

statements, the following evidence related to that excursion was adduced.

¶ 5 The defendant testified that on the date in question he owned a mobile home and several acres of property, and that he had an easement to use the private, gravel road that led to his mobile home and property. The private road also continued past his property to another residence not owned or controlled by the defendant. He testified that on the date in question, a tree just off to the side of the private road was posted with a "no trespassing" sign, and that a second "no trespassing" sign was posted on the other side of the private road, on a gate that led to a field that could be used to access the defendant's property. He further testified that as of the date of the hearing, July 15, 2009, the sign on the tree was still present, but he did not believe the sign on the gate was still present. To support the defendant's testimony, counsel introduced into evidence a photograph of each sign. On cross-examination, the defendant admitted that the photographs were not taken until "sometime" during the summer of 2007, a full year after the visit by the MEGSI agents, that the defendant no longer owned the property when the photographs were taken, and that, in fact, nobody lived along the road and the road was not in use at the time the photographs were taken.

¶ 6 The defendant also testified as to the events that occurred after the agents entered his property and approached his front door. He testified that he became aware of the presence of the agents when they began "[k]nocking extremely aggressively" on his door, which he answered. The defendant testified that he did not permit the agents to enter his home, and that they asked him if he "had a meth lab." According to the defendant, Agent Boerm leaned into the defendant's home, viewed a holstered and legally owned firearm, and then asked the defendant to step outside onto the home's small porch to speak with the agents. The defendant testified that he stepped outside because he believed he had to comply with Agent Boerm's request. He testified that Boerm subsequently entered the home, without the defendant's permission, and upon returning outside stated to Agent Meier that he "had found

everything that he needed to find." The defendant testified that the agents next seated him at a small picnic table outside the home and told him he "wasn't going anywhere." According to the defendant, the agents requested consent to search his property, which he finally granted after refusing the requests "four or five" times. He did so, he testified, because the agents told him that if he did not, they would get a search warrant and "take everything [he] owned," including his truck, children's toys, four-wheelers, house, and property. He testified that the agents also told him that if they found only marijuana, and no methamphetamine, "there would be no trouble," which he took to mean he would not be arrested. He testified that he was eventually informed of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966) (*Miranda*), and that he gave no statements to the agents after being so advised. On cross-examination, the defendant conceded that although he initially refused consent to search, he changed his mind and signed a consent to search form, as well as a form acknowledging that he had been read his *Miranda* rights, but claimed that he did so only after the agents told him he would not be arrested if he did not have methamphetamine on his property.

¶ 7 The defendant also testified with regard to statements he gave to the agents prior to having been read his rights. He testified that once he was outside his home, he did not feel free to go back into the home, or to leave his property. After signing the consent to search form, he was asked by the agents to show him where his marijuana was growing. He did not believe he could refuse this request, and believed he had to accompany the agents to his garage, where he had told them there was marijuana growing. He testified that he made various statements to the agents while giving them what defense counsel termed "the tour." The defendant testified that after showing the agents around the property to the multiple locations where he was cultivating marijuana, he was read his rights. According to the defendant, he then refused to make additional comments, and declined to give a written statement. He testified that although the agents, and other law enforcement officers, removed

all his marijuana plants, he was not arrested at that time. On cross-examination, he conceded that he was never told directly that he could not leave his property, and that he never asked to do so. He was unable to say exactly how long he sat at the picnic table outside his home before agreeing to sign the consent form, but testified that it was "more than a few minutes."

¶ 8 Agent Boerm testified that on the date in question he did not believe he had enough evidence, on the basis of the tip, to secure a search warrant, so he and Agent Meier decided to question the defendant. They approached the defendant's residence by traversing "a rock driveway," then parked approximately 20 feet from the front door of the defendant's mobile home. Agent Boerm testified that immediately upon getting out of their vehicle, Agent Boerm smelled "an odor of cannabis emitting in the air." He testified on direct examination that he did not recall seeing any "no trespassing" signs along the road leading to the defendant's property, or along the defendant's driveway. On cross-examination, he agreed with defense counsel that he did not have any basis upon which to dispute the existence of "no trespassing" signs, and that he would have disregarded any such signs had they been there and had he seen them.

