

COURT OF APPEALS OF VIRGINIA

Record No. 1156-25-3

DESHAUN MARQUIST GRAVES

v.

COMMONWEALTH OF VIRGINIA

Present: Judges Athey, Ortiz and Causey

Argued at Lexington, Virginia

Opinion Issued October 6, 2026

FROM THE CIRCUIT COURT OF THE CITY OF DANVILLE

James J. Reynolds, Judge

Mark T. Williams (Baker N. Williams; Williams & Light, on brief), for appellant.

Katherine Quinlan Adelfio, Senior Assistant Attorney General (Jay Jones, Attorney General; Sabina B. Thaler, Assistant Attorney General, on brief), for appellee.

PUBLISHED OPINION BY JUDGE DANIEL E. ORTIZ

INTRODUCTION

The prolonged use of Global Positioning System (“GPS”) monitoring to track a suspect’s vehicle, even without an accompanying trespass, constitutes a search; however, Virginia police officers may rely on an out-of-state warrant to conduct such a search, on the condition that the warrant satisfies the protections of the Fourth Amendment.

In 2023, a joint taskforce composed of North Carolina and Virginia law enforcement investigated Deshaun Marquist Graves (“Graves”) for narcotrafficking. The investigation, based in part on GPS location data obtained pursuant to a North Carolina warrant, led to Graves’s arrest and conviction in Virginia. On appeal, Graves challenges the trial court’s denial of his motion to suppress. He argues that the Virginia police conducted an unlawful search by

accessing GPS location data without a Virginia warrant. He further suggests that any reliance on the North Carolina warrant is misplaced as it failed the particularity and probable cause requirements of the Fourth Amendment and violated Code § 19.2-56.2.

We disagree. Although the Danville Police Department's extended monitoring of Graves's vehicle constituted a search, he received all the protections he was entitled to under the Fourth Amendment. Thus, we affirm the trial court's denial of the motion to suppress.

BACKGROUND¹

A. The Investigation

From November to December 2023, a multijurisdictional taskforce comprised of the Danville Virginia Police Department, Greensboro North Carolina Police Department, and federal law enforcement, with the assistance of confidential informants, identified Graves as a potential narcotrafficker.

The week of November 6, 2023, Confidential Source 1 ("CS-1") informed Detective Blanks of the Greensboro Police Department that Graves would be traveling from Greensboro, North Carolina to Danville, Virginia to pick up narcotics. Mobile surveillance tracked Graves as he drove a white Ford F-150 pickup truck with Virginia plates from Greensboro into Danville. Danville police officers observed Graves park his Ford F-150 pickup truck at an apartment complex on 326 Broad Street. During the week of November 13, 2023, Confidential Source 2 ("CS-2") disclosed to officers that Graves sourced Greensboro and Danville with cocaine and

¹ "When reviewing a denial of a suppression motion, we review the evidence 'in the light most favorable to the Commonwealth, giving it the benefit of any reasonable inferences.'" *Smith v. Commonwealth*, 61 Va. App. 112, 116 (2012) (quoting *Glenn v. Commonwealth*, 49 Va. App. 413, 416 (2007) (en banc)). In doing so, we consider the stipulated facts as stated in Graves's brief in support of his motion to suppress, the search warrant affidavits, and the stipulated proffer of evidence offered at Graves's plea colloquy. *See id.* at 116 n.2 ("[W]hen evidence, a stipulation, or an unobjected-to proffer is presented to the trial court in conjunction with a guilty plea, an appellate court will consider it alongside the other evidence presented during the earlier suppression hearing.").

fentanyl. On November 16, 2023, CS-2 facilitated a controlled buy with Graves, during which, officers observed Graves driving the same white Ford F-150 pickup truck that the taskforce had seen in Danville, Virginia.

On November 20, 2023, Detective Blanks from the Greensboro Police Department applied for a search warrant requesting the use and monitoring of a GPS device on a 2007 Ford F-150 pickup truck registered to Graves in Virginia. In his affidavit, Detective Blanks averred the following: (1) that on November 6, 2023, CS-1 informed him that Graves would be traveling from Greensboro, North Carolina to Danville, Virginia; (2) that officers surveilled Graves as he travelled to Danville in a white Ford F-150 pickup truck and stopped at 326 Broad Street; (3) that officers observed Graves leaving the 326 Broad Street apartment in his Ford F-150 pickup truck and return to Greensboro; (4) that CS-1 confirmed Graves picked up 400 grams of cocaine; (5) that CS-2 disclosed that Graves supplied Greensboro and Danville with cocaine and fentanyl; and (6) that CS-2 participated in a controlled buy with Graves during the week of November 13, 2023, and during the transaction, officers saw Graves drive up in the same Ford F-150 pickup truck. The affidavit concluded that based on the information, the detective believed there was probable cause to show that Graves was “engaged in transporting illegal narcotics” and “utilizing the 2007 Ford F-150 truck . . . to transport illegal drugs.”

