

FOURTH DIVISION
April 7, 2011

Nos. 1-09-1299 and 1-09-1617
(Consolidated)

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 07 CR 1779
)	
EFRAIN SANCHEZ ALAMO and HENRY ULLOA,)	Honorable
)	Rickey Jones,
Defendants-Appellants.)	Judge Presiding.

PRESIDING JUSTICE GALLAGHER delivered the judgment of the court.

Justices Lavin and Pucinski concurred in the judgment.

O R D E R

HELD: Where the police had probable cause to arrest both defendants based on their connection to an observed narcotics transaction, the trial court erred in granting the defendants' motions to quash arrest and suppress evidence.

The State appeals from an order of the trial court granting defendants Efrain Alamo and Henry Ulloa's motions to quash arrest

1-09-1299 and 1-09-1617

and suppress evidence. On appeal, the State argues that the trial court erred in granting the motions because: (1) the police had probable cause to arrest Alamo and evidence was recovered from a proper search incident to arrest and; (2) Ulloa consented to the search of his room and there was probable cause to arrest him. We reverse and remand.

Alamo, Ulloa, and codefendants Lopez, Flores, and Chavez-Sanchez, who are not party to this appeal, were charged with various crimes based on a drug transaction that took place on December 18, 2006. Alamo was charged with criminal drug conspiracy and delivery of a controlled substance with intent to deliver. Ulloa was charged with criminal drug conspiracy. Both defendants moved to quash the arrests and suppress the evidence.

At the hearing on the motions, the evidence showed that Officer Thomas Cunningham and Agent Patrick Keating were part of a team of officers surveilling Ulloa on December 18, 2006. Their combined testimony was substantially as follows. Cunningham had been a police officer for almost 21 years, and Keating had been an officer for about 20 years and had worked in narcotics for the last 10 years. Ulloa had been placed under surveillance previously in January 2006. At that time, Cunningham observed Ulloa purchase a seal-a-meal machine and a money counter, which are both commonly used to facilitate drug trafficking. On December 18, 2006, the team set up surveillance outside the

1-09-1299 and 1-09-1617

Fairfield Inn at 6630 South Cicero Avenue because they had received information that Ulloa was in the area and had rented a white Dodge Charger. When surveillance began, the Charger was parked in the hotel lot. Around 10:50 a.m., Lopez left the hotel and drove the Charger to the Carlton Inn at 4944 South Archer Avenue. Lopez parked in front of, then entered, room 120, and exited about five minutes later carrying a black duffle bag with some weight to it. Lopez placed the bag in the rear seat of the Charger. Shortly after, Alamo came out of room 223 and got into the Charger's front passenger seat.

Lopez then drove to a restaurant at 5401 South Pulaski Road. He parked in the lot and entered the restaurant with Alamo. At approximately 12:05 p.m., a green Honda with two male occupants, Flores and Chavez-Sanchez, pulled into the lot and parked directly next to the Charger. They met Lopez and Alamo at the front of the restaurant. All four men talked then walked back to the vehicles. Alamo opened the Charger's rear passenger door and "extended his hand," motioning inside. Flores pulled out the black duffle bag from the rear seat and placed it in the Honda's front passenger seat. All four returned to their respective vehicles, with Lopez still driving the Charger. Based on experience, the officers concluded that they had observed a drug transaction. The officers approached as the Charger was leaving the lot and they lost sight of it, but managed to follow the

1-09-1299 and 1-09-1617

Honda. As they followed, Keating saw one of the Honda passengers throw the duffle bag out of the window. The bag was immediately recovered and found to contain two kilograms of cocaine. Eventually the Honda was apprehended and the passengers were arrested. An empty black duffle bag, identical to the bag with the cocaine, was recovered from the Honda's trunk. At 12:17 p.m., Keating sent out a flash message giving a description of the Charger and said it was wanted in connection with a drug investigation. The Charger was stopped within a few minutes and Keating drove to the location. He placed Lopez and Alamo under arrest. When he searched Alamo, Keating recovered two cell phones and a plastic key card for the Carlton Inn. Inside the Charger was a rental agreement, which stated that the renter was Ulloa.