¶ 9 With regard to what happened after the agents entered the defendant's property and approached his front door, Agent Boerm testified that he could hear a vacuum cleaner running inside the defendant's home, so he knocked on the door "several times" but did not get an answer. After he heard the vacuum cleaner cease, he knocked again and the defendant came to the door. When the door was opened, Agent Boerm smelled an even "stronger odor of marijuana" and told the defendant that he had received a "drug complaint" about the defendant and wished to speak to him about it. Agent Boerm testified that the defendant would not allow the agents into his home, but came out onto the small porch to speak with them. Before the defendant came outside, Agent Boerm testified that he peered around the defendant and observed the holstered firearm hanging on a weight bench. Once the

defendant was outside, Agent Boerm told him that they were investigating a "meth lab," and the defendant denied any involvement with methamphetamine. Agent Boerm testified that the agents and the defendant "stood there and talked," with the defendant refusing to consent to a search of his property. Agent Boerm then told the defendant that the complaint he had received was specifically about marijuana and that he had smelled marijuana upon exiting his vehicle and when the defendant opened the front door to his home. He testified that the defendant then asked what would happen if the defendant did not consent to a search, and that Agent Boerm told him that, based upon the tip he had received and the odors he had detected on the property, he would apply for a search warrant. After "two to three minutes of just conversing back and forth," the defendant agreed to sign the consent to search.

¶ 10 With regard to statements made by the defendant as he showed the agents around the property, Agent Boerm testified that the defendant pointed out several locations where marijuana was growing or being processed, made various verbal statements about those locations, and admitted that the marijuana belonged to the defendant. Once he discovered how large the marijuana-growing operation was, Agent Boerm called for assistance from two other law enforcement officers to help him confiscate the plants. Agent Boerm testified that after consenting to the search, the defendant never asked the agents to halt the search, but that if the defendant had done so, the agents would have ceased searching and applied for a search warrant. He denied that he had threatened the defendant in any way, denied that he had told the defendant he would take the defendant's property, and denied that he had told the defendant that the defendant would not be charged with a crime if he consented to the search or if no methamphetamine was found on the defendant's property. When asked if he had made any promises at all to the defendant to get the defendant to sign the consent to search, Agent Boerm testified that he had not. He described the defendant as being "[e]xtremely" cooperative during the search of the defendant's property.

¶ 11 On cross-examination, Agent Boerm agreed that he had knocked "hard" on the door to get the defendant's attention, and conceded that he lied to the defendant when he told him the complaint involved a meth lab. However, he again denied that he had threatened the defendant in any way, and he denied that he had forced the defendant to come outside the home or had entered the defendant's home prior to securing permission to do so. He agreed that although he had testified on direct examination that it took "two to three minutes" to secure the defendant's consent to the search, in his written report created on the date in question, he had written that it took "approximately five minutes" to secure the consent. With regard to what happened during the approximately five minutes, Agent Boerm testified that the defendant "sat there for a very long time before he decided to sign" the consent form. He again denied making any promises to the defendant to induce him to consent to the search, and denied the assertion of defense counsel that the agents "weren't going away from there without a consent," testifying instead that he "was not going to go away without at least applying for a search warrant if [he] was denied consent."

¶ 12 Agent Meier testified that on the date in question, he and Agent Boerm traveled to the defendant's residence to conduct a "knock and talk" to gather information related to the tip alleging illegal activity on the part of the defendant. To get to the residence, the two agents used "a rural-type road, a country-type road," then drove up the defendant's driveway. Agent Meier testified that he did not see any "no trespassing" signs along the road leading to the defendant's driveway, or along the driveway itself. He testified that immediately upon exiting his vehicle in the defendant's driveway, he could smell marijuana, as he could when he eventually entered the defendant's mobile home. He testified that there was no difference between the smell inside and outside, that "it was just the overwhelming odor of marijuana." On cross-examination, Agent Meier agreed with defense counsel that he did not have any basis upon which to dispute the existence of "no trespassing" signs, and that he would have

disregarded any such signs had they been there and had he seen them.

