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STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0906

State of Minnesota,
Respondent,

vs.

Harley Harlen Bishop,
Appellant.

Filed February 11, 2019
Affirmed
Johnson, Judge

St. Louis County District Court
File No. 69HI-CR-16-496

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark S. Rubin, St. Louis County Attorney, Duluth, Minnesota, Jeffrey M. Vlatkovich, Assistant County Attorney, Hibbing, Minnesota (for respondent)

Patrick Dinneen, Silver Bay, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Tracy M. Smith, Judge.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

After a court trial, the St. Louis County District Court found Harley Harlen Bishop guilty of four drug-related offenses. On appeal, Bishop challenges the district court's

denial of his pre-trial motion to suppress evidence that was found in his home during the execution of a search warrant. He contends that the search warrant is invalid because it was issued based in part on information that a law-enforcement officer obtained in an unlawful warrantless search of his home. He also contends that the search warrant is invalid on the ground that the warrant application contained a misstatement of material fact. We conclude that there was no unlawful warrantless search of Bishop's home and that the misstatement in the warrant application did not concern a material fact. Therefore, we affirm.

FACTS

In late 2015 and early 2016, buildings on a farm near the city of Nashwauk were burglarized three times. Numerous items were stolen, including taxidermic mounts of two animals: a pine marten[1] and a goshawk.[2] In early May 2016, the property owner's teenage grandson, who was involved in the burglaries, showed the property owner where the stolen items were being kept. The grandson indicated that the two mounted animals were at Bishop's home near the city of Hibbing. On May 19, 2016, the property owner reported the burglaries to the Chisholm Police Department (because most of the stolen items were

[1] A pine marten is a member of the weasel family. They range from 24 to 30 inches in length, weigh approximately two pounds, are typically brown in color, and reside primarily in northern Minnesota. *American marten*, Minn. Dep't of Natural Resources, https://www.dnr.state.mn.us/mammals/americanmarten.html (last visited Feb. 5, 2019).

[2] A goshawk is a large forest-dwelling hawk with broad wings, a long rounded tail, and a white stripe above red eyes. They are most commonly found in the north-central and northeastern parts of Minnesota. *Accipiter gentilis*, Minn. Dep't of Natural Resources, https://www.dnr.state.mn.us/rsg/profile.html?action=elementDetail&selectedElement=ABNKC12060 (last visited Feb. 5, 2019).

believed to be at a home in Chisholm) and stated that he believed that the mounted animals were at Bishop's home in Hibbing.

Later that day, Officer Burns of the Hibbing Police Department went to Bishop's home to investigate. The front of Bishop's house faces west. A small exterior vestibule protrudes forward from the front of the house, with a screen door on its north side. The house has a front window that is close to the vestibule and at a right angle to the screen door to the vestibule so that a person standing in front of the screen door to the vestibule also would be standing in front of the front window.

When Officer Burns approached the front door of Bishop's home, he knocked and waited for a response. While waiting, he heard a barking dog and movement inside the home. He looked through the front window into Bishop's home. In doing so, he saw a mounted pine marten on a shelf along the back wall of the room inside the front window. Officer Burns then walked around the corner of the house to its north side, which has three windows. Officer Burns looked through the third window, which was nearest to the back of the house, and saw a man, who later was identified as Bishop, standing inside the home. Officer Burns asked Bishop whether he had any mounted animals in his home. Bishop stated that there were no mounted animals in his home. Officer Burns left Bishop's property and made an electronic record of his visit. He also contacted Investigator Johnson of the Itasca County Sheriff's Office, which was investigating the burglaries near Nashwauk, and told him what he saw at Bishop's home.

On June 22, 2016, Investigator Johnson, who previously had interviewed the owner of the mounted animals and his grandson, prepared an application for a warrant to search

Bishop's house. In the warrant application, Investigator Johnson incorrectly stated that Officer Burns had contacted him on June 21, 2016, even though Officer Burns had actually contacted him on May 19, 2016. When officers executed the search warrant, they discovered a marijuana-growing operation in Bishop's basement. Officers then sought and obtained a second search warrant, which led to the discovery of cocaine, methamphetamine, marijuana, and methamphetamine paraphernalia.

