience where the affidavit lacked the necessary nexus to the particular residence. *Id.* The court explained that probable cause concerning other locations could not be "bootstrapped to supply probable cause, and by implication, good faith," for the residence at issue. *Id.* The court further recognized that objective reasonableness considers not only the officers executing the warrant but also the officer who obtained it and supplied the material information supporting the probable-cause determination. *Id.*

¶ 62 Applying that standard here, we recognize that, even after excision of the information obtained from the defendant's vehicle, Detective Carpenter's complaint contained considerably more than a conclusory assertion that evidence of narcotics trafficking would be found at Windsor Road. The confidential source provided substantial firsthand information indicating that the defendant was engaged in ongoing narcotics trafficking, including at least 20 purchases of ecstasy during the preceding year and the recent observation of between 300 and 500 ecstasy pills at Holly Hill. The complaint also associated the defendant with Windsor Road and included Detective Carpenter's statement, based upon his training and experience, that narcotics traffickers frequently utilize multiple residences to store controlled substances. These allegations distinguish the complaint from one containing nothing more than the affiant's unsupported belief that evidence would be found at the place to be searched.

¶ 63 Those additional allegations, however, did not provide even a minimal factual nexus between the defendant's narcotics trafficking and Windsor Road. The confidential source's firsthand information concerning the defendant's possession and distribution of narcotics related to Holly Hill, not Windsor Road. Although the complaint established an association between the

defendant and Windsor Road, it did not state that the confidential source or anyone else had observed narcotics there, that narcotics had been brought into or removed from that residence, that any narcotics transaction occurred there, or that the residence otherwise had been used in furtherance of the defendant's narcotics trafficking. Detective Carpenter's generalized experience concerning the practices of narcotics traffickers could inform reasonable inferences drawn from facts connecting Windsor Road to the trafficking, but it could not itself supply that missing factual connection.

¶ 64 *People v. Lenyoun*, 402 Ill. App. 3d 787 (2010) illustrates the problem with the State's contrary reasoning. There, the State argued that because probable cause existed to believe the defendant had engaged in a drug transaction and searches of his person and vehicle revealed no contraband, an officer reasonably could believe the contraband was located elsewhere, including at the defendant's residence. *Id.* at 796. The court rejected that reasoning, concluding that probable cause arising from criminal activity at one location could not simply be shifted to support a successive warrant for the defendant's residence. *Id.*

¶ 65 Nor did Detective Carpenter's surveillance of Holly Hill supply the missing nexus. Detective Carpenter's failure to observe either the defendant or his vehicle at Holly Hill could support an inference that the defendant was not then present at that residence. It did not, without more, support an inference that evidence of his narcotics trafficking had been transferred to Windsor Road. Similarly, Detective Carpenter's experience that persons engaged in illegal activity generally do not leave illegal items at a residence after falling out with another occupant could support an inference that the defendant had removed such items from Holly Hill. It did not provide a factual basis to infer that the defendant had transferred those items specifically to Windsor Road. Nor did the allegation that the defendant "presently utilizes" Windsor Road establish that his residence had changed from Holly Hill to Windsor Road or that his narcotics trafficking had moved

there. To conclude otherwise would permit circumstances suggesting that the defendant was no longer present at one location to supply the missing nexus to another merely because he was associated with both.

¶ 66 That objective reasonableness inquiry is particularly significant here because Detective Carpenter was the officer who obtained the warrant and supplied the information supporting the probable cause determination. He was not merely an executing officer unaware of the circumstances underlying the warrant. Detective Carpenter conducted the investigation leading to the warrant and prepared the complaint presented to the issuing judge. As his suppression hearing testimony confirmed, no one had told him that narcotics were inside Windsor Road or had been brought into or removed from the residence. Moreover, although officers observed the defendant leave Windsor Road and enter the defendant's vehicle, Detective Carpenter did not know how long the narcotics subsequently recovered from the defendant's vehicle had been inside the vehicle. The record therefore does not establish that Detective Carpenter possessed information outside the complaint that supplied the factual connection between Windsor Road and the narcotics trafficking that the complaint itself lacked.