On November 20, 2023, Judge Wood of the Guilford County, North Carolina Superior Court issued an order “Authorizing Installation and Use of Electronically Activated Tracking Devices (GPS)” on Graves’s Ford F-150 pickup truck. The order indicated that “agents of the Greensboro Police Department Vice/Narcotics Unit and/or of any other law enforcement agency . . . are authorized to continuously monitor the GPS device for a period of 90 days, with said period to begin at the time of installation.” The order required installation of the device “within 10 days” of the issuance of the order. The order further stated, “in the event that the Target

Vehicle travels outside the territorial jurisdiction of this Court, monitoring agents may continue to monitor the tracking devices in other jurisdictions.” The next day, on November 21, 2023, the Greensboro police installed the GPS device on Graves’s Ford F-150 pickup truck while it was in North Carolina.

From November 21, 2023 through December 14, 2023 (24 days), the joint taskforce investigated Graves as he traveled between Greensboro, North Carolina and Danville, Virginia. Officer surveillance and GPS location data showed that the Ford F-150 pickup truck made repeated stops at two apartments in Danville, Virginia—324 Cleveland Street and 326 Broad Street. During this period, the joint taskforce also recovered cocaine, fentanyl, and marijuana from controlled buys in Virginia and North Carolina. During one controlled buy in Danville, officers tracked Graves as he stopped at both the Cleveland and Broad Street apartments before distributing cocaine and marijuana to CS-1.

Based on the aforementioned facts, Danville officers applied for and received warrants for the 324 Cleveland Street and 326 Broad Street apartments. Upon executing the warrants, officers recovered marijuana, fentanyl, cocaine, and a firearm. On December 14, 2023, the Danville police brought Graves in for a custodial interview and later arrested him.

B. The Motion to Suppress

A grand jury indicted Graves on 10 felonies including: conspiracy to distribute a Schedule I or II drug possessing more than five pounds of marijuana with the intent to sell; possessing more than one ounce but less than five pounds of marijuana with the intent to sell; possessing heroin with the intent to distribute; possessing cocaine with the intent to sell; possessing a firearm while possessing a Schedule I or II drug; two counts of possessing a weapon of terrorism, i.e., fentanyl; and two counts of distributing a Schedule I or II substance.

Graves moved to suppress all evidence obtained from the use of the GPS device, arguing that evidence obtained from the searches of 324 Cleveland Street and 326 Broad Street, constituted fruit of the poisonous tree. Graves argued that the Danville police conducted an unconstitutional search when it used GPS location data without securing a Virginia warrant. Graves further challenged the validity of the North Carolina warrant under Virginia law, as it violated Code § 19.2-56.2, by permitting tracking for 90 days.

The trial court denied the motion to suppress, finding that the warrant issued by the Guilford County Superior Court was valid under North Carolina law, and satisfied the requirements of the Fourth Amendment. The trial court reasoned that even if the GPS warrant did not comply with Virginia law, under the good faith exception, Danville officers “were entitled to rely on the warrant[] issued by detached judicial officers.”

Following the suppression ruling, Graves entered a conditional *Alford*² plea to one amended charge and five of the original possession and distribution charges. On appeal, he challenges only the trial court’s denial of his motion to suppress.

ANALYSIS

The Fourth Amendment and the Virginia Constitution protect “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV; Va. Const. art. I, § 10. *See Lowe v. Commonwealth*, 230 Va. 346, 348 n.1 (1985) (noting that the protections afforded under the Virginia Constitution are “substantially the same as those contained in the Fourth Amendment”). As a basic principle, “[s]earches and seizures conducted without a warrant are presumptively invalid.” *Cantrell v.*

² *North Carolina v. Alford*, 400 U.S. 25, 37 (1970) (“An individual accused of crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime.”).

Commonwealth, 65 Va. App. 53, 59 (2015). The question before us is whether the Danville Police Department violated this principle.

On appeal, Graves argues that the Danville Police Department’s use of GPS data to track the location of his Ford F-150 pickup truck constituted a search under the Fourth Amendment. He further suggests that Danville officers could not rely on a warrant issued by a North Carolina judge, as the warrant lacked particularity and probable cause and violated Code § 19.2-56.2.

