

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: January 10, 2025)

STATE OF RHODE ISLAND,
Plaintiff,

v.

MATTHEW BOMSTER,
Defendant.

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C.A. No. P2-2022-0390A

DECISION

CRUISE, J. The State of Rhode Island (State) has charged Matthew Bomster (Mr. Bomster) with one count of possession of child pornography in violation of G.L. 1956 §§ 11-9-1.3(a)(4) and 11-9-1.3(b). Mr. Bomster appeals a Superior Court Magistrate’s (Magistrate) Order, dated June 7, 2024, denying a Motion to Dismiss pursuant to Rule 9.1 of the Superior Court Rules of Criminal Procedure. Jurisdiction is pursuant to G.L. 1956 § 8-2-11.1(d).

I

Facts and Travel

On February 14, 2022, the Attorney General filed a Criminal Information alleging that Mr. Bomster knowingly possessed computer filings containing images of child pornography, in violation of § 11-9-1.3(a)(4). On March 2, 2022, Mr. Bomster filed a Motion to Dismiss (the Motion) for lack of probable cause to believe that Mr. Bomster committed the charged offense and failure to establish jurisdiction for the charged offense in the State of Rhode Island. *See* Def.’s Mot. to Dismiss. The State filed its objection to Mr. Bomster’s Motion on July 28, 2022. *See* State’s Obj. to Def.’s Mot. to Dismiss. In its supplemental memorandum, the State argued that there was sufficient evidence to establish probable cause that Mr. Bomster committed the

alleged offense and that no jurisdictional issue existed. (State’s Obj. and Mem. of Law in Supp. of Mot. to Dismiss (State’s Mem.) 2-3.) On June 7, 2024, a hearing was held on the Motion (the Hearing). *See* Hr’g Tr., June 7, 2024.

At the Hearing, Mr. Bomster reiterated the arguments made in his Motion, specifically that no evidence of child pornography was found at Mr. Bomster’s house or on his person. *Id.* at 1:15-20. In his memorandum, Mr. Bomster specifically argues that the search of his person, his house, and his family yielded no evidence of, or devices containing, any images or videos of child pornography. (Mem. in Supp. of Def.’s Mot. to Dismiss (Def.’s Mem.) 5.) Further, Mr. Bomster argues that the only evidence of child pornography was identified on a Kik¹ account and that the files containing child pornography were uploaded with a geolocation in the New York/New Jersey area. *Id.* Conversely, the State argued² that Mr. Bomster was the user of the IP address when the Kik account uploaded the files containing child pornography. (State’s Mem. 3.) Further, the State asserted that the original geolocation data provided by the National Center for Missing and Exploited Children (NCMEC) is an “approximate[] geolocation – not a user’s exact location[.]” *Id.* at 2. The State elaborated that during a subsequent investigation, police subpoenaed the communication company associated with the IP address which provides an accurate location. *Id.* at 3. Here, the State noted the police subpoenaed Verizon for the IP address associated to the uploaded files which showed the IP address was used by Mr. Bomster at his residence in Providence, Rhode Island. *Id.* The State avers that it established probable

¹ Kik is a mobile device messenger application that allows users to send text messages, photos, videos, and other content to individuals or groups. *See* Sheryl Gay Stolberg and Richard Pérez-Peña, *Wildly Popular App Kik Offers Teenagers, and Predators, Anonymity*, <https://www.nytimes.com/2016/02/06/us/social-media-apps-anonymous-kik-crime.html> (last visited Dec. 18, 2024). The messaging app is particularly popular due to its anonymity. *Id.*

² At the Hearing, the State rested on its memorandum, any discussion of the State’s arguments come from its memorandum in support of its objection to Mr. Bomster’s Motion to Dismiss. (Hr’g Tr. 1:22-23.)

cause that Mr. Bomster knowingly possessed computer filings containing images of child pornography, such that the Motion should be denied. *Id.*

After hearing the parties' argument, the Magistrate denied the Motion. (Hr'g Tr. at 2:17-21.) The Order reflecting the Magistrate's denial was entered on June 7, 2024. That same day, Mr. Bomster timely appealed the Magistrate's denial to this Court pursuant to Rule 2.9(e) of the Superior Court Rules of Practice. *See* Super. R. P. 2.9(e) (“[t]he notice of appeal required shall be filed within twenty (20) days of the date of the entry of the . . . order . . . appealed from”).

II

Standard of Review

A

Review of a Magistrate's Decision

A Superior Court justice's review of a decision of a magistrate is governed by § 8-2-11.1(d) which provides, in pertinent part:

“A party aggrieved by an order entered by the . . . magistrate shall be entitled to a review of the order by a justice of the superior court. Unless otherwise provided in the rules . . . of the court, the review shall be on the record and appellate in nature. The court shall, by rules of procedure, establish procedures for review of orders entered by the . . . magistrate.” Section 8-2-11.1(d).

