SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3413-19

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

ZAKIYYA H. LARKINS,

Defendant-Appellant.

Submitted May 31, 2022 – Decided June 10, 2022

Before Judges Mayer and Natali.

On appeal from the Superior Court of New Jersey, Law Division, Middlesex County, Indictment No. 18-01-0061.

Joseph E. Krakora, Public Defender, attorney for appellant (Brian P. Keenan, Assistant Deputy Public Defender, of counsel and on the brief).

Yolanda Ciccone, Middlesex County Prosecutor, attorney for respondent (Patrick F. Galdieri, II, of counsel and on the brief).

PER CURIAM

After the court denied defendant Zakiyya H. Larkin's motion to suppress evidence and related pretrial applications, she pled guilty to third-degree possession of a controlled dangerous substance (CDS) (marijuana) with intent to distribute on or near school property, N.J.S.A. 2C:35-5(a) and N.J.S.A. 2C:35-7, and second-degree endangering the welfare of a child, N.J.S.A. 2C:24-4(a). In accordance with the plea agreement, the court imposed an aggregate three-year sentence along with mandatory fines and penalties, doing so after defendant's application to Drug Court was denied.

Before us, defendant raises the following arguments:

I. THE SEARCH WARRANT AFFIDAVIT DID NOT PROVIDE PROBABLE CAUSE TO SEARCH BECAUSE IT FAILED TO ESTABLISH THE VERACITY AND BASIS OF KNOWLEDGE OF THE ANONYMOUS INFORMANT OR ANY NEXUS BETWEEN THE ALLEGED CDS ACTIVITY AND THE SECOND-FLOOR APARTMENT.

   A. The Warrant Affidavit was Failed to Establish the Anonymous Informant's Veracity and Basis of Knowledge.

   B. The Warrant Affidavit Failed to Establish a Nexus Between the Alleged CDS Activity and the Second-Floor Apartment

II. BECAUSE THE DEFENDANT MADE THE REQUISITE SHOWING THAT THERE WERE PURPOSEFUL, MATERIAL MISSTATEMENTS IN THE SEARCH WARRANT AFFIDAVIT, THE TRIAL COURT ERRED IN DENYING [HER] REQUEST FOR A FRANKS HEARING.

Having considered the record in light of the applicable law, we reject all of defendant's arguments and affirm.

I.

We begin our discussion with the material facts distilled from Detective Luis Maldonado's June 22, 2017 affidavit filed in support of the search warrant that led to the seizure of heroin, marijuana, and related paraphernalia from defendant's residence, and which were presented to the court in the context of defendant's motion to suppress.

In March 2017, Detective Maldonado received information from a "[r]eliable [c]onfidential [i]nformant" (CI), who informed him that defendant and codefendant, Sherman L. Akers, referred to as "Shabree," were selling heroin and cocaine in the area of Washington Avenue in Carteret. The CI described defendant's and Akers' physical appearance, and provided their address as 181 Pershing Avenue in Carteret.

Approximately a month later, while conducting surveillance with respect to an unrelated investigation, Carteret police observed a person matching the CI's description of Akers. When they stopped him, after observing his interaction with a "known heroin user" in an alleyway, Akers stated that he unsuccessfully attempted to buy marijuana. Akers was arrested for "[l]oitering

to sell CDS" and told police he resided on the first floor of 181 Pershing Avenue in Carteret. The police thereafter searched the Carteret Housing Authority records, which revealed that defendant also lived at 181 Pershing Avenue, but on the second floor.

Police next conducted a controlled narcotics purchase from Akers, with the assistance of the CI. The CI purchased heroin from Akers at a predetermined location and positively identified Akers as "Shabree." Police observed the transaction, and Detective Maldonado reported that the CI "handed over . . . heroin" and informed him that he "purchased . . . heroin" from Akers. Detective Maldonado also explained that "[d]ue to the prevalence of fentanyl and the danger that it can be absorbed through the skin, the suspected heroin was not field tested." Carteret police thereafter began surveillance of the second-floor residence at 181 Pershing Avenue.