The state charged Bishop with (1) fifth-degree controlled-substance crime by possessing cocaine, in violation of Minn. Stat. § 152.025, subd. 2(1) (2014); (2) fifth-degree controlled-substance crime by possessing methamphetamine, in violation of Minn. Stat. § 152.025, subd. 2(1); (3) fifth-degree controlled-substance crime by selling marijuana, in violation of Minn. Stat. § 152.025, subd. 1(1); and (4) storage of methamphetamine paraphernalia in the presence of a child, based on the fact that Bishop's then-16-year-old son lived in the home, in violation of Minn. Stat. § 152.137, subd. 2(a)(4) (2014).

In October 2017, Bishop moved to suppress the evidence found during the execution of the second search warrant on the ground that the first search warrant was invalid. At a contested omnibus hearing, Bishop testified and called his mother as a witness. The state presented the testimony of Officer Burns. In a post-hearing memorandum, Bishop argued that the first search warrant was not supported by probable cause on the grounds that the information obtained by Officer Burns during his May 19, 2016 visit to Bishop's home was stale and that Officer Burns obtained the information in an unlawful warrantless search. In February 2017, the district court filed an order denying Bishop's motion to

suppress. Bishop retained substitute counsel, who brought a motion for reconsideration, which was denied.

Bishop waived his right to a jury trial and stipulated to the prosecution's evidence, and the parties agreed that the district court's ruling on the pre-trial suppression motion would be dispositive of the case. *See* Minn. R. Crim. P. 26.01, subd. 4. The district court found Bishop guilty on all counts. The district court stayed imposition of sentence. *See* Minn. Stat. § 609.135 (2014). Bishop appeals.

D E C I S I O N

Bishop argues that the district court erred by denying his motion to suppress evidence, for two reasons.

A. Officer Burns's Observations at Bishop's Home

Bishop first argues that the district court erred by ruling that Officer Burns did not conduct an unlawful warrantless search of his home on May 19, 2016, when he looked through the front window and saw a mounted pine marten. The officer's observation of a mounted pine marten was mentioned in the application for the first search warrant, the execution of which led to the second search warrant, which led to the incriminating evidence underlying Bishop's convictions.

The Fourth Amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. As a general rule, a warrant is required before a law-enforcement officer may search a person's home. *State v. Lohnes*, 344 N.W.2d 605, 610 (Minn. 1984); *State v. Morin*, 736 N.W.2d 691, 695 (Minn. App. 2007),

review denied (Minn. Sept. 18, 2007). Accordingly, a warrantless search of a person's home is "presumptively unreasonable." *Payton v. New York*, 445 U.S. 573, 586, 100 S. Ct. 1371, 1380 (1980). "A person's home is clearly a constitutionally protected area," and a search of a home occurs if "the government physically intrudes onto a constitutionally protected area." *State v. Edstrom*, 916 N.W.2d 512, 517 (Minn. 2018) (citing *United States v. Jones*, 565 U.S. 400, 406-07 n.3, 132 S. Ct. 945, 950 n.3 (2012)); *see also State v. Chute*, 908 N.W.2d 578, 583 (Minn. 2018). Thus, a search of a home occurs if an officer crosses the threshold of the doorway to a home and enters the home. *Payton*, 445 U.S. at 590, 100 S. Ct. at 1382.

A search of a home may occur even if an officer does not cross the threshold of the doorway and enter the home. "[A]n area outside the home may be considered 'part of the home itself' if it constitutes curtilage." *Edstrom*, 916 N.W.2d at 517 (citing *Oliver v. United States*, 466 U.S. 170, 180, 104 S. Ct. 1735, 1742 (1984)). An officer conducts a search if the officer enters onto the curtilage of a home and conducts an investigation "'through an unlicensed physical intrusion.'" *Chute*, 908 N.W.2d at 585 (quoting *Florida v. Jardines*, 569 U.S. 1, 7, 133 S. Ct. 1409, 1415 (2013)). Whether the officer's physical intrusion is unlicensed depends on whether the property owner "had given the officer express or implied license to enter onto the curtilage." *Id.* A license to enter the curtilage of a home often is implied because "a person is typically invited to 'approach the home by the front path, knock promptly, wait briefly to be received and then (absent invitation to linger longer) leave.'" *Id.* at 586 (quoting *Jardines*, 569 U.S. at 8, 133 S. Ct. at 1415).

