



¶ 3 The facts arising from the hearing on defendant's motion to quash arrest and suppress evidence are not in dispute. On March 14, 2010, Chicago police sergeant Maziejewski and his partner were assigned to the public transportation section of the police department, policing subways, trains, and buses in uniform. At about 3:35 p.m., at the Roosevelt and State Street Green Line station, Maziejewski encountered the victim of an armed robbery, Tianniu Lei. Maziejewski was told by Lei that as he was traveling on the Green Line, a man took his camcorder from him at gunpoint. Lei described the person as a tall black male, whose head almost touched the top of the CTA train. He also said the man was wearing a white jacket. The person got off the train at the 43<sup>rd</sup> Street station. Lei continued riding to the Roosevelt and State Street station, a trip taking approximately 15 to 20 minutes. As soon as he got off the train he informed CTA personnel of the robbery, and they called the police, who arrived within several minutes.

¶ 4 After talking to Lei for several minutes, Maziejewski and his partner drove to the 43<sup>rd</sup> street station, a trip which took them approximately 20 minutes in the rush hour traffic. At that station, underneath the el tracks, they saw defendant talking to some other individuals. Defendant was "very tall," taller than any of the other people they saw standing there and he was wearing a white jacket. The arrest report indicates that defendant was six feet, seven inches tall. Maziejewski approached defendant, handcuffed him, and searched him for weapons. He found nothing on him. Defendant was held there for approximately 20 minutes until Lei was brought to the scene by another police officer. Lei identified defendant as the man who robbed him at gunpoint. Defendant was arrested and taken to the police station, where other detectives questioned him and he gave a statement.

¶ 5 In ruling on the motion to quash and suppress, the trial court found that approximately 40 to 50 minutes elapsed from the robbery until defendant's detention by Maziejewski. The court

then found that the question was whether there was a "reasonable, articulable suspicion to stop any tall, African-American man with a white jacket on \*\*\* because he is somewhere in the vicinity [of the crime] 40 minutes after the crime has occurred?" The court found insufficient evidence to support this stop and detention and granted defendant's motion to quash and suppress. The State has now appealed pursuant to its certification that the circuit court's ruling substantially impairs the State's ability to prosecute its case against defendant. Ill. S. Ct. R. 604(a)(1) (eff. July 1, 2006).

¶ 6 Although there was some minor impeachment in the questioning, both parties agree that these are the facts which confront us. Accordingly we review *de novo* the question of whether these facts supported the trial court's decision to quash the stop and suppress the evidence. *People v. Harris*, 228 Ill. 2d 222, 230 (2008). Under the holding of *Terry v. Ohio*, 392 U.S. 1, 21-23 (1968), police officers may detain individuals whom they suspect of having committed a crime under circumstances which amount to less than probable cause. The officers must rely on "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [the] intrusion. *Terry*, 389 U.S. at 21; quoted in *People v. Bennett*, 376 Ill. App. 3d 554, 563-564 (2007). In this case the officers knew that an armed robbery had occurred and that the robber had exited the subway train at the 43<sup>rd</sup> Street station. They knew that the robber was a very tall black male, wearing a white jacket. Minutes after learning of this crime from the victim, the officers drove the 20 minutes to the vicinity of the crime at the 43<sup>rd</sup> Street station. There they saw the defendant, who was a very tall black male wearing a white jacket, standing with some other individuals. According to the officers, defendant was taller than anyone else in the vicinity. They immediately detained the defendant, handcuffing him and searching him before holding him there for 20 minutes, the time it took to transport the victim to the scene. Our supreme court has held that the subject of a *Terry* stop may be transported a short

distance for purposes of a show-up, or may be briefly held until a witness could come to the scene so that the police may quickly determine whether they have the right suspect. *People v. Lippert*, 89 Ill. 2d 171, 182-183 (1982); *Bennett*, 376 Ill. App. 3d at 565-66. We know that the 20-minute period was necessary, because that is the time the police testified it took them to drive from the Roosevelt station, where they spoke to the victim, to the approximate scene of the crime at the 43<sup>rd</sup> Street station in rush hour traffic and the victim was subsequently brought to the crime scene from that same station. Thus the length of detention of this defendant was held to the minimum required for the police to confirm or invalidate their concerns.

¶ 7 Defendant argues that it was unreasonable for the police to think the offender would be at the scene of the crime some 40 to 50 minutes after it had occurred. But as the court in *Lippert* held, such reasoning would limit the permissible area of a police search to the fringes of where the crime occurred. *Lippert*, 89 Ill. 2d at 181. Defendant also notes that he was immediately handcuffed when the police encountered him. But the police were investigating an armed robbery and thus were justifiably concerned for their own safety. Even after ascertaining that defendant was not armed, the police needed to detain the defendant for purposes of the show up. They were not required to risk the defendant's flight or resistance while they waited for the victim to arrive. See *People v. Starks*, 190 Ill. App. 3d 503, 509 (1989) (valid *Terry* stop where defendant was detained at gunpoint and held in handcuffs for 10 minutes until victim arrived and identified him).

¶ 8 Defendant asserts that the police testimony was that he was immediately arrested when the police encountered him, but in fact this testimony was ambiguous. In questioning Sergeant Maziejewski for purposes of shifting the burden of proof, defense counsel first asked him if he stopped and detained defendant, and the officer answered yes. Counsel then asked if he arrested defendant and he again answered yes. In follow up questioning defense counsel referred to the

initial detention of defendant as a "stop." Furthermore, under examination by the State, the officer clarified that defendant was first detained and then arrested after the show up identification by Lei. The trial court in its ruling clearly operated under the assumption that defendant was initially detained based upon the description of a very tall black male wearing a white jacket and based upon defendant's proximity to the scene of the crime. The court found that this was an insufficient basis for a *Terry* stop, but that legal conclusion is subject to our *de novo* review. We conclude that the initial stop of defendant was a legal detention pursuant to *Terry*, in which the police were investigating an armed robbery and defendant's connection to it. Their investigation extended to holding defendant for the 20 minutes it took to bring the victim to the scene. It was when the victim identified defendant that defendant was arrested and transported to the police station. There is no dispute that once the victim identified defendant the police had probable cause to arrest him; the State has not challenged the reliability of the show up identification. Accordingly we reverse the ruling of the trial court which quashed defendant's arrest and suppressed the evidence obtained as a result of that arrest.

¶ 9 Reversed and remanded for further proceedings.