In May 2017, Detective Maldonado observed defendant exiting 181 Pershing Avenue where she engaged in "short conversations with known drug users," handed them small objects, and received paper currency in return. Shortly after, she returned to 181 Pershing Avenue and entered through the front door. Based on his experience, Detective Maldonado believed that these

interactions were "hand-to-hand drug transactions" and "controlled dangerous substance sales."

In light of those observations, Detective Maldonado arranged for the CI to make a controlled purchase from defendant while surveilled by Carteret police. The police provided the CI with money for the purchase, and observed the CI conduct a "hand to hand transaction" with defendant near her Pershing Avenue address. The CI met with Detective Maldonado at a predetermined location after completing the transaction, and, as memorialized by Detective Maldonado, "handed over an amount of [c]ocaine" (emphasis added). Later in the affidavit, however, Detective Maldonado stated that the CI informed him "the heroin was purchased from [defendant]" (emphasis added).

Police continued surveillance on the 181 Pershing Avenue address, and in June 2017, Detective Maldonado contacted the CI to arrange a second controlled purchase from defendant. The police observed this transaction where defendant was seen conducting a hand-to-hand transaction with the CI. Detective Maldonado again stated in his affidavit that the CI handed him "[c]ocaine," but noted the CI told him "heroin was purchased from [defendant]."

Based on his investigation, Detective Maldonado applied for a knock and announce search warrant for the second floor of 181 Pershing Avenue in

Carteret, as well as a search warrant for defendant and Akers. In his affidavit, Detective Maldonado described defendant's physical appearance, as well as Akers', and detailed the precise areas of the home to be searched, which included "any containers locked or unlocked," as well as any "crawl space, basement, [or] storage area" on the premises.

Detective Maldonado also described his nine-year experience as a police officer, four as a detective, during which he conducted "hundreds of investigations" and participated in "the execution of multiple search warrants related to drug activities." Based on this experience, he stated that "in addition to [h]eroin, which we have probable cause is being sold, there would be paraphernalia and or materials used to process, store, and use [h]eroin." He also noted that in his experience, those involved in distribution and possession of narcotics often will possess multiple drugs and paraphernalia.

On June 22, 2017, the court determined that probable cause existed for the issuance of search warrants for defendant, Akers, and the residence on the second floor of 181 Pershing Avenue. After effectuating the warrants, the police found Akers carrying fifty glassine envelopes containing a brown substance believed to heroin, but did not discover any drugs on defendant. A search of defendant's second-floor apartment, however, uncovered:

> [t]wenty blue glassine envelopes stamped "death wish" in blue ink containing a brownish powdery substance believed to be heroin, plastic bag with skull prints containing a green vegetation believed to be marijuana, two Apple bags Ziploc style, multiple Ziploc style bags, black digital scale, Ziploc bag containing rice, black Ziploc bag with "Lemon Haze" written on it, heat sealer, sword, various pieces of mail, black Ziploc bag, Samsung cell phone and white plastic bag with skull prints.

Defendant was charged and indicted by a grand jury in an eleven-count indictment. The charges included: third-degree possession of heroin, N.J.S.A. 2C:35-10(a)(1) (count six); third-degree possession of heroin with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and (b)(3) (count seven); third-degree possession of heroin with intent to distribute in a school zone, N.J.S.A. 2C:35-7 (count eight); fourth-degree possession of marijuana with intent to distribute, N.J.S.A. 2C:35-5(a)(1) and (b)(12) (count nine); third-degree possession of marijuana with intent to distribute in a school zone (count ten); and second-degree child endangerment (count eleven). Codefendant Akers was charged alone in counts one through five and jointly with defendant in counts nine through eleven.[1]