¶ 67 We recognize that the good-faith inquiry is more forgiving than the probable-cause inquiry and that the warrant was issued by a neutral judge. Nevertheless, *Manzo* requires at least a minimal nexus between the suspected criminal activity and the place to be searched. *Manzo*, 2018 IL 122761, ¶ 69. The remaining allegations established substantial reason to believe that the defendant was engaged in narcotics trafficking and that he was associated with Windsor Road, but they did not provide a factual basis to believe that evidence of that trafficking would be found there. Under these circumstances, the complaint was so lacking in indicia of probable cause as to Windsor Road that reliance upon the warrant was not objectively reasonable. Accordingly, the

good-faith exception does not provide an alternative basis for admitting the evidence recovered from Windsor Road.

¶ 68 III. CONCLUSION

¶ 69 Having concluded that the evidence recovered from Windsor Road should have been suppressed and that the good-faith exception does not apply, we must determine the appropriate disposition. The double jeopardy clause does not preclude retrial when a conviction is reversed because of an error in the trial proceedings, but retrial is barred when the evidence introduced at the initial trial was insufficient to sustain the conviction. *People v. Drake*, 2019 IL 123734, ¶ 20. In determining the sufficiency of the evidence for double jeopardy purposes, we consider all of the evidence admitted at the original trial, including evidence that was improperly admitted. *Id.* ¶ 21. Thus, retrial generally is the appropriate remedy where the evidence presented at the original trial, including improperly admitted evidence, was sufficient to sustain the conviction. *Id.*

¶ 70 Applying that standard here, we conclude that the evidence admitted at the defendant's bench trial was sufficient to sustain his convictions. The State presented evidence that the pink duffle bag recovered from Windsor Road contained 21.2 grams of cocaine, scales, cash, other suspected controlled substances, and firearms. The State also presented the defendant's recorded jail calls concerning his bag, mail connecting him to Windsor Road, and DNA evidence connecting him to three of the firearms recovered during the search. Viewed in the light most favorable to the State, that evidence was sufficient for a rational trier of fact to find the defendant guilty of possession with intent to deliver cocaine and two counts of unlawful possession of a weapon by a felon. Accordingly, our reversal is not based upon insufficient evidence presented at the defendant's original trial.

¶ 71 That conclusion, however, does not end our inquiry. Several Illinois appellate decisions have held that outright reversal is appropriate where the State cannot prevail on retrial without the

evidence that must be suppressed. *People v. Harris*, 2015 IL App (1st) 132162, ¶ 47 (collecting cases). In *Harris*, the court distinguished cases in which "it was evidence of the crime itself that was suppressed," explaining that outright reversal was appropriate in those circumstances because, "without evidence of the commission of a crime, the prosecution could not proceed." *Id.*; see *People v. Lara*, 2012 IL 112370, ¶ 17 (the State must prove beyond a reasonable doubt both that a crime was committed and the identity of the person who committed it).

¶ 72 The cases discussed in *Harris* illustrate that distinction. In *People v. Trisby*, 2013 IL App (1st) 112552, ¶ 19, the First District reversed the defendant's conviction outright because the State could not prevail on retrial without the drugs recovered during the unlawful search. *Harris*, 2015 IL App (1st) 132162, ¶ 47. Similarly, in *People v. Elliot*, 314 Ill. App. 3d 187 (2000), the court reversed a conviction for possession of a controlled substance because the State could not prevail without the drugs that should have been suppressed. *Id.* at 193. Of particular relevance here, in *People v. Leigh*, 341 Ill. App. 3d 492, 497 (2003), this court reversed a conviction for possession of a firearm by a felon without remand because the State could not prevail without the suppressed firearm. *Harris*, 2015 IL App (1st) 132162, ¶ 47. *Leigh* itself stated that because "the State cannot prevail on remand without the suppressed evidence," the conviction was reversed without further proceedings. *Leigh*, 341 Ill. App. 3d at 497.