While we agree that the Danville Police Department’s reliance on GPS data to monitor Graves’s location was a “search” as contemplated by the Fourth Amendment, we find that the trial court did not err in denying Graves’s motion to suppress as the search was conducted pursuant to a valid warrant.

I. GPS tracking is a search under the Fourth Amendment.

We recognize that our Court and others frequently bypass the threshold constitutional question—whether a search occurred—when analyzing Fourth Amendment challenges. *See, e.g., Harris v. Commonwealth*, No. 1149-16-2 (Va. Ct. App. July 5, 2017) (assuming without deciding that the search of defendant’s pockets was improper); *Bell v. Commonwealth*, No. 2897-07-2 (Va. Ct. App. Jan. 13, 2009) (same). Such reluctance conforms with our “longstanding precept . . . that ‘unnecessary adjudication of a constitutional issue’ should be avoided.” *Grady v. Blackwell*, 81 Va. App. 58, 67 (2024) (alteration in original) (quoting *Commonwealth v. Swann*, 290 Va. 194, 196 (2015)). But, as the United States Supreme Court said in *United States v. Leon*, 468 U.S. 897, 925 (1984), “[i]f the resolution of a particular Fourth Amendment question is necessary to guide future action by law enforcement officers and magistrates, nothing will prevent reviewing courts from deciding that question before turning to the good-faith issue.”

While we need not reach the good-faith exception to decide this case, we find that the same rationale applies. The protections of the Fourth Amendment are most meaningful when law

enforcement is on notice as to what conduct constitutes a search. Only then can officers conform their actions to the Constitution's demands.

A. The installation and use of a GPS device to track Graves constituted a "search" under the Fourth Amendment.

The United States Supreme Court has made clear that the installation and use of a GPS device on a vehicle to monitor a target's movements constitutes a search subject to the protections of the Fourth Amendment. *United States v. Jones*, 565 U.S. 400, 404 (2012). In *Jones*, the government received a warrant authorizing the placement of a GPS device on a vehicle registered to Jones's wife. *Id.* at 400. Although the warrant stipulated that the government must install the GPS in D.C. within ten days, agents placed the device on the eleventh day while the vehicle was in Maryland. *Id.* Because the installation of the GPS fell outside the scope of the warrant, the government conceded noncompliance and argued only that a warrant was not necessary. *Id.* at 403, n.1.

The *Jones* Court reasoned that by placing a GPS device on a suspect's vehicle without a warrant, the government "occupied private property for the purpose of obtaining information." *Id.* at 404. The Court concluded that such a "physical intrusion would have been considered a 'search' within the meaning of the Fourth Amendment." *Id.* at 404-405. In reaching this decision, the Court traced Fourth Amendment jurisprudence, noting that until the latter half of the 20th century, Fourth Amendment analysis related closely to common law trespass. *Id.* at 405. Early cases reiterated that the government's unauthorized physical encroachment into a constitutionally protected space is unlawful. *See, e.g., Silverman v. United States*, 365 U.S. 505, 506 (1961) (finding that defendant's Fourth Amendment rights were violated when police placed a "spike mike" in the heating duct of a house occupied by defendants).

It was not until *Katz v. United States*, that Fourth Amendment analysis deviated from the "property" based approach to find that "a violation occurs when government officers violate a

person's 'reasonable expectation of privacy.'" *Jones*, at 406 (quoting *Katz v. United States*, 389 U.S. 347, 360 (1967) (Harlan, J., concurring) (holding that the police may not place an electronic listening device in a public telephone booth without a warrant because what a person "seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected")). But "the *Katz* reasonable-expectation-of-privacy test has been *added to*, not *substituted for*, the common-law trespassory test." *Id.* at 409 (emphases added).

The *Jones* Court determined it had no need to apply the "reasonable expectation of privacy" test when the government's physical intrusion into Jones's "effect" was so apparent. *Id.* at 410. Thus, the search in *Jones* turned on the installation's physical intrusion, not the continuity or duration of the subsequent monitoring.

As an initial matter, the installation of the GPS device on Graves's vehicle was not an unconstitutional search. The Greensboro Police Department sought and received a warrant authorizing the installation and use of GPS surveillance before placing the device on Graves's truck. Further, the placement of the device did not fall outside the scope of the warrant. This is not a situation akin to *Jones*, where government agents ignored the stipulations of the warrant. Instead, on November 20, 2023, a superior court judge from Guilford County issued an "order" permitting the "agents of the Greensboro Police Department Vice/Narcotics Unit" to place the device "within 10 days of the issuance of [the] [o]rder." Officers from the Greensboro Police Department installed the device one day after issuance of the order, while the Ford F-150 was in North Carolina. Consequently, the installation of the GPS device in Grave's truck was not itself an unconstitutional search.