¶ 13 With regard to what happened after the agents entered the defendant's property and approached his front door, Agent Meier testified that he heard what "sounded like" a vacuum cleaner, and that he stood to the side of Agent Boerm, who knocked on the door. After "several minutes of knocking" the vacuum cleaner was turned off and the defendant answered the door. After being confronted about the anonymous drug tip and asked for consent to search the property, the defendant "hesitated for a few minutes," then asked if he "had to" give written consent. After the defendant was told that he did not have to give consent, the agents "continued to wait a few minutes while it appeared that [the defendant] was trying to think of what he wanted to do." Ultimately, the defendant agreed to sign the form.

¶ 14 With regard to the tour of the property that followed, Agent Meier testified that the defendant walked the agents around the property, told them about the various places marijuana was being grown or processed, and pointed out those locations to the agents. Following the tour, Agent Meier sat with the defendant at the defendant's kitchen table and asked the defendant to give a written and/or videotaped statement. The defendant declined to give a written or videotaped statement, but did agree to speak with Agent Meier. At that point, Agent Meier went over the defendant's *Miranda* rights with the defendant, using a written checklist-like form and reading them aloud to the defendant. Counsel for the defendant stipulated that the defendant was read each item on the form and initialed each item. Agent Meier testified that he believed the defendant understood his rights, because he specifically asked the defendant if he did, the defendant responded that he did, and the defendant then voluntarily signed the *Miranda* form. Agent Meier then testified as to the contents of the verbal interview that followed, during which the defendant stated that he had been injured at work and unable to work for approximately one year, and had begun the

growing operation because the defendant "had debt accumulating." According to Agent Meier, the defendant stated that he did not "profit a lot of money" from the operation and described other details about the operation. At the conclusion of the verbal interview, which was memorialized in a written report prepared contemporaneously by Agent Meier, the defendant again declined to give a written statement. Agent Meier testified that at no time, either before or after the reading of the *Miranda* rights, was the defendant hesitant to speak with him, nor was the defendant ever threatened in any way or made any promises to induce the consent to search or the interview.

¶ 15 On cross-examination, Agent Meier agreed that the defendant was not arrested on the date of the search, although the marijuana plants were seized. He testified that he did not recall anyone stating that the defendant's property would be confiscated, or anyone telling the defendant that he would not be arrested that day if he consented to a search of his property. He also testified that he did not recall telling the defendant that "he wouldn't be in any trouble for any marijuana." He agreed that the conversation on the front porch that culminated in the signing of the consent to search lasted "several minutes," during most of which the agents remained silent while the defendant decided what to do. When defense counsel asserted that Agent Meier was not "planning on leaving that residence without [the defendant] signing" the consent, Agent Meier took exception, testifying that the agents "do many knock and talks where we don't get consent and [we] leave." Although he agreed with counsel that had the agents applied for a search warrant in the absence of consent, the defendant would not have been allowed back into his home while the application was pending, he disputed the assertion of counsel that the defendant would not have been allowed into other buildings on the property, testifying that the agents "didn't have any reason not to let him in any of the other buildings."

¶ 16 The trial court denied the defendant's motions to suppress in two written orders. In

the first, which pertained to the motion to suppress evidence, the court stated that the agents "entered the property of the defendant lawfully and that the consent of the defendant to search the premises was voluntarily given." In the second order, which pertained to the defendant's motions to suppress statements, the court denied the motions without comment. After the trial court denied the defendant's motions to suppress, the case proceeded to a stipulated bench trial, with the defendant preserving his right to appeal the court's rulings on his motions. Following the trial, at which the evidence revealed that a total of 412 marijuana plants had been seized from three separate locations on the defendant's property, the defendant was found guilty of the unlawful production of *Cannabis sativa* plants and was sentenced to 18 months' conditional discharge and ordered to pay various fees and fines that are not contested in this appeal.

¶ 17

ANALYSIS

¶ 18 On appeal, the defendant first contends, as he did in the trial court, that because a "no trespassing" sign was posted on the private road the agents drove upon to reach the defendant's residence, the agents could not lawfully enter his property and thus could not conduct a lawful "knock and talk." Accordingly, the defendant contends, all evidence developed as a result of the encounter between the agents and the defendant was unlawfully obtained and must be suppressed. Although not phrased precisely as such, the crux of the defendant's contention is that the presence of a "no trespassing" sign may render unlawful, and impermissible, an otherwise valid "knock and talk." We note that the contention