¶ 73 The same reasoning applies here. The Windsor Road search did not merely produce evidence connecting the defendant to the charged offenses; it produced the cocaine and firearms that constituted the offenses themselves. The 21.2 grams of cocaine supporting count I were recovered from the pink duffle bag during the Windsor Road search. The Smith & Wesson .40-caliber handgun supporting count VI and the Rossi .357 Magnum revolver supporting count VII likewise were recovered from that bag. Once the evidence obtained from the Windsor Road search and its fruits is suppressed, no independent evidence remains establishing the contraband

constituting any of the defendant's three offenses of conviction. Although the defendant's recorded jail calls tended to connect him to the bag and his prior felony conviction established his status as a felon, neither establishes that the bag contained the cocaine or firearms underlying the offenses.

¶ 74 Accordingly, this case is unlike *Harris*, where the State had independently and lawfully determined that the package at issue contained cannabis before the unconstitutional conduct occurred and therefore retained admissible evidence establishing the commission of the crime. *Harris*, 2015 IL App (1st) 132162, ¶ 48. Here, suppression eliminates the evidence of the crimes themselves. Because the State cannot prevail on retrial without the suppressed evidence, we reverse the defendant's convictions outright and need not remand for further proceedings. See *Id*. ¶ 47; *Trisby*, 2013 IL App (1st) 112552, ¶ 19; *Leigh*, 341 Ill. App. 3d at 497; *Elliot*, 314 Ill. App. 3d at 193.

¶ 75 Reversed.

¶ 76 JUSTICE BOLLINGER, dissenting:

¶ 77 The majority concludes that Detective Carpenter's complaint and affidavit (affidavit) in support of the warrant to search the Windsor Road residence did not provide probable cause and that the affidavit was so deficient that no reasonable officer could rely on it. Although I recognize this may be viewed as a close case, I disagree with both conclusions. I therefore respectfully dissent.

¶ 78 First, I find the case principally relied upon by the majority, *People v. Manzo*, 2018 IL 122761, involves an unusual set of facts that are distinguishable from the facts of this case. The supreme court in *Manzo* specifically noted that "[t]his is such an unusual case." *Id.* ¶ 71. Second, even assuming that the drugs in defendant's vehicle were properly excluded, I find there was

probable cause to search Windsor Road. Finally, even absent probable cause to support the Windsor Road search warrant, I believe the good-faith exception applied to the search of that residence and the contraband and firearms contained therein were properly considered by the trial court.

¶ 79 "[P]robable cause exists in a particular case when the totality of the facts and circumstances within the affiant's knowledge at the time the warrant is applied for 'was sufficient to warrant a person of reasonable caution to believe that the law was violated and evidence of it is on the premises to be searched.' " *Id*. ¶ 29 (quoting *People v. Griffin*, 178 Ill. 2d 65, 77 (1997)). "It is the probability of criminal activity, rather than proof beyond a reasonable doubt, that is the standard for determining whether probable cause is present." *Id.* (citing *People v. Tisler*, 103 Ill. 2d 226, 236 (1984)). "Whether the necessary probability exists is governed by commonsense considerations that are factual and practical, rather than by technical rules." *Id.* ¶ 30. Regarding "the search of an individual's home, 'the critical element in a reasonable search is not that the owner of the property is suspected of [the] crime but that there is a reasonable cause to believe that the specific "things" to be searched for and seized are located on the property to which entry is sought.' " *Id.* ¶ 35 (quoting *Zurcher v. Stanford Daily*, 436 U.S. 547, 556 (1978)). " '[T]here must be, in other words, a *nexus* between the place to be searched and the evidence sought.' " (Emphasis in original.) *Id.* (quoting *United States v. Brown*, 828 F.3d 375, 381 (6th Cir. 2016)). "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 fair probability that contraband or evidence of a crime will be found in a particular place." *Illinois v. Gates*, 462 U.S. 213, 238 (1983). "[I]n determining whether an affidavit demonstrates the existence of probable cause, the resolution of doubtful or marginal cases should largely be determined by the preference to be

accorded to warrants." *Manzo*, 2018 IL 122761, ¶ 31 (citing *People v. Stewart*, 104 Ill. 2d 463, 477 (1984)).