[1] Akers later pled guilty to one count of third-degree possession of heroin with intent to distribute on or near school property, contrary to N.J.S.A. 2C:35-7 (count three), and one count of third-degree endangering the welfare of a child,

As noted, defendant filed a motion to suppress evidence seized pursuant to the search warrant. She also sought an order compelling the State to reveal the identity of the CI and to produce Detective Maldonado's personnel records. She argued the search warrant was invalid as the affidavit contained inconsistent references to cocaine and heroin. Specifically, defendant maintained that "the clear contradiction between the type of CDS purchased [cocaine or heroin] . . . despite the careful preparation and exacting procedural steps taken by the Detective and his team, belies the veracity of the Detective in his entire description of alleged sales of CDS by [defendant]." Defendant next argued that her arrest was invalid because the affidavit contained "clear, inexplicable untruths" and therefore did not provide an "objectively reasonable suspicion" that defendant was involved in illegal activity.

In addition, relying on State v. Williams, 403 N.J. Super. 39, 50 (2008), defendant argued the court should compel Detective Maldonado's records "relating to disciplinary proceedings and findings of non-credibility by the officer [by the court]."

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contrary to N.J.S.A. 2C:24:4A(2) (count eleven). The court sentenced him to a five-year term of imprisonment on count three, with a thirty-three-month period of parole ineligibility, and to a concurrent, flat three-year term on count eleven. He has not filed a notice of appeal.

The court denied these motions in a June 15, 2018 order and accompanying oral opinion. The court reasoned that the discrepancies as to whether the drugs the CI purchased consisted of cocaine rather than heroin was likely a typographical error in the affidavit. In support of this finding, the court highlighted that Detective Maldonado consistently referenced heroin when he described the first controlled buy with Akers. The court also noted that Akers was arrested on April 26, 2017 after meeting with a known heroin user, stating this transaction "lends [to] an inference that this entire interaction . . . was of the heroin flavor and not the cocaine flavor." In addition, the court highlighted that the search conducted of the apartment revealed heroin, but "nothing related to any possession of cocaine."

The court also concluded a Franks[2] hearing was unnecessary as the defendant did not establish that the statements in the affidavit were willfully false, or made in reckless disregard of the truth. The court opined that the warrant was "procured by way of the probable cause listed, the three controlled buys," and officers' surveillance of Akers "attempting to buy from a heroin user." The court further rejected defendant's motion to compel the production

[2] Franks v. Delaware, 438 U.S. 154 (1978).

of Detective Maldonado's personnel records, as there was "nothing to turn over in the way of Giglio[3] material."[4]

At her plea hearing, defendant pled guilty to counts ten and eleven of the indictment. She admitted that at the time of the June 2017 search, she lived in Carteret with her three children. She further admitted that she knew there was marijuana in her apartment, and she possessed that marijuana with the intent to distribute it. She also acknowledged that her possession of marijuana exposed her children to the risk of harm and that her apartment was within 1000 feet of two schools.

After defendant's Drug Court application was denied, the court considered the applicable aggravating and mitigating factors, sentenced her in accordance with the plea agreement, and dismissed the remaining charges. This appeal followed.

II.

In her first point, defendant maintains the police improperly searched her and her residence, contrary to the Fourth Amendment of the United States

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[3] Giglio v. United States, 405 U.S. 150, 153-54 (1972).

[4] Defendant has not challenged the court's determinations with respect to her applications to compel the production of Detective Maldonado's personnel records and to reveal the identity of the CI.

Constitution and Article 1, Paragraph 7 of the New Jersey Constitution. In support, defendant argues Detective Maldonado failed to include sufficient corroborative facts to establish the CI's reliability and basis of his or her knowledge.