In *Jardines*, a detective walked onto the unenclosed front porch of a home with a drug-sniffing dog, who signaled that drugs were present inside the home. 569 U.S. at 4, 133 S. Ct. at 1413. Law-enforcement officers used that information to obtain a search warrant, the execution of which revealed marijuana inside the home. *Id.* The question on appeal was whether the detective conducted an unlawful warrantless search by using a drug-sniffing dog on the person's front porch. *See id.* at 5-6, 133 S. Ct. at 1414. The Supreme Court's analysis in *Jardines*, which Bishop cites and quotes extensively in his brief, is especially pertinent to this case, so we quote it extensively as well:

> Since the officers' investigation took place in a constitutionally protected area, we turn to the question of whether it was accomplished through an unlicensed physical intrusion. While law enforcement officers need not "shield their eyes" when passing by the home "on public thoroughfares," *Ciraolo*, 476 U.S., at 213, 106 S. Ct. 1809, an officer's leave to gather information is sharply circumscribed when he steps off those thoroughfares and enters the Fourth Amendment's protected areas. In permitting, for example, visual observation of the home from "public navigable airspace," we were careful to note that it was done "in a physically nonintrusive manner." *Ibid.* *Entick v. Carrington*, 2 Wils. K. B. 275, 95 Eng. Rep. 807 (K. B. 1765), a case "undoubtedly familiar" to "every American statesman" at the time of the Founding . . . , states the general rule clearly: "[O]ur law holds the property of every man so sacred, that no man can set his foot upon his neighbour's close without his leave." 2 Wils. K. B., at 291, 95 Eng. Rep., at 817. As it is undisputed that the detectives had all four of their feet and all four of their companion's firmly planted on the constitutionally protected extension of Jardines' home, the only question is whether he had given his leave (even implicitly) for them to do so. He had not.
>
> "A license may be implied from the habits of the country," notwithstanding the "strict rule of the English common law as to entry upon a close." *McKee v. Gratz*, 260

U.S. 127, 136, 43 S. Ct. 16, 17 (1922) (Holmes, J.). We have accordingly recognized that "the knocker on the front door is treated as an invitation or license to attempt an entry, justifying ingress to the home by solicitors, hawkers and peddlers of all kinds." *Breard v. Alexandria*, 341 U.S. 622, 626, 71 S. Ct. 920, 924 (1951). This implicit license typically permits the visitor to approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave. Complying with the terms of that traditional invitation does not require fine-grained legal knowledge; it is generally managed without incident by the Nation's Girl Scouts and trick-or-treaters. Thus, a police officer not armed with a warrant may approach a home and knock, precisely because that is "no more than any private citizen might do." *Kentucky v. King*, 563 U.S. 452, 469, 131 S. Ct. 1849, 1862 (2011).

But introducing a trained police dog to explore the area around the home in hopes of discovering incriminating evidence is something else. There is no customary invitation to do *that*. An invitation to engage in canine forensic investigation assuredly does not inhere in the very act of hanging a knocker. To find a visitor knocking on the door is routine (even if sometimes unwelcome); to spot that same visitor exploring the front path with a metal detector, or marching his bloodhound into the garden before saying hello and asking permission, would inspire most of us to—well, call the police. The scope of a license—express or implied—is limited not only to a particular area but also to a specific purpose. Consent at a traffic stop to an officer's checking out an anonymous tip that there is a body in the trunk does not permit the officer to rummage through the trunk for narcotics. Here, the background social norms that invite a visitor to the front door do not invite him there to conduct a search.

[T]he question before the court is precisely *whether* the officer's conduct was an objectively reasonable search. As we have described, that depends upon whether the officers had an implied license to enter the porch, which in turn depends upon the purpose for which they entered. Here, their behavior objectively reveals a purpose to conduct a search, which is not what anyone would think he had license to do.

Id. at 7-10, 133 S. Ct. at 1415-17 (footnotes omitted).

In its order denying Bishop's motion to suppress, the district court made a finding that Officer Burns "looked through the front-west facing window of the Defendant's residence and viewed a pine marten mount inside." In its legal analysis, the district court rejected Bishop's argument for the following reasons:

> Officer Burns viewed a pine marten mount through the Defendant's window and used that observation to support the original search warrant. The Defendant questions whether this viewing was from a lawful vantage point. What a person knowingly exposes to the public, even in his own home, is not subject to Fourth Amendment protection. *State v. Carter*, 569 N.W.2d 169, 177 (Minn. 1997). Because the officer inadvertently viewed the mount from the window next to the front door, a place impliedly open to the public, the plain-view exception applies.