At this point, Cunningham and another officer went to room 426 of the Fairfield Inn to question Ulloa. They were both in plainclothes and had their weapons concealed. Cunningham knocked on the door and, when Ulloa answered, asked to question Ulloa in relation to a criminal investigation. Ulloa agreed. Ulloa said he did not know Lopez or Alamo. When Cunningham asked whether Ulloa had given Lopez permission to drive his vehicle, Ulloa said he had not rented a car. Cunningham asked whether he had rented a car at all and Ulloa said he had not, so Cunningham knew he was lying. Cunningham asked whether Ulloa had any large sums of

1-09-1299 and 1-09-1617

money in the room, and repeated the question when Ulloa did not answer right away. Ulloa then admitted that he had \$60,000 in cash. Cunningham asked whether he could search the room and Ulloa "said come on in." During the search, Cunningham saw numerous bundles of United States currency wrapped with rubber bands inside Ulloa's open duffle bag. In the garbage was the discarded packaging for two black duffle bags that matched the brand and type of bags recovered earlier from the drug transaction. He also found a laptop computer, cell phones, and papers with numerous numbers and quantitative inputs which he believed to be a narcotics ledger. Cunningham asked where the money came from, and Ulloa said he was a businessman but was unable to produce any receipts or documents and would not explain the kind of business. Cunningham arrested Ulloa.

Ulloa testified that around 12:30 p.m. on December 18, 2006, he opened the door to a knock and two officers ran in with guns pointed at him. He never consented to a search of his room. Ulloa admitted he had \$60,000 in currency but explained that it belonged to Lopez. He and Lopez had been at a gentleman's club until 3 a.m. that morning, and Lopez spent the night in Ulloa's room. When Ulloa woke up, he discovered that Lopez had taken the Charger and a room key without his permission. He did not know about the money until Lopez called that morning and told him

1-09-1299 and 1-09-1617

about it. The police never asked him about the Charger or whether he knew Lopez or Alamo.

The trial court granted both defendants' motions. Specifically, the court found that Cunningham and Keating were credible witnesses and Ulloa was not credible. The court further found that the officers only had a reasonable articulable suspicion to believe Alamo was engaged in drug activity at the time of his arrest. As to Ulloa, the court found that he gave voluntary consent to the officers to search his room, but that even after the search the officers only had a reasonable articulable suspicion that Ulloa was involved in the drug transaction, and not probable cause to arrest him. The trial court denied the State's motions to reconsider.

On appeal, the State contends that the totality of the circumstances demonstrates that the police had probable cause to arrest both Alamo and Ulloa. They further contend that because Ulloa gave the police consent to search his hotel room, the search was proper and the recovered evidence should not be suppressed.

When reviewing the trial court's ruling on a motion to quash, the court's findings of historical fact will be rejected only if they are against the manifest weight of the evidence. *People v. Harris*, 228 Ill. 2d 222, 230 (2008). However, the reviewing court may draw its own conclusions in light of the

1-09-1299 and 1-09-1617

established facts when determining what relief should be granted. *Id.* Here, there is no dispute as to the trial court's findings of fact or witness credibility so we will base our analysis on the testimony of Cunningham and Keating. We review the court's ultimate ruling on a motion to quash *de novo*. *Harris*, 228 Ill. 2d at 230.

For a warrantless arrest to be valid, the police officer must have probable cause. *People v. Love*, 199 Ill. 2d 269, 278 (2002). Probable cause to arrest exists when the totality of the facts and circumstances known to the officer at the time of arrest are sufficient to justify a reasonable belief that the defendant has committed or is committing a crime. *People v. Garvin*, 219 Ill. 2d 104, 115 (2002) (citing *People v. Jones*, 215 Ill. 2d 261, 277 (2005)). Something more than a mere hunch is required to justify probable cause. *People v. Ortiz*, 355 Ill. App. 3d 1056, 1064 (2005). A police officer's knowledge in light of his prior law enforcement experience is relevant in determining whether probable cause existed. *Ortiz*, 355 Ill. App. 3d at 1065. Where multiple officers are investigating a crime together, probable cause can be established from the officers' collective knowledge and information. *Id.*

