

**Filed 12/19/03 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2003 ND 191

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State of North Dakota,

Plaintiff and Appellee

v.

Monty R. Sabinash,

Defendant and Appellant

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Nos. 20030219 & 20030220

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Appeals from the District Court of Stutsman County, Southeast Judicial District, the Honorable John T. Paulson, Judge.

AFFIRMED.

Per Curiam.

Thomas A. Dickson, Timothy Q. Purdon and Justin D. Roness (submitted on brief), Dickson & Purdon, 107 W. Main Avenue, Suite 150, P.O. Box 1896, Bismarck, N.D. 58502-1896, for defendant and appellant.

Jay Anthony Schmitz (submitted on brief), Assistant State's Attorney, 511 2<sup>nd</sup> Avenue SE, Jamestown, N.D. 58401, for plaintiff and appellee.

**State v. Sabinash**  
**Nos. 20030219 & 20030220**

**Per Curiam.**

[¶1] Monty Ray Sabinash entered conditional guilty pleas to Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-04 and Possession of a Controlled Substance in violation of N.D.C.C. § 19-03.1-23(6). He appeals from the judgment entered upon conviction of these crimes and an order denying his motion to suppress evidence obtained in a search incident to arrest.

[¶2] Whether certain facts constitute probable cause is a question of law which is fully reviewable. State v. Matthews, 2003 ND 108, ¶ 8, 665 N.W.2d 28. The trial court's disposition of a motion to suppress "will not be reversed if, after conflicts in the testimony are resolved in favor of affirmance, there is sufficient competent evidence fairly capable of supporting the trial court's findings, and the decision is not contrary to the manifest weight of the evidence." State v. Zimmerman, 529 N.W.2d 171, 173 (N.D. 1995).

[¶3] We summarily affirm the judgment upon conviction and the order denying his motion to suppress under N.D.R.App.P. 35.1(3).

[¶4] Gerald W. VandeWalle, C.J.  
Mary Muehlen Maring  
William A. Neumann  
Dale V. Sandstrom  
Carol Ronning Kapsner