- B. Even without an accompanying physical trespass, the Danville Police Department's long-term electronic monitoring of Graves's truck was a "search."

While the Court in *Jones* declined to answer whether observation through continuous "electronic means, without an accompanying trespass," *id.* at 412, is a search, we find that in this case, it is.

Traditionally, a person driving his vehicle on a public street, in plain view, had no reasonable expectation of privacy that his vehicle would not be seen by law enforcement. *See United States v. Knotts*, 460 U.S. 276, 281 (1983); *see also Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (plurality opinion) ("A car has little capacity for escaping public scrutiny. It travels public thoroughfares where both its occupants and its contents are in plain view.").

Consequently, when the Supreme Court decided *Knotts*, it found that a beeper placed inside a car as a tracking device to help police tail a moving vehicle merely "augment[ed] visual surveillance." *Carpenter v. United States*, 585 U.S. 296, 306 (2018) (quoting *Knotts*, 460 U.S. at 282). Used this way, the tracker had little constitutional effect because "the movements of the vehicle and its final destination had been 'voluntarily conveyed to anyone who wanted to look.'" *Id.* (quoting *Knotts*, 460 U.S. at 281-82). Still, the Court was careful to "cabin[]" its holding to the "rudimentary technology" at issue, leaving room for the possibility that "if technology progressed so as to allow more sophisticated surveillance, 'different constitutional principles' could well apply." *Chatrue v. United States*, 609 U.S. ___, ___ (2026) (quoting *Knotts*, 460 U.S. at 284).

Indeed, in the intervening decades since *Knotts*, more sophisticated surveillance has triggered heightened constitutional principles. In *Kyllo v. United States*, 533 U.S. 27, 34 (2001), the United States Supreme Court held that the use of a thermal imager to detect heat from a person's home was a search in the constitutional sense. Then, in *Carpenter v. United States*, the

United States Supreme Court found that the government’s acquisition of a defendant’s historic cell-site location information is a search under the Fourth Amendment and triggers warrant requirements. 585 U.S. 296. Relying on *Carpenter*, the Fourth Circuit in *Leaders of a Beautiful Struggle v. Baltimore Police Department*, 2 F.4th 330, 341 (4th Cir. 2021) (en banc), determined that law enforcement’s reliance on an aerial surveillance program that tracked the movement of persons and vehicles violated the Fourth Amendment. Most recently, in *Chatrue v. United States*, the United States Supreme Court established that obtaining location history data through the use of a geofence warrant, which provides law enforcement a database of all active mobile devices within a particular geographic area, constituted a search for purposes of the Fourth Amendment. 609 U.S. at ____.

Indeed, five justices in *Jones* agreed that “longer term GPS monitoring in investigations of most offenses impinges on expectations of privacy”—regardless of whether those movements were observable to the public at large. 565 U.S. at 430 (Alito, J., concurring in the judgment); *id.* at 415 (Sotomayor, J., concurring). Before the digital age, law enforcement might have pursued a suspect for a brief stretch, but doing so “for any extended period of time was difficult and costly and therefore rarely undertaken.” *Id.* at 429 (Alito, J., concurring in the judgment). As such, “society’s expectation has been that law enforcement agents and others would not—and indeed, in the main, simply could not—secretly monitor and catalog every single movement of an individual’s car for a very long period.” *Id.*

Today, the use of prolonged GPS monitoring provides “an intimate window into a person’s life, revealing not only his particular movements, but through them his ‘familial, political, professional, religious, and sexual associations.’” *Carpenter*, 585 U.S. at 311 (quoting *Jones*, 565 U.S. at 415 (Sotomayor, J., concurring)). In this case, for 24 days, law enforcement agents tracked every movement that Graves made in his Ford F-150 truck while driving. The

GPS device detailed Graves's location beyond that of a public road, following him to his residence. Continued monitoring revealed a detailed chronicle of his habits and associations.³ It follows that Graves had a reasonable expectation of privacy during this period.⁴ Thus, the Danville Police Department conducted a search when they used GPS data to track Graves's Ford F-150.

Our inquiry, however, does not end here. We must now determine whether the Danville Police Department conducted the search consistent with the principles of the Fourth Amendment. For the reasons below, we find that they did.