Rule 2.9 of the Superior Court Rules of Practice presently governs the review standard and provides, in pertinent part:

“(h) Review. The Superior Court justice shall make a de novo determination of those portions to which the appeal is directed and may accept, reject, or modify, in whole or in part, the judgment, order, or decree of the magistrate. The justice, however, need not formally conduct a new hearing and may consider the record developed before the magistrate, making his or her own determination based on that record whether there is competent evidence upon which the magistrate's judgment, order, or decree rests. The justice may also receive further evidence, recall

witnesses or recommit the matter with instructions.” Super. R. P. 2.9(h).

The record on appeal includes “[t]he original papers and exhibits filed with the Superior Court, the transcript of the proceedings, and the docket entries[.]” Super. R. P. 2.9(f). If the record indicates that competent evidence supports the magistrate’s findings, the Court “shall not substitute [its] view of the evidence for [the magistrate’s] even though a contrary conclusion could have been reached.” *Ponagansett 2 LLC v. Garcia*, 312 A.3d 992, 996 (R.I. 2024) (quoting *Andrews v. Lombardi*, 233 A.3d 1027, 1033 (R.I. 2020)). “Legally competent evidence is defined as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.” *Montaquila v. Neronha*, 289 A.3d 568, 572-73 (R.I. 2023) (quoting *Beagan v. Rhode Island Department of Labor and Training*, 162 A.3d 619, 626 (R.I. 2017)).

B

Rule 9.1 Motion to Dismiss

“When addressing a motion to dismiss a criminal information, a [Superior Court] justice is required to examine the information and any attached exhibits to determine whether the state has satisfied its burden to establish probable cause to believe that the offense charged was committed and that the defendant committed it.” *State v. Martini*, 860 A.2d 689, 691 (R.I. 2004) (quoting *State v. Fritz*, 801 A.2d 679, 682 (R.I. 2002)). “A motion justice’s review with respect to the existence of probable cause (*vel non*) is limited to ‘the four corners of the information package.’” *State v. Baillarger*, 58 A.3d 194, 197 (R.I. 2013) (quoting *State v. Young*, 941 A.2d 124, 128 (R.I. 2008)). Notably, “the trial justice should grant the state ‘the benefit of every reasonable inference’ in favor of a finding of probable cause.” *Young*, 941 A.2d at 128 (quoting *State v. Jenison*, 442 A.2d 866, 875-76 (R.I. 1982)). Thus, probable cause sufficient to support a

criminal information is established when, after considering relevant facts and circumstances, a reasonable person would believe that the charged crime occurred and was committed by defendant. *See Martini*, 860 A.2d at 691.

III

Analysis

Mr. Bomster argues that the State lacked probable cause to establish jurisdiction because there were no images or videos of child pornography found on Mr. Bomster's person or devices in Rhode Island, and the images and videos constituting child pornography on the Kik account were uploaded from an IP address linked to an unknown device located in the New York or New Jersey area. In contrast, the State argues that the original geolocation of New York or New Jersey was an approximation. The State further argues that an IP address is required to get a precise geolocation, and once police were able to subpoena the IP address used in this case, the exact geolocation was in Providence, Rhode Island at the time the child pornography was uploaded to the Kik account.

“A Superior Court will lack jurisdiction to hear a criminal case if the crime occurred beyond its territorial boundaries.” *State v. Halstead*, 414 A.2d 1138, 1144 (R.I. 1980). “The jurisdictional question need not . . . be resolved prior to trial. . . . It is sufficient to prove jurisdiction if the evidence, as viewed by the trial justice, indicates that the crime occurred within the territorial jurisdiction of the court.” *Id.* Further, the trial justice must look to the “four corners of the information package” to determine if probable cause to establish jurisdiction exists. *Young*, 941 A.2d at 128.

In support of his decision, the Magistrate relied on the information package and, in particular, that a subpoena of Verizon's records “confirmed that [Mr. Bomster's] IP address

[was] used on March 2, 2021, at approximately 13:59 . . . [and] was geologically located in Providence, Rhode Island . . .” Hr’g Tr. 2:6-14. The Magistrate’s decision is supported by competent evidence found in the information package, specifically in the affidavit supporting the arrest warrant. The affiant states that Mr. Bomster was identified as a suspect after a subpoena to Verizon determined Mr. Bomster was the subscriber of the IP address used on the date and time the child pornography was uploaded to the Kik account and located in Providence, Rhode Island. Thus, the Magistrate gave the State “‘the benefit of every reasonable inference’ in favor of . . . finding . . . probable cause” and his finding was based on competent evidence found within the information package. *Young*, 941 A.2d at 128 (quoting *Jenison*, 442 A.2d at 875-76).

IV

Conclusion

After reviewing the contents of the four corners of the Criminal Information and affording the State the benefit of every reasonable inference in favor of a probable cause finding, this Court finds that there is competent evidence in the record that supports a finding that the State has set forth sufficient evidence to establish probable cause in this case. Accordingly, this Court accepts the Magistrate’s decision and resulting Order in whole and **DENIES** Mr. Bomster’s appeal. Counsel shall submit the appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

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COURT: Providence County Superior Court

DATE DECISION FILED: January 10, 2025

JUSTICE/MAGISTRATE: Cruise, J.

ATTORNEYS:

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