Bishop takes issue with the district court's finding that Officer Burns saw the mounted pine marten through the front (west) window, not through a side (north) window. Both Bishop and his mother, who owns the home and also lives in it, testified that Officer Burns could not have seen through the front window because it has curtains that always are closed. But Officer Burns testified that his view through the window was not obstructed when he visited Bishop's house on May 19, 2016. The district court's findings are consistent with Officer Burns's testimony and inconsistent with Bishop's evidence. "It is the province of the fact-finder to determine the weight and credibility to be afforded the testimony of each witness." *State v. Kramer*, 668 N.W.2d 32, 38 (Minn. App. 2003), *review denied* (Minn. Nov. 18, 2003). We must defer to the district court's resolution of

conflicting evidence unless its findings are clearly erroneous. *Id.* Because the district court's findings are supported by Officer Burns's testimony, they are not clearly erroneous.

To resolve Bishop's argument, we must determine whether Officer Burns engaged in a warrantless search of Bishop's home when he looked through Bishop's front window after knocking on the front door and while waiting for a response. As stated above, the answer to that question hinges on whether Officer Burns entered the curtilage of Bishop's home and conducted an investigation "'through an unlicensed physical intrusion,'" and that depends on whether Bishop "had given the officer express or implied license" to act as he did. *Chute*, 908 N.W.2d at 585 (quoting *Jardines*, 569 U.S. at 7, 133 S. Ct. at 1415). The law presumes a license "to 'approach the home by the front path, knock promptly, [and] wait briefly to be received.'" *Id.* at 586 (quoting *Jardines*, 569 U.S. at 8, 133 S. Ct. at 1415). But "the background social norms that invite a visitor to the front door do not invite him there to conduct a search." *Jardines*, 569 U.S. at 9, 133 S. Ct. at 1416. Furthermore, the scope of the implied license "is limited not only to a particular area but also to a specific purpose." *Id.* at 9, 133 S. Ct. at 1416. An officer exceeds the scope of the implied license if the officer's "behavior objectively reveals a purpose to conduct a search." *Id.* at 10, 133 S. Ct. at 1417.

In this case, Officer Burns's conduct plainly was within the scope of the license implied from social norms insofar as he approached the front door of Bishop's home, knocked, and waited for a response, so long as his wait was brief. *See Chute*, 908 N.W.2d at 586. The more difficult question is whether Officer Burns's conduct was within the scope of the implied license when, while briefly waiting, he looked through the front

window into Bishop's home. The license implied from social norms does not necessarily forbid a visitor from looking through an unobstructed window that is next to a front door or is mounted in the front door while waiting for a response to a knock on the door, so long as the visitor remains in front of the door. A polite visitor is likely to direct his or her gaze away from the window so as not to intrude on the privacy of persons inside the home, or at least to refrain from doing so conspicuously or for a long period of time. But some visitors might, depending on the circumstances, consider it acceptable to look through an unobstructed window to determine whether a resident is inside the home or is preparing to answer the door. Consequently, a resident of a home with an unobstructed window at the front door cannot expect all visitors to avoid looking through the window while waiting for a response to a knock on the door. But if and when there is a response to a knock on the door, social norms are more permissive toward a visitor. If a person inside the home opens an inner door or is heard walking toward the front door, it would not be unusual for a visitor to look through a window to make eye contact with the person answering the door.

The distinctive feature of this case is that Officer Burns apparently looked through the front window only after hearing noises inside—a barking dog and the noise of some other movement. When asked whether he heard or saw anyone inside the house after knocking on the door, he testified, "I heard what I thought was movement and then I also heard a dog barking inside the residence." When asked whether he tried to identify the movement inside the home, he testified, "That is one of the reasons why I peered into the window, yes." Officer Burns may have looked through the window instinctively, as anyone might do upon suddenly hearing a nearby noise. It is significant that Officer Burns

did not relocate before looking through the window. He was standing directly in front of the window as well as directly in front of the screen door to the vestibule, so he could have seen through the window merely by turning 90 degrees to his left. Thus, from an objective point of view, the record does not indicate that Officer Burns exceeded the scope of the implied license to enter onto the curtilage of Bishop's home. Accordingly, Officer Burns did not conduct an unlawful warrantless search of Bishop's home.

Our conclusion is consistent with post-*Jardines* caselaw from other jurisdictions arising from similar circumstances. We are aware of four opinions issued since *Jardines* in which an appellate court has concluded that an officer conducted a warrantless search of a home by looking through a window, but in none of those cases was the officer positioned directly in front of the front door to the home. *See Friedson v. State*, 207 So. 3d 961, 963 (Fla. Dist. Ct. App. 2016); *Powell v. State*, 120 So. 3d 577, 580-81 (Fla. Dist. Ct. App. 2013); *Sayers v. State*, 433 S.W.3d 667, 671-72 (Tex. Crim. App. 2014); *State v. Popp*, 855 N.W.2d 471, 475 (Wis. Ct. App. 2014). On the other hand, we are unaware of any opinion issued since *Jardines* in which an appellate court has concluded that an officer conducted a warrantless search by approaching the front door of a home, knocking on the door, and looking through a window into the home while standing in front of the door and waiting for a response to the knock on the door.