II. The trial court did not err denying Graves's motion to suppress.

Graves suggests that the trial court erred in denying the motion to suppress for several reasons. First, he argues that the Danville Police Department conducted an invalid search when officers used GPS data to monitor his Ford F-150 pickup truck without a Virginia warrant. Then, he posits that even if the Danville Police Department relied on the North Carolina warrant, the warrant failed the particularity and probable cause requirements under the Fourth Amendment.

³ We note that this case is distinguishable from this Court's recent decision in *Robinson v. Commonwealth*, 87 Va. App. 262 (2026), where we determined that the use of Flock cameras to capture license plate numbers and vehicle characteristics was not a search under the Fourth Amendment. As we emphasized in *Robinson*, the "assessment of whether a new technology runs afoul of the *Fourth Amendment* is a fact-based inquiry." 87 Va. App. at 273 (emphasis added). Similar to the "rudimentary technology" in *Knotts*, see *Chatrle*, 609 U.S. at ___, the use of Flock cameras in *Robinson* captured only the vehicle's momentary location and plain-view license plate number in the same way it had been "voluntarily conveyed" to the public, passersby, and "anyone who wanted to look." *Robinson*, 87 Va. App. at 271 (quoting *Carpenter*, 585 U.S. at 306). The use of Flock cameras did not amount to "near perfect surveillance" because it did not "continuously monitor all of [the defendant's] travels around the city" so it could not provide a "detailed chronicle of a person's physical presence." *Id.* at 272 (quoting *Carpenter*, 585 U.S. at 315). The same cannot be said for the GPS device at issue here.

⁴ We need not pinpoint the precise moment at which the tracking became a search, as the line was surely crossed before the 24-day mark. See *Drexel v. Commonwealth*, 80 Va. App. 720, 751 (2024) ("[T]he doctrine of judicial restraint dictates that appellate courts 'decide cases "on the best and narrowest grounds available."'" (alteration in original) (quoting *Commonwealth v. White*, 293 Va. 411, 419 (2017))).

Finally, he alleges that the North Carolina warrant violated Code § 19.2-56.2 and such violation warrants suppression. We disagree.

While the Fourth Amendment protects the right to be free from unreasonable searches and seizures, “it is silent about how this right is to be enforced.” *Rivera v. Commonwealth*, 65 Va. App. 379, 386 (2015) (quoting *Davis v. United States*, 564 U.S. 229, 231 (2011)). The United States Supreme Court has created the exclusionary rule, “a ‘judicially created remedy’ . . . whose ‘sole purpose . . . is to deter future Fourth Amendment violations,’” *Collins v. Commonwealth*, 297 Va. 207, 214 (2019) (quoting *Davis*, 564 U.S. at 236-38), by “prevent[ing] evidence obtained in violation of the [F]ourth [A]mendment from being used against an accused,” *Knight v. Commonwealth*, 61 Va. App. 297, 310 (2012) (second and third alterations in original) (quoting *Redmond v. Commonwealth*, 57 Va. App. 254, 261 (2010)).

But the exclusionary rule is not automatic. Virginia appellate courts have reaffirmed that “[a]bsent an infirmity of constitutional dimensions, the ‘mere violation of state statutory law does not require that the offending evidence be suppressed, unless the statute expressly provides for an evidentiary exclusion remedy.’” *Cutright v. Commonwealth*, 43 Va. App. 593, 600 (2004) (quoting *Seaton v. Commonwealth*, 42 Va. App. 739, 757 n.7 (2004)). It is within this framework that we evaluate the case.

In reviewing the denial of a motion to suppress based on the alleged violation of an individual’s Fourth Amendment rights, we consider the facts in the light most favorable to the Commonwealth. See *Ward v. Commonwealth*, 273 Va. 211, 218 (2007) (citing *Fore v. Commonwealth*, 220 Va. 1007, 1010 (1980)). The burden falls on the defendant to prove that the trial court committed reversible error. *Id.* “This Court is bound by the trial court’s findings of historical fact unless ‘plainly wrong’ or without evidence to support them and [this Court] give[s] due weight to the inferences drawn from those facts by resident judges and local law

enforcement officers.” *Rivera*, 65 Va. App. at 384 (citing *McGee v. Commonwealth*, 25 Va. App. 193, 198 (1997) (en banc)). Still, we review the trial court’s application of the law de novo. *Ward*, 273 Va. at 218.

A. The North Carolina warrant satisfied the requirements of the Fourth Amendment.

Graves argues that trial court erred in denying his motion to suppress because the Danville Police Department relied on a warrant that failed to meet the probable cause and particularity requirements of the Fourth Amendment. We are unpersuaded.

