

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 10, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 96-3433-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

MOHAMMAD R. ABU-SAIF,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: JEFFREY A. WAGNER, Judge. *Affirmed.*

Before Wedemeyer, P.J., Schudson and Curley, JJ.

PER CURIAM. Mohammad R. Abu-Saif appeals from a judgment of conviction for two counts of forgery-attempted uttering contrary to § 943.38(2), STATS., entered following his no contest pleas. Abu-Saif challenges the validity of an anticipatory search warrant executed at his place of business, claiming that the expected transaction described in the search warrant never took place because he

was not present when the “stolen” items were delivered. Additionally, he argues that the police officers’ search for business and banking records constituted a “general rummaging” through his papers and effects.

We conclude that Abu-Saif waived his right to argue that the search warrant was invalid because the transaction did not take place, because he failed to present that argument to the trial court. We also decline to address Abu-Saif’s second argument, on the grounds that it is insufficiently developed. Thus, we affirm.

I. BACKGROUND.

Abu-Saif, the owner of the Fast N Easy Food Mart, began purchasing what he believed to be stolen goods from an undercover police officer, Malcolm Morgan, in late January of 1995. Originally Morgan told Abu-Saif, whom Morgan knew as “Mike,” that he was an employee of a Target store. Morgan boasted that he could sell “Mike” property stolen from Target by changing the inventory numbers. “Mike” made several purchases from Morgan with the purchases becoming gradually more extensive and more expensive. Early in March 1995, Morgan told “Mike” that he would have a quantity of goods available for sale which were to be stolen from Wal-Mart on April 28, 1995. Ultimately the two reached an agreement that Morgan would supply him with these items for a set price on the prescribed day, delivering them to the Food Mart at approximately 10:30 a.m. On the strength of this agreement, Morgan obtained an anticipatory search warrant for the Food Mart. In the affidavit in support of the search warrant, Morgan stated the items, worth more than \$1000, would be delivered to “Mike’s” store on April 28, 1995. Further, Morgan’s affidavit stated that he believed other stolen property would still be on the premises. Morgan

requested the issuing judge to permit the seizure of business and banking records because he believed the documents would reveal the true identity of “Mike,” and disclose information about “Mike’s” trafficking in stolen merchandise. An anticipatory search warrant was then issued which permitted a search of the Fast N Easy Food Mart on April 28, 1995, if, and only if, the scheduled transaction took place. The search warrant permitted the police to seize a variety of previously supplied “stolen goods,” along with food stamps, WIC¹ documents, and business and banking records.

Upon arriving at the Fast N Easy Food Mart on April 28, Morgan discovered that “Mike” was not at the store. Morgan then told an employee that a shipment of stolen goods was being delivered pursuant to an earlier agreement with “Mike.” The employee, at Morgan’s request, gave him a down payment and the merchandise was unloaded with the help of three other store employees. Later that day, police officers executed the search warrant and seized numerous items, including food stamps, WIC checks, business papers, receipts, checks and money. Abu-Saif was subsequently charged with three criminal offenses which were later amended to four charges. After being bound over for trial at a preliminary hearing, Abu-Saif brought a motion to suppress the seized items. This motion was denied. Abu-Saif later pleaded no contest to two counts of forgery-attempt uttering and the trial court imposed and stayed a five-year sentence and placed Abu-Saif on probation for five years, with seven months of County Jail confinement as a condition of probation. Abu-Saif now appeals.

¹ Women, Infants, and Children Program.

II. ANALYSIS.

Abu-Saif makes two claims on appeal. First, he claims that the police had no authority to search the Fast N Easy Food Mart on April 28 because the search warrant's anticipated transaction did not occur due to his absence at the time of delivery. The language of the search warrant reads: "This warrant shall only be valid on April 28, 1995, and only if the transaction scheduled for April 28, 1995, set forth in the attached affidavit does take place." It is Abu-Saif's position that the search warrant was invalid because the transaction referenced in the search warrant did not take place. Abu-Saif submits that since all of Morgan's previous dealings were with him, and since he was not present at the store during the events that transpired on April 28, the underlying support for the determination of probable cause never occurred. Thus, the search was invalid. In response, the State urges this court to refuse to entertain this argument because it was not made to the trial court.

A review of the submitted trial documents reveals that neither the motion to suppress nor Abu-Saif's brief in support of his motion to suppress contains any argument that the anticipated transaction never occurred, rendering the search warrant invalid. A transcript of the trial court's decision on the pending motions also makes no mention of this argument. Abu-Saif submits he did raise this issue by arguing that the transaction involved another employee, and by arguing that "the scope of the search warrant" was limited, but we are not persuaded that this is the same issue being raised in Abu-Saif's appellate briefs. The trial court was never asked to determine whether the search warrant was executed prematurely, or whether it was completely invalid. An appellate court will generally not review issues raised for the first time on appeal. *Wirth v. Ehly*,

93 Wis.2d 433, 443-44, 287 N.W.2d 140, 145-46 (1980). As a consequence, we decline to address this issue.

In his brief, Abu-Saif's gives his next argument the title, "The police officers' search for business and banking records constituted a general rummaging through the defendant's papers and effects." As the State effectively argues, this argument "lacks direction, development, and clarity." Abu-Saif begins by citing three cases which state general legal propositions related to Fourth Amendment law, but fails to state how he would apply the cases to his particular facts. The only immediately apparent connection between these cases and the rest of Abu-Saif's argument is the reference to "general, exploratory rummaging" found in *State v. Starke*, 81 Wis.2d 399, 413, 260 N.W.2d 739, 747 (1978). Although Abu-Saif repeats this terminology, as if it were a mantra, in his argument's title, and throughout the remaining portion of his brief, he fails to coherently explain why the search constituted a "general rummaging." At places in his argument, Abu-Saif appears to be making some sort of claim related to his absence during the search. At other places, he seems to make an argument regarding the location of the back office, or regarding licenses posted on the walls. Abu-Saif, however, fails to cite any cases specifically supporting whatever claim he is actually making, and therefore we decline to address his second argument. See *Barakat v. DHSS*, 191 Wis.2d 769, 786, 530 N.W.2d 392, 398-99 (Ct. App. 1995) (court of appeals need not address "amorphous and insufficiently developed" arguments); *State v. Pettit*, 171 Wis.2d 627, 646-47, 492 N.W.2d 633, 642 (Ct. App. 1992) (arguments supported by only general statements, unsupported by citations to legal authority or otherwise inadequately briefed will not be addressed).

By the Court.—Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