Our conclusion also is consistent with the supreme court's opinion in *State v. Carter*, which the district court cited for the proposition that "[w]hat a person knowingly exposes to the public, even in his own home, is not subject to Fourth Amendment protection." *See* 569 N.W.2d 169, 177 (Minn. 1997), *rev'd on other grounds sub nom., Minnesota v. Carter*,

525 U.S. 83, 119 S. Ct. 409 (1998). The district court's reference to *Carter* gives the impression that *Carter* is permissive toward a law-enforcement officer who looks through the window of a home. But the holding in *Carter* actually is protective of the Fourth Amendment rights of the persons inside the home. The officer in that case approached a ground-floor window of an apartment by leaving the sidewalk, walking across a grassy lawn, and positioning himself behind some short bushes. *Id.* at 172. "The window's blinds were drawn closed, but gaps in the blinds allowed [the officer] to observe activity in the apartment." *Id.* The officer was approximately 12 to 18 inches from the window and looked inside the apartment for approximately 15 minutes. *Id.* The officer saw three persons packaging powder cocaine. *Id.* The supreme court concluded that the officer's conduct constituted a search for purposes of the Fourth Amendment. *Id.* at 178. The court reasoned that the three persons inside the home "took sufficient precautions to keep their activities private" and that the officer "took extraordinary measures to enable himself to view the inside of a private dwelling." *Id.* at 177-78. By comparison, Bishop apparently did not take as much precaution to maintain the privacy of his home. Likewise, Officer Burns did not take extraordinary measures to peer into Bishop's home. He merely stood in front of the front door of Bishop's home while waiting for a response to his knock on the door, intending to ask questions of Bishop, and he looked through the nearby front window after he heard noises inside the home.

Before concluding, we note that the district court improperly referred to the "plain-view exception" in its analysis of Bishop's argument. The plain-view exception to the Fourth Amendment's warrant requirement applies only to a seizure of a tangible item, not

to a search of a place. *Chute*, 908 N.W.2d at 583 n.2 (citing *Horton v. California*, 496 U.S. 128, 134, 110 S. Ct. 2301, 2306 (1990)). Bishop does not argue that Officer Burns unlawfully seized evidence. Indeed, Officer Burns did not seize anything during his visit to Bishop's home on May 19, 2016. Rather, Bishop argues that Officer Burns conducted an unlawful warrantless search of his home. The proper legal conclusion flowing from the district court's premise that "the officer inadvertently viewed the mount from the window next to the front door" is that Officer Burns did not conduct an unlawful warrantless search of Bishop's home.

Thus, the first search warrant is not invalid on the ground that the application stated that Officer Burns saw a mounted pine marten in Bishop's home.

B. Application for First Search Warrant

Bishop also argues that the district court erred by ruling that the first search warrant, which authorized a search for the stolen animal mounts, is invalid on the ground that the warrant application contained a misstatement of material fact.

In *Franks v. Delaware*, 438 U.S. 154, 98 S. Ct. 2674 (1978), the United States Supreme Court held that, after a warrant has been issued and executed, a criminal defendant may "challenge the truthfulness of factual statements made in an affidavit supporting the warrant." *Id.* at 155-56, 98 S. Ct. at 2676. "A search warrant is void, and the fruits of the search must be excluded, if the application includes intentional or reckless misrepresentations of fact material to the findings of probable cause." *State v. Moore*, 438 N.W.2d 101, 105 (Minn. 1989). Accordingly, if a defendant seeks to invalidate a warrant under *Franks*, the defendant must show that "(1) the affiant 'deliberately made a statement

that was false or in reckless disregard of the truth,' and (2) 'the statement was material to the probable cause determination.'" *State v. Andersen*, 784 N.W.2d 320, 327 (Minn. 2010) (quoting *State v. McDonough*, 631 N.W.2d 373, 390 (Minn. 2001)). If a defendant makes such a showing, the "search warrant is void, and the fruits of the search must be excluded." *Moore*, 438 N.W.2d at 105. This court applies a clear-error standard of review to a district court's finding on the first requirement and a *de novo* standard of review to a district court's determination of the second requirement. *Andersen*, 784 N.W.2d at 327.