The Fourth Amendment mandates that a search warrant be issued by an independent magistrate “upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” *Moyer v. Commonwealth*, 33 Va. App. 8, 23 (2000) (citing U.S. Const. amend. IV; Va. Const. art. I, § 10). Probable cause exists in the context of a search “where the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found.” *Ornelas v. United States*, 517 U.S. 690, 696 (1996). It is well settled that probable cause may be founded upon hearsay information received from confidential informants. *United States v. DeQuasie*, 373 F.3d 509, 518 (4th Cir. 2004) (citing *Franks v. Delaware*, 438 U.S. 154, 165 (1978)). Yet “there is no bright-line rule as to when such information may establish probable cause.” *Id.* Generally, when the factual basis for probable cause is provided by an informant, it is important to consider “the veracity and basis of knowledge of persons supplying hearsay information” and “the degree to which an informant’s story is corroborated.” *Id.* (quoting *United States v. Hodge*, 354 F.3d 305, 309 (4th Cir. 2004)).

There is no doubt the North Carolina warrant satisfies the first three requirements. First, an independent magistrate, the Guilford County Superior Court judge, issued the order. Second, the order was supported by Detective Blank’s affidavit. Third, the affidavit contained

information from confidential informants and officer surveillance, that when taken together, supported a finding of probable cause. Namely, the affidavit specified that the week of November 6, Graves drove his F-150 truck to Danville, VA where he picked up 400 grams of cocaine and then drove back to North Carolina; that the following week, CS-2 disclosed that Graves “sourced” Greensboro, N.C. and Danville VA with cocaine and fentanyl; and that during the week of November 13, CS-2 completed a controlled buy and during the transaction investigators observed Graves driving the same F-150 truck.

Still, Graves alleges that the affidavit failed to establish the credibility of the confidential informants because the officer did not disclose the basis for the tipsters’ knowledge. Of course, the issuing magistrate must consider the veracity and basis of knowledge of persons supplying hearsay information; however, these factors “are not independent ‘elements’ that must be ‘proved’ in order for a magistrate to find probable cause.” *Polston v. Commonwealth*, 24 Va. App. 738, 744 (1997), *aff’d*, 255 Va. 500 (1998). Instead, these considerations merely influence the overall totality-of-the-circumstances analysis. *Id.*

Evidence of an informant’s reliability can come in many forms. An affidavit may state that the informant previously provided accurate information, *Corey v. Commonwealth*, 8 Va. App. 281, 288 (1989); it may include information corroborating the informant’s tip, *Illinois v. Gates*, 462 U.S. 213 (1983); it may indicate that the informer has collaborated with law enforcement to conduct controlled buys, *Polston*, 24 Va. App. at 745; or it may contain statements made against the informant’s own penal interest, *United States v. Harris*, 403 U.S. 573, 583 (1971). The affidavit in this case contained two indicia of reliability. First, it indicated that the joint taskforce corroborated the statements provided by the confidential informants. For example, CS-1 alerted law enforcement that Graves would be travelling to Virginia to “re-up” his narcotic supply and that same week investigators surveilled Graves as he drove his Ford

F-150 truck to and from Danville. Likewise, CS-2 stated that Graves supplied the Greensboro/Danville region with narcotics and then a week later, officers observed CS-2 participate in a controlled buy with Graves. Second, that CS-2 participated in a controlled buy and purchased “trafficking amounts of narcotics” demonstrates credibility. Consequently, the affidavit contained sufficient facts to support the veracity of the confidential informants’ statements.

Graves further asserts that a warrant which permits monitoring for 90 days fails the particularity prong. While Graves is correct that long term or open-ended electronic surveillance raises constitutional concerns, the particularity requirement imposes no rigid temporal limit on monitoring. Rather, it demands a fact-specific, case specific analysis guided by the prong’s underlying purpose: to prevent general “exploratory rummaging in a person’s belongings.” *Moyer*, 33 Va. App. at 23 (quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 467 (1971)).

Here, a warrant authorizing GPS surveillance satisfies the particularity prong so long as it “describe[s] the object into which the [device] is to be placed, the circumstances that led agents to wish to install the [device], and the length of time for which . . . surveillance is requested.” *United States v. Karo*, 468 U.S. 705, 718 (1984). The warrant satisfied these requirements. It described with particularity the place to be searched—Graves’s Ford F-150 truck. It mandated the installation of the GPS within 10 days of issuance of the order, and it limited the duration of the search to a period of 90 days. As a practical matter, only 24 days elapsed between the installation of the GPS device and Graves’s arrest. While we take no position as to the categorical validity of a 90-day surveillance window under the particularity prong, this Court has found that GPS monitoring for a period of 30 days does not violate the Fourth Amendment. *See Turner v. Commonwealth*, 65 Va. App. 312, 325 (2015). Consistent with *Turner*, the lesser 24-day search period here is within the bounds of the Fourth Amendment.