¶ 80 In my opinion, the facts in the affidavit raised at least a "fair probability that contraband or evidence of a crime will be found" inside Windsor Road. See *Gates*, 462 U.S. at 238. The judge that issued the warrant was permitted to rely on "common-sense conclusions about human behavior" when making probable cause determinations. *District of Columbia v. Wesby*, 583 U.S. 48, 58 (2018). Even without the evidence recovered from defendant's vehicle, the remaining allegations contained in Detective Carpenter's affidavit for the search warrant for Windsor Road independently established probable cause.

¶ 81 A confidential source stated that defendant was selling narcotics out of Holly Hill. The confidential source named defendant by his alias, provided his phone number, and identified him from a photograph. While the location of defendant's drug deals and where the confidential source saw defendant's narcotics is not insignificant, Holly Hill was not a storefront for defendant's drug deals, nor is the illegal sale of drugs an activity of such character where the product must remain in one location. The affiant provided in the affidavit for the Windsor Road search warrant that he became aware that defendant "presently utilizes" Windsor Road from a domestic battery report on December 12, 2021. Other portions of the record suggest defendant also lived at Windsor Road. The affiant "routinely surveil[led]" Holly Hill, but defendant's vehicle was not parked at Holly Hill. Defendant's vehicle and defendant were later discovered at Windsor Road. These facts suggest that defendant lived at Windsor Road as well, or at least suggests that he used Windsor Road for illegal activities, as he was an alleged drug dealer "utiliz[ing]" another address. Also, in the affidavit Detective Carpenter averred that, based upon his training and experience, narcotics traffickers frequently utilize multiple residences to store controlled substances. I believe Detective Carpenter could reasonably infer from defendant's ongoing narcotics trafficking and his

connection to Windsor Road that additional narcotics would be found inside the residence. It is reasonable for an officer with the knowledge of these facts to believe evidence of illegal activity would be contained within Windsor Road. *Manzo* furthers this point.

¶ 82 In *Manzo*, an officer filed a sworn complaint for a search warrant to search the person of Ruben Casillas, a black Ford Explorer, and the premises of 701 West Marion St., in Joliet, Illinois. *Manzo*, 2018 IL 122761, ¶ 4. Notably, the defendant in *Manzo* was not Casillas, but rather one of the two residents of the home, the other being the defendant's then-girlfriend, Leticia Hernandez. *Id.* Casillas and Hernandez were cousins. *Id.* The officer sought a search warrant for the premises for the purpose of seizing evidence related to Casillas's criminal activity. *Id.*

¶ 83 In support of the complaint for the search warrant, the officer explained that he had purchased cocaine from Casillas three times within 20 days, and two of the purchases occurred *in the vicinity of* 701 West Marion St. *Id.* ¶ 5. In the first controlled buy, Casillas was seen by an officer arriving at, and departing from, the site of the drug deal in a black Ford Explorer that was registered to Hernandez at 701 West Marion. *Id.* ¶ 6. In the third controlled buy, Casillas was seen by officers leaving 701 West Marion to go to the site of the drug deal. *Id.* ¶ 8. The complaint also indicated that Casillas was a known associate of Hernandez, who resided at 701 West Marion. *Id.* ¶ 9. Notably, "[n]one of the paperwork concerning Casillas's residency indicated that 701 West Marion Street was Casillas's address." *Id.* ¶ 10.

¶ 84 A number of items were seized from 701 West Marion, including 348 grams of cocaine, a handgun, ammunition, various accessories indicative of drug dealing, $9,000, and proof of residency for both the defendant and Casillas. *Id.* Most of what was seized was found in the master bedroom closet. *Id.*

¶ 85 Prior to trial, the defendant filed a motion to quash arrest and suppress evidence, arguing that officers lacked probable cause to search his home. *Id.* ¶ 11. The defendant asserted, *inter alia*,

that 701 West Marion was not Casillas's address, *nor did Casillas use that address as his address*. *Id.* The State contended that there was sufficient probable cause to obtain a search warrant based on the vehicle Casillas drove to the first controlled buy being registered to Hernandez at 701 West Marion, and that officers saw Casillas leave 701 West Marion for the third controlled buy. *Id.* ¶ 13. Alternatively, the State argued that the good-faith exception allowed for the admission of the evidence discovered at 701 West Marion. *Id.* The trial court ultimately found that there was a sufficient nexus between Casillas and the residence, stating that it was reasonable to infer that there was a fair probability the drugs would be found in the defendant's home "because Casillas was seen leaving defendant's house before the third drug buy." *Id.* ¶¶ 18-19.