First, we find that it was reasonable for the officers to believe that a drug transaction occurred and that Alamo was an active participant. We find instruction from *Maryland v.*

1-09-1299 and 1-09-1617

Pringle, 540 U.S. 366 (2003). In *Pringle*, the police stopped a car with three passengers; the defendant was in the front passenger seat. *Pringle*, 540 U.S. at 368. The owner of the car consented to a search which revealed \$763 rolled up in the glove box and five baggies of cocaine behind the back seat armrest. *Id.* The men would not reveal to whom the cocaine belonged and all three were arrested. *Pringle*, 540 U.S. at 369-70. The Supreme Court found that there was probable cause to arrest the defendant because the cocaine was accessible to all three men and it was therefore reasonable to infer that they all had knowledge of the cocaine. *Pringle*, 540 U.S. at 372. The Court further found that an officer could reasonably:

"infer a common enterprise among the three men. The quantity of drugs and cash in the car indicated the likelihood of drug dealing, an enterprise to which a dealer would be unlikely to admit an innocent person with the potential to furnish evidence against him."

Pringle, 540 U.S. at 373.

Similarly here, Alamo was the passenger in a car that contained drugs in the back seat, readily accessible to both the driver and passenger. Following *Pringle*, it is reasonable to infer that Alamo knew there was cocaine in the duffle bag and was

1-09-1299 and 1-09-1617

part of a common enterprise with Lopez. *Cf. People v. Drake*, 288 Ill. App. 3d 963, 968-69 (1997) (no probable cause existed for the defendant passenger where contraband was found in a backpack in the locked trunk of a car and there was nothing to suggest that the defendant knew what the backpack contained).

Additionally, while in *Pringle* the Supreme Court inferred that the passengers were involved in drug dealing based on the recovered drugs and money, here the officers actually saw a drug transaction occur. They watched Alamo and Lopez both meet Flores and Chavez-Sanchez. Most importantly, the officers observed Alamo direct Flores to the duffle bag of cocaine. From their experience, the police believed they had witnessed a drug transaction and received confirmation when they recovered the duffle bag containing two kilograms of cocaine. From the totality of the circumstances, we find that there was probable cause to arrest Alamo and therefore the search of his person was proper incident to the arrest. See *People v. Bailey*, 232 Ill. 2d 285, 297 (2009) (citing *Chimel v. California*, 395 U.S. 752 (1969)) (a police officer may conduct a search incident to arrest of the arrestee's person).

We next find that the search of Ulloa's room was properly consented to and that, based on the search, the officers reasonably believed Ulloa was involved in the drug transaction. In its ruling, the trial court specifically found Ulloa gave the

1-09-1299 and 1-09-1617

officers consent to search his hotel room and Ulloa does not contest this finding. Therefore the search was valid and the evidence was properly obtained. See *People v. Sanchez*, 292 Ill. App. 3d 763, 769 (1997) (a search pursuant to consent is one of the recognized exceptions to the fourth amendment requirements of a warrant and probable cause).

At the time of Ulloa's arrest, the officers knew that Ulloa had rented the Charger that was observed in connection with the drug transaction. Ulloa initially lied and said he did not rent the Charger, and was evasive when the officers questioned him about why he had \$60,000 in cash. The officers also found what in their experience was a narcotics ledger, and the packaging for two duffle bags that matched the brand and type of the bag found with cocaine inside and the empty bag that was found in the Honda's trunk. The officers also had knowledge that Ulloa purchased a seal-a-meal machine and a money counter several months before, machines that the officers knew from experience were used in drug trafficking. The physical evidence in Ulloa's room was at least enough to raise a suspicion that he was involved in the drug transaction. When viewed together with his lies and evasive responses to questioning, we find that the police had probable cause to arrest Ulloa. See *People v. Richardson*, 376 Ill. App. 3d 612, 618-19 (2007) (evasive answers

1-09-1299 and 1-09-1617

to police questions when combined with prior suspicions can constitute probable cause).

For the foregoing reasons, we reverse the judgment of the trial court and remand for further proceedings.

Reversed and remanded.