For these reasons, we find that the warrant met the basic safeguards prescribed by the Fourth Amendment.

B. The Danville Police Department, as a member of the joint taskforce, could rely on the North Carolina warrant.

Graves argues that the Danville Police Department could not rely on an out-of-state warrant. Specifically, he contends that the Guilford County Superior Court lacked authority to issue a warrant that permitted monitoring outside of North Carolina. He posits that a warrant which exceeds the scope of the issuing court's jurisdiction is void and evidence obtained from such a search must be suppressed. Because the Fourth Amendment is unconcerned with state borders, we disagree.

Even if the Guilford County Superior Court judge exceeded his authority under state law, the Danville Police Department's reliance on such a warrant would not trigger suppression. A survey of federal case law supports this conclusion.⁵ In the wake of *Jones*, federal courts have determined that where a GPS tracking device is placed on a vehicle pursuant to a lawful warrant while the vehicle is within the issuing court's jurisdiction, no Fourth Amendment violation occurs if the tracker passes outside the jurisdiction. In *United States v. Brewer*, 915 F.3d 408 (7th Cir. 2019), the Seventh Circuit found that a GPS warrant issued by a state judge, which complied with basic Fourth Amendment requirements, permitted law enforcement to use the GPS data out of state. Similarly, in *United States v. Castetter*, 865 F.3d 977 (7th Cir. 2017), the Seventh Circuit upheld the Michigan State Police's reliance on a GPS warrant, issued in Michigan, to monitor a vehicle that crossed the border into Indiana because the warrant satisfied basic Fourth Amendment criteria. Likewise, in *United States v. Simms*, 385 F.3d 1347 (11th Cir. 2004), the Eleventh Circuit found that the use of a GPS tracking device pursuant to a valid

⁵ While not binding, we find these federal cases instructive as they concern similar questions to the one before us.

warrant outside of the territorial jurisdiction of the issuing court did not implicate constitutional concerns or warrant suppression. These decisions all rest on a simple fact: the Fourth Amendment does not concern state borders.

A closer look at *Brewer* proves useful. There, a state magistrate issued a warrant authorizing the use of a tracking device “within the State of Indiana” for a period of 45 days. *Brewer*, 915 F.3d at 412. Law enforcement installed the device in Indiana and used it to follow the defendant as he drove west to California. *Id.* Relying on GPS data, police apprehended the defendant as he attempted to rob a bank in Los Angeles. *Id.* On appeal, the defendant argued that by failing to abide by the warrant’s geographic limit, the officers conducted a warrantless search. *Id.* at 413. The Seventh Circuit disagreed, holding that so long as the probable cause and particularity requirements of the Fourth Amendment are satisfied, “state law does not by proxy heighten the Fourth Amendment’s protections.” *Id.* at 413-14; *see also Virginia v. Moore*, 553 U.S. 164, 173 (2008) (“[W]hen States go above the Fourth Amendment minimum, the Constitution’s protections concerning search and seizure remain the same.”). The court found that while judges must describe the specific vehicle to be tracked to satisfy the particularity prong of the Fourth Amendment, they “*need not specify (or limit) the tracking to a geographic location.*” *Brewer*, 915 F.3d at 414 (emphasis added). Indeed, the court noted that when an affidavit supporting the warrant details a “multistate bank-robbery spree,” it failed to see “how such evidence could justify monitoring *only* within Indiana.” *Id.* (emphasis added). While the language of a particular warrant or state statute may implement geographic limitations on the scope of a search, the Fourth Amendment’s particularity prong does not demand such limitations in all cases.

Here, the same rationale holds true. Detective Blanks presented the Guilford County Superior Court judge with an affidavit describing the joint taskforce’s investigation into Graves’s

interstate narcotrafficking. In response, the judge issued a warrant tailored to meet the needs of the case. Recognizing that several agencies were involved in the case, the judge permitted “the Greensboro Police Department Vice/Narcotics Unit and/or *any other law enforcement agency . . . involved in the investigation*” to monitor the GPS device. The warrant stated that “in the event that the Target Vehicle travels outside the territorial jurisdiction of this Court, monitoring agents may continue to monitor the tracking devices in other jurisdictions.” The judge crafted a warrant that reflected the possibility that the target vehicle would travel out of state during the monitoring period. Based on the underlying facts, the warrant did not need to specify a geographical limit to meet the particularity requirement of the Fourth Amendment.