Defendant specifically contends Detective Maldonado's affidavit failed to provide any information on the CI's past work with the police, and as such, did not establish his or her reliability and veracity. Defendant also maintains the affidavit does not describe how the CI became aware of defendant's alleged criminal activity, and the police corroboration of the CI's tip was "insufficient to demonstrate his [or her] basis of knowledge." She argues that Detective Maldonado's contradictory statements in his affidavit regarding the type of CDS defendant allegedly sold (i.e., cocaine as opposed to heroin) undermined the CI's credibility and rendered the affidavit and resulting search warrant fatally defective. Finally, defendant contends the affidavit failed to establish a nexus between any drug activity and her second-floor apartment, as both Akers, who stated he lived on the first floor, and defendant who resided on the second floor, entered and exited the two-family residence through the same entrance. We disagree with all of these arguments.

We employ a deferential standard when reviewing a trial court's ruling on a motion to suppress. State v. Zalcberg, 232 N.J. 335, 344 (2018). The trial court's factual and credibility findings will be set aside "only when [the] court's findings of fact are clearly mistaken . . . [and] the interests of justice require the reviewing court to examine the record, make findings of fact, and apply the governing law." Ibid. (alterations in original) (quoting State v. Hubbard, 222 N.J. 249, 262-63 (2015)). That deferential standard is extended to encompass "factual findings based on . . . documentary evidence". State v. S.S., 229 N.J. 360, 381 (2017). We use a de novo standard to review legal issues. Ibid.

A search that is executed pursuant to a warrant is 'presumptively valid,' and a defendant challenging the issuance of that warrant has the burden of proof to establish a lack of probable cause 'or that the search was otherwise unreasonable.'" State v. Boone, 232 N.J. 417, 427 (2017) (quoting State v. Watts, 223 N.J. 503, 513-14 (2015)). "[A]n appellate court's role is not to determine anew whether there was probable cause for issuance of [a] warrant, but rather, whether there is evidence to support the finding made by the warrant-issuing judge." State v. Chippero, 201 N.J. 14, 20-21 (2009). Reviewing courts "accord substantial deference to the discretionary determination resulting in the issuance of [a] warrant." State v. Marshall, 123 N.J. 1, 72 (1991).

"Courts consider the 'totality of the circumstances' and should sustain the validity of a search only if the finding of probable cause relies on adequate facts." Boone, 232 N.J. at 427 (quoting State v. Jones, 179 N.J. 377, 388-89 (2004)). "[T]he probable cause determination must be . . . based on the information contained within the four corners of the supporting affidavit, as supplemented by sworn testimony before the issuing judge that is recorded contemporaneously." Ibid. (alteration in original) (quoting State v. Marshall, 199 N.J. 602, 611 (2009)).

As noted, defendant challenges the search of her home and seizure of drugs and related paraphernalia based, in part, on her claim that Detective Maldonado's affidavit supporting the search warrant failed to demonstrate the CI's reliability and basis of his or her knowledge. We disagree.

Information related by informants may constitute a basis for probable cause, provided sufficient support for crediting that information is presented. State v. Sullivan, 169 N.J. 204, 212 (2001); State v. Smith, 155 N.J. 83, 92 (1998). "[T]he issuing court must consider the 'veracity and basis of knowledge' of the informant[,]" State v. Keyes, 184 N.J. 541, 555 (2005) (quoting Jones, 179 N.J. 377, 389 (2004)), as well as law enforcement's ability to corroborate the tip, id. at 556. Under the first factor, although not conclusive, an informant's

past reliability can be probative of veracity. Sullivan, 169 N.J. at 213. Under the second factor, we consider whether the informant can demonstrate that he received the information in a reliable way, and in the absence of such disclosure, whether the informant's tip is sufficiently detailed. Ibid.

If there is a deficiency in one of those factors, it may be compensated for by a "strong showing as to the other, or by some other indicia of reliability." State v. Zutic, 155 N.J. 103, 111 (1998). Even "if the informant's tip fails to demonstrate sufficient veracity or basis of knowledge, a search warrant issued on the basis of the tip may still pass muster if other facts included in a supporting [police] affidavit justify a finding of probable cause." Jones, 179 N.J. at 390 (alteration in original).