¶ 86 The Illinois Supreme Court noted that the defendant did not challenge the veracity of the sworn complaint, and therefore the statements were viewed as true for the purposes of appeal. *Id.* ¶ 32. The court also noted that "a magistrate may draw 'reasonable inferences' from the information given in a search warrant." *Id.* ¶ 36. The court nonetheless determined that the facts in the officer's complaint, and the inferences drawn therefrom, did not provide probable cause for the search warrant. *Id.* The court recited the facts in support of the search warrant and stated that the circuit court found probable cause existed because Casillas left the residence for the third controlled buy, while the appellate court found probable cause because the vehicle Casillas used was registered to the defendant's residence and used in the first controlled buy, in conjunction with the circuit court's reasoning. *Id.* ¶¶ 37-38.

¶ 87 The court found that neither fact established a sufficient nexus because no facts were alleged wherein the inference could be drawn that either Hernandez was engaged in criminal activities with Casillas, or that the defendant's address was used for criminal activity. *Id.* ¶ 39. The court stated that, at best, the complaint provided a nexus between Hernandez's vehicle and criminal activity, but failed to connect the defendant's home to the drug sales. *Id.* ¶ 41. Even still, the fact

that Casillas drove someone else's car did not "create an inference that the vehicle's owner has contraband in his or her home and does not justify a search of the vehicle owner's home." *Id.* The court also stated that controlled buys being conducted near the defendant's home also did not create an inference, where "[*n*]*o evidence was presented *** that Casillas was a frequent visitor to 701 West Marion Street*." (Emphasis added.) *Id.* ¶ 43. The court found the complaint for the search warrant therefore did not create a sufficient nexus between Casillas, his drug sales, and defendant's home to support a finding of probable cause, later finding that the appellate court erred in affirming the denial of the defendant's motion to suppress. *Id.* ¶¶ 46, 61.

¶ 88 *Manzo* is distinguishable from the case at bar. Not least among the differences between the two cases is the fact that it was never asserted in *Manzo* that Casillas, the reason for any of the search warrants, actually lived at the defendant, Manzo's, home. Here, it was not some unsuspecting third party who acquired charges because of Edwards's conduct associated with the Windsor residence; *Edwards and defendant are one in the same*. Defendant was believed to be living at the Windsor address, and even if the distinction were drawn that the affidavit states that defendant "presently utilizes" and not necessarily lived at the Windsor residence, *Manzo* seems to suggest that a drug dealer being a frequent visitor of the property supports a finding of probable cause for a search warrant of the frequently visited home.

¶ 89 There are also other differences between *Manzo* and the case at bar. The *Manzo* court noted that there was no assertion that Casillas used that defendant's house, but such is not the situation here. The *Manzo* court also noted that there was no allegation that Casillas was a known drug dealer, (*id.* ¶ 51) yet, in contrast, here the confidential source stated he had purchased ecstasy from defendant on at least 20 occasions and that defendant possessed hundreds of tablets of ecstasy. Also, unlike in *Manzo*, the vehicle defendant used was registered to defendant and was not simply

the vehicle of an occupant of the Windsor address. In my opinion, this case is distinguishable from the facts in *Manzo*, and there was probable cause to support the Windsor Road search warrant.

¶ 90 Even if, however, probable cause did not exist to support the Windsor Road search warrant, I respectfully disagree with the majority's conclusion that the good-faith exception to the exclusionary rule does not apply. The majority does not suggest that the warrant contained any deliberate errors or material misrepresentations, nor does it suggest that the judge who issued it was biased. Instead, it concludes that the officers could not reasonably have believed that the warrant was valid. In my view the affidavit was well within the bounds that courts have set for good faith reliance on a warrant application.