That the Danville Police Department relied on a warrant issued out-of-state does not trigger suppression, because as noted above, the warrant met Fourth Amendment requirements. When the Danville Police Department used GPS data to monitor Graves in Virginia, they simply adhered to the plain language of the North Carolina warrant. The Danville Police Department, as “*any other law enforcement agency . . . involved in the investigation*” of Graves, could use the GPS device to monitor Graves. While Graves had a constitutionally protected interest in his whereabouts, that interest was no greater on North Carolina roads than it was on Virginia roads.

C. Code § 19.2-56.2 does not have a suppression remedy.

Finally, Graves argues that the North Carolina warrant violated Code § 19.2-56.2. Graves posits that the Virginia General Assembly implemented Code § 19.2-56.2 in response to the Supreme Court’s decision in *Jones v. United States*. He reasons that the statute’s requirements serve as prophylaxis to protect a person’s Fourth Amendment’s rights when faced with GPS surveillance, so any violation of the statute leads to suppression. But even if a

Virginia statute applies to a North Carolina warrant, Graves conflates the protections of that statute with those of the Constitution.⁶

True, the General Assembly adopted Code § 19.2-56.2 in the wake of the *Jones* decision. *See Turner*, 65 Va. App. at 324 (“In response to the Supreme Court’s decision in *Jones*, the General Assembly adopted Code § 19.2-56.2 in 2012, which expressly outlines the procedures for obtaining a warrant for the installation and use of a GPS tracking device.”). And the basic tenets of the statute ensure that the probable cause and particularity requirements of the Fourth Amendment are met. *See, e.g.*, Code § 19.2-56.2(B) (probable cause) (the law enforcement officer shall submit an affidavit outlining the “material facts constituting the probable cause for the issuance of the search warrant”); and -56.2(B)(2) (particularity) (the affidavit shall include “[t]he identity of the vehicle, container, item, or object to which, in which, or on which the tracking device is to be attached, placed, or otherwise installed”). But the statute goes a step further than federal Fourth Amendment jurisprudence, which requires only that a warrant list “the length of time for which . . . surveillance is requested,” *see Karo*, 468 U.S. at 718, by capping the length of the warrant at 30 days.⁷ Code § 19.2-56.2(C)(1) (“[t]he search warrant shall authorize the use of the tracking device from within the Commonwealth to track a person or property for a reasonable period of time, not to exceed 30 days”). Likewise, the statute outlines additional procedural requirements for law enforcement. *See, e.g.*, Code § 19.2-56.2 (D)(1) (“The search warrant shall command the law-enforcement officer to complete the installation

⁶ We are unconvinced that a Virginia law governing the installation and use of a GPS device would apply to a warrant issued by a North Carolina judge. Assuming without deciding that it does apply, the result remains the same.

⁷ The Fourth Amendment is a “floor, not a ceiling.” *Campbell v. Commonwealth*, 69 Va. App. 217, 234 (2018) (Humphreys, J., concurring in the judgment). States remain free to “impose higher standards on searches and seizures than required by the Federal Constitution.” *Moore*, 553 U.S. at 171.

authorized by the search warrant within 15 days after issuance of the search warrant.”); -56.2(D)(2) (“The law-enforcement officer executing the search warrant shall enter on it the exact date and time the device was installed and the period during which it was used.”). As such, a warrant may violate Code § 19.2-56.2 but nevertheless satisfy the warrant requirements of the Fourth Amendment.

This is consistent with our decision in *Turner v. Commonwealth*, where we found that Code § 19.2-56.2 contains no right of suppression. 65 Va. App. 312. Thus, even if the North Carolina warrant violated Code § 19.2-56.2, “only a finding of a constitutional violation would permit the suppression remedy [Graves] seeks.” *Id.* at 325 n.3. Because the warrant did not violate Graves’s rights under the Fourth Amendment, the trial court did not err in denying his motion to suppress.

CONCLUSION

The basic tenets of the Fourth Amendment are clear: law enforcement cannot invade a person’s privacy on a hunch. Instead, officers must establish probable cause before an independent magistrate. That is precisely what happened here. And the resulting warrant ensured that Graves’s constitutional rights were protected. Accordingly, we affirm the trial court’s denial of the motion to suppress.

Affirmed.