Our Supreme Court has stated that "past instances of reliability may establish the informant's veracity." State v. Ebron, 61 N.J. 207, 212-13 (1972). Indeed, an informant's veracity can be supported by information that the informant has "proven reliable in several investigations (with information he provided)." State v. Novembrino, 105 N.J. 95, 120 (1987). The court has cautioned, however, that "[a] few past instances of reliability do not conclusively establish an informant's reliability." Smith, 155 N.J. at 93-94.

An informant's "basis of knowledge is relevant to a determination that the information was obtained in a reliable way." Smith, 155 N.J. at 94. The informant must provide sufficient details such that the warrant-issuing judge knows he or she is "relying on something more substantial than a casual rumor circulating in the underworld or an accusation based merely on an individual's general reputation." Novembrino, 105 N.J. at 113 (quoting Spinelli v. U.S., 393 U.S. 410, 416 (1969)). Where police lack such detailed information however, "independent corroboration is necessary to ratify the informant's veracity and validate the truthfulness of the tip." Smith, 155 N.J. at 95. Moreover, "[b]ecause the information contained in a tip is hearsay, police corroboration of that information "is an essential component of a probable cause determination." Sullivan, 169 N.J. at 213.

"[R]elevant corroborating facts may include a controlled drug buy performed on the basis of the tip, positive test results of the drugs obtained . . . the suspect's criminal history, and the experience of the officer who submitted the supporting affidavit." Jones, 179 N.J. at 390-91. While no one corroborating fact conclusively establishes probable cause, a successful controlled buy "'typically will be persuasive evidence in establishing probable cause.'" Keyes, 184 N.J. at 556 (quoting Jones, 179 N.J. at 390). If the police have conducted a

successful controlled buy, our Supreme Court has held "even one additional circumstance might suffice, in the totality of the circumstances, to demonstrate probable cause." Jones, 179 N.J. at 390.

Detective Maldonado's affidavit provided sufficient evidence to establish the CI's veracity. The affidavit noted that the CI was a reliable source "whose information has led to multiple arrest[s] made by the Carteret Police Department," and also detailed the controlled buys in which the CI participated. This information was sufficient to support the court's finding that the CI was reliable. See Sullivan, 169 N.J. at 216 (holding that two controlled buys established an informant's reliability where police properly corroborated the informant's tip by reviewing a utility bill to verify defendant's residence at the address provided by the informant and confirmed the substance purchased was cocaine).

We also reject defendant's argument that the State's failure to field or laboratory test the drugs undermined the CI's reliability. As Detective Maldonado explained, he did not perform a field test due to the presence of fentanyl in heroin and its ability to be absorbed through the skin. In any event, "[e]ven without field- or lab-testing to confirm that the substances purchased by the informant were in fact narcotics, the controlled purchases at the residence

buttressed the judge's finding of probable cause." Jones, 179 N.J. at 394-95 (citing United States v. Wright, 811 F. Supp. 1576, 1581 (S.D.Ga.1993)).

Moreover, the CI's description of defendant, her residence, and the CDS sold by defendant served as further corroborating proofs. To be sure, the affidavit could have provided a more detailed explanation of the informant's reliability, but under the totality of the circumstances, we are satisfied the veracity factor was established. See Keyes, 184 N.J. at 557.

In reaching our conclusion, we stress that Detective Maldonado's affidavit described three controlled CDS purchases involving the undercover CI, as well as multiple observations of hand-to-hand transactions involving third parties. Detective Maldonado also found the CI's detailed physical descriptions of defendant and Akers to be accurate based upon photographs obtained from the New Jersey Department of Motor Vehicle system.