Bishop's *Franks* claim is based on the fact that Investigator Johnson's application for the first search warrant was inaccurate in stating that Officer Burns provided him with information on June 21, 2016, which was one day before Investigator Johnson signed the warrant application, rather than May 19, 2016, which was the day of Officer Burns's visits to Bishop's home. The district court found that the warrant application misstated the date but that the misstatement "appears to be the result of a misunderstanding between officers or typographical error rather than a deliberate misrepresentation to the court." The district court also found that the misstated fact was not material because the information obtained from Officer Burns "is not so stale that it could not support the application for the warrant despite the officer having viewed the pine marten mount 34 days earlier."

Bishop contends that the district court erred by reasoning that the factual misstatement was not material. "A misrepresentation or omission is material if, when the misrepresentation is set aside or the omission supplied, probable cause to issue the search warrant no longer exists." *Andersen*, 784 N.W.2d at 327. To establish probable cause, the facts supporting a warrant application must be "'so closely related to the time of the issue

of the warrant as to justify a finding of probable cause at that time.'" *State v. Souto*, 578 N.W.2d 744, 750 (Minn. 1998) (quoting *Sgro v. United States*, 287 U.S. 206, 210, 53 S. Ct. 138, 140 (1932)). If the supporting facts are not sufficiently related in time, the information is stale, and the warrant application is not supported by probable cause. *See United States v. Leon*, 468 U.S. 897, 904, 104 S. Ct. 3405, 3410-11 (1984); *Souto*, 578 N.W.2d at 750. In determining whether information in a warrant application is stale, a court should consider a number of factors, including "whether there is any indication of ongoing criminal activity, whether the articles sought are innocuous or incriminating, whether the property sought is easily disposable or transferable, and whether the items sought are of enduring utility." *Souto*, 578 N.W.2d at 750.

A mounted pine marten is, by its nature, both innocuous and easily transportable. But it is the type of item that is likely to have enduring value and, thus, likely to remain in the possession of a person who was known to have possessed it on a prior date. Thus, even if Investigator Johnson had correctly understood that Officer Burns saw a mounted pine marten in Bishop's home 34 days earlier, the information would not have been stale and, thus, would not have affected the probable-cause determination. This conclusion is consistent with the applicable caselaw. *See State v. DeWald*, 463 N.W.2d 741, 746-47 (Minn. 1990) (concluding that information concerning defendant's possession of kitchen knives 22 days earlier was not stale); *State v. Jannetta*, 355 N.W.2d 189, 192-94 (Minn. App. 1984) (concluding that information concerning defendant's possession of sexually explicit photographs of minors two years earlier was not stale), *review denied* (Minn. Jan. 14, 1985).

Accordingly, even if the application for the first search warrant had said that Officer Burns had visited Bishop's home on May 19, 2016, the application nonetheless would have provided probable cause for the issuance of the search warrant. This is so even though the application also stated that Bishop had told Officer Burns on May 19, 2016, that he was not in possession of any mounted animals and that the owner of the animal mounts had been told two weeks earlier that the animal mounts were at another person's house. Law-enforcement officers are not required to accept a suspect's statements at face value, and Bishop's statement to Officer Burns was directly contradicted by Officer Burns's observation of a mounted pine marten inside Bishop's home only moments earlier. Thus, the district court did not err by determining that the information obtained by Officer Burns was not stale.

Bishop also argues that probable cause was lacking on the ground that Officer Burns described the mounted pine marten in Bishop's home as being brown even though, according to Bishop, the stolen pine marten was albino. Bishop did not make this argument in his motion to suppress evidence. He made a similar argument in his motion for reconsideration after retaining substitute counsel. The district court denied the motion for reconsideration without discussing the color of the stolen pine marten. Bishop may not appeal from a denial of a motion for reconsideration. *Hohenwald v. State*, 875 N.W.2d 843, 846 (Minn. 2016). Nonetheless, the argument is without merit because the warrant application does not specify the color of the stolen mounted pine marten. Bishop testified at the omnibus hearing that he possessed the stolen mounted pine marten at some point in time and that it was an albino. But there is no evidence in the record to suggest that the

owner of the stolen mounted pine marten had specified its color or that any law-enforcement officer was aware of its color.

In sum, the district court did not err by denying Bishop's motion to suppress evidence.

Affirmed.