¶ 91 "[T]he exclusionary rule's sole purpose is to deter further fourth amendment violations." *Id*. ¶ 62 (citing *Davis v. United States*, 564 U.S. 229, 236-37 (2011)). "Exclusion exacts a heavy toll on both the judicial system and society at large, an exclusion 'almost always requires courts to ignore reliable, trustworthy evidence bearing on guilt or innocence,' " which usually sets "the criminal loose in the community without punishment." *Id.* (citing *Davis* 564 U.S. at 237). "[E]xclusion of evidence [is] not required where a police officer act[s] in objectively reasonable reliance on a facially valid warrant that was later found invalid based upon a lack of probable cause." *Id.* ¶ 63. A court should not suppress evidence seized in good faith, and such an occurrence happens when "pursuant to a search warrant *** which *** is free from obvious defects other than non-deliberate errors *** and contains no material misrepresentation *** and the officer believed the warrant to be valid." *Id.* ¶ 63 (citing 725 ILCS 5/114-12(b)(2)(i) (West 2008)).

¶ 92 There are four situations where suppression of evidence is appropriate; relevant here is that the good-faith exception "would not apply if a warrant was 'based on an affidavit "*so* lacking in indicia of probable cause as to render official belief in its existence *entirely* unreasonable," ' that an officer could not manifest objective good faith in relying on such a warrant." (Emphases added.)

Id. ¶ 64 (quoting *United States v. Leon*, 468 U.S. 897, 923 (1984)). An officer cannot " 'obtain a warrant on the basis of a "bare bones" affidavit.' " *Id.* (quoting *Leon*, 468 U.S. at 923 n.24). "[A] bare-bones affidavit is 'one that states only "suspicions, beliefs, or conclusions, without providing some underlying factual circumstances regarding veracity, reliability, and basis of knowledge." ' " *Id.* ¶ 67 (quoting *United States v. White*, 874 F.3d 490, 496 (6th Cir. 2017) (quoting United States v. Laughton, 409 F.3d 744, 748 (6th Cir. 2005)). An affidavit cannot be bare-bones to support the good-faith exception to the exclusionary rule, however "an affidavit should be judged for purposes of the good[-]faith exception under a less demanding showing than the substantial basis threshold required to prove the existence of probable cause." *Id.* ¶ 68 (citing *Laughton*, 409 F.3d at 748). In my opinion, the affidavit in this case meets the minimal nexus to find that the officers acted in good faith. I do not find that the affidavit was so "bare-bones" that belief in the existence of probable cause was "entirely unreasonable." This is not a situation where a vague assertion was made in an affidavit allowing officers to search any and every place defendant entered; both Holly Hill and Windsor Road were believed to be used by defendant, and there was some evidence to connect him to both. Detective Carpenter reasonably concluded that defendant "presently utilizes" Windsor Road.

¶ 93 There were multiple objective facts supporting that conclusion. First, a police report relied upon by Detective Carpenter identified Windsor Road as defendant's current address. Additionally, Detective Carpenter "routinely surveil[led]" the Holly Hill residence and noticed defendant's vehicle "was not parked at the residence." Finally, defendant was seen exiting Windsor Road to enter his vehicle and possessed the keys to the residence. As the State said at trial, "[t]his is not a circumstance where [the confidential source was not] able to tie an actual person to [the sale of narcotics] and only had the residence. They were able to actually tie a person to it." In my view, the affidavit for the Windsor Road search warrant was not so bare-bones that the officers'

belief in the existence of probable cause was "entirely unreasonable." In my opinion, a minimal nexus, at least, had been established between defendant and Windsor Road, such that the good-faith exception to the exclusionary rule applies under the facts of this case.

¶ 94 I would find that Detective Carpenter's affidavit provided probable cause to search Windsor Road or, if not, that the good-faith exception to the exclusionary rule is satisfied here. Therefore, I respectfully dissent.