Detective Maldonado's experience also provided corroboration to support the issuance of a search warrant. See Jones, 179 N.J. at 390. In his affidavit, he recited his then eight-year experience as a police officer, half of which was dedicated to the Narcotics Special Investigation Unit, where he conducted hundreds of investigations that "led to the apprehension and prosecution of numerous individuals." Based on this experience, Detective Maldonado

believed that the hand-to-hand transactions he observed defendant conduct were CDS sales.

In addition, we are not persuaded by defendant's claims that the "unexplained discrepancies [in Detective Maldonado's affidavit] completely undermine the CI's credibility and the way the controlled buy was conducted." As noted, we are satisfied that the court correctly concluded Detective Maldonado's affidavit provided ample support for the existence of probable cause, rendering any misstatement with respect to the CDS immaterial to the court's decision to issue the warrants. See State v. Howery, 80 N.J. 563, 568 (1979); State v. Goldberg, 214 N.J. Super. 401, 406 (App. Div. 1986).

We also reject defendant's argument, relying on Boone, 232 N.J. at 429, that the search warrant was defective because Detective Maldonado failed to describe any drug activity that occurred in the second-floor apartment. She contends "no one was ever seen entering or leaving the second-floor apartment," and both Akers and defendant entered and left the home through the front-door entrance of the two-family residence.

An application for a search warrant "must satisfy the issuing authority 'that there is probable cause to believe that . . . evidence of a crime is at the place sought to be searched.'" Boone, 232 N.J. at 426 (quoting Jones, 179 N.J. at 388).

As such, a search warrant based upon probable cause "enables law enforcement to search property where there is reason to believe, to a reasonable probability, that the fruits, instrumentalities, or other evidence of a crime may be found." Chippero, 201 N.J. at 29 n.6. A judge's "inquiry in respect of a search warrant must assess the connection of the item sought to be seized 1) to the crime being investigated, and 2) to the location to be searched as its likely present location." Id. at 29.

Defendant's reliance on Boone, 232 N.J. at 422, is unpersuasive as that case is factually distinguishable. There, police surveilled the defendant for two months and observed him engage in drug-related activities, including hand-to-hand sales of suspected narcotics. Ibid. A subsequently issued search warrant for the defendant's suspected residence failed to describe how police knew defendant lived in a specific unit in the apartment complex; yet the warrant asserted the "investigation reveal[ed] that [the defendant wa]s distributing [c]ontrolled [d]angerous [s]ubstances" from his residence. Id. at 422–23.

The defendant sought to suppress evidence seized after execution of the warrant, arguing it lacked a factual basis to establish probable cause. Id. at 423. In affirming the suppression of the drugs seized, our Supreme Court stressed that "there was nothing in the affidavit to indicate where [the defendant] lived,

how police knew which apartment was his, or how the apartment was connected to his drug dealing." Id. at 430. The Boone Court emphasized "that judges issuing search warrants must scrutinize the warrant application and tie specific evidence to the persons, property, or items the State seeks to search." Id. at 431.

Unlike in Boone, there was a sufficient nexus between defendant's illegal activities and her apartment to support the issuance of a search warrant for her second-floor residence. Carteret police knew defendant lived in the second-floor apartment of the two-family home because they conducted weeks-long surveillance of that location. They also confirmed defendant lived in that apartment by checking with the Carteret Housing Authority, and as noted, observed defendant enter and exit the home to engage in hand-to-hand transactions.

We agree with the court's conclusion that there was ample probable cause to support the State's application for a search warrant. The police surveillance operation demonstrated that defendant was using her residence as a base for her drug transactions; defendant was at home prior to each of the sales and went directly from her apartment to the sites where she engaged in hand-to-hand transactions with known drug users, and twice sold CDS to the CI. Detective Maldonado also stated that in his experience, a person involved in the

distribution and possession of a CDS would have paraphernalia and materials used to process, store and use heroin in his or her home. That police did not directly observe the CI or other drug users enter the second-floor apartment was not a fatal flaw in either Detective Maldonado's affidavit or the search warrants. See Sullivan, 169 N.J. at 216; see also State v. Myers, 357 N.J. Super. 32, 39-30 (2003) (finding probable cause to search defendant's apartment after police directly observed him enter and exit his home to engage in drug transactions).

III.

In her second point, defendant maintains that Detective Maldonado acted in reckless disregard for the truth by including contradictory statements in the affidavit regarding the specific CDS defendant sold to the CI. Defendant argues that the court's conclusion that the discrepancies between heroin and cocaine were "typos" is one of only several possibilities, and the controlled buys "could have been fabricated by Detective Maldonado." Defendant further contends the court erred in denying her motion for a Franks hearing. We are not persuaded by any of these arguments.

Where, as here, a defendant challenges the veracity of a search warrant affidavit, a Franks hearing is required only "where the defendant makes a substantial preliminary showing that a false statement knowingly and

intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause . . . ." Franks, 438 U.S. at 155-56. The defendant "must allege 'deliberate falsehood or reckless disregard for the truth,' pointing out with specificity the portions of the warrant that are claimed to be untrue." Howery, 80 N.J. at 567 (quoting Franks, 438 U.S. at 171).

Further, a defendant's allegations should be supported by affidavits or other reliable statements; "[a]llegations of negligence or innocent mistake are insufficient." State v. Broom-Smith, 406 N.J. Super. 228, 241 (App. Div. 2009) (quoting Franks, 438 U.S. at 171). The allegations "must be proved by a preponderance of the evidence." Howery, 80 N.J. at 568. A defendant must also demonstrate that absent the alleged false statements, the search warrant lacks sufficient facts to establish probable cause. Ibid. If a search warrant affidavit contains sufficient facts establishing probable cause even when the alleged false statements are excised, a Franks hearing is not required. Franks, 438 U.S. at 171-72.

In addition, "the misstatements claimed to be false must be material to the extent that when they are excised from the affidavit, that document no longer contains facts sufficient to establish probable cause." Id. at 568; see also

Goldberg, 214 N.J. Super. at 406 ("[B]efore a defendant is entitled to an evidentiary hearing to challenge the veracity of the contents of a police officer's affidavit or . . . testimony given in support of a search warrant, it must be demonstrated, among other things, that the allegedly false statements were essential to support a probable cause determination.").

The court correctly concluded a Franks hearing was not required. The court's finding that the discrepancy was merely a typographical error is supported by the evidence set forth in the affidavit. Defendant offered no proof that any discrepancy in the affidavits was "deliberate" or the result of a "reckless disregard for the truth," despite her arguments to the contrary. Howery, 80 N.J. at 567 (quoting Franks, 438 U.S. at 171).

Defendant's claim that the discrepancies are "more likely to be the product of fabrication rather than misremembering," is pure speculation. She provided no evidence that Detective Maldonado lied about the controlled buys, or that he had any reason to fabricate any fact in the affidavit. In any event, even absent the discrepancies, there was sufficient probable cause to support the search of defendant's person and her home, as discussed supra at pp. 16-17. See Howery, 80 N.J. at 568; Franks, 438 U.S. at 171-72.

Finally, the court's conclusion that Detective Maldonado's reference to cocaine instead of heroin was merely a scrivener's error is amply supported by the record. As the court explained, Detective Maldonado stated that the first controlled buy involved only heroin, and he observed Akers engaging in hand-to-hand transactions with "known heroin users." Detective Maldonado also acknowledged that the police did not field test the "suspected heroin," and, as such, there was no basis for Detective Maldonado to believe the CDS the CI handed over was cocaine. Detective Maldonado also referenced heroin in numerous places in his affidavit, including to support his belief that "in addition to [h]eroin," defendant's residence would contain "paraphernalia and or materials used to process, store, and use [h]eroin [or other drugs]."

To the extent we have not specifically addressed any of defendant's arguments, it is because we have determined they are of insufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2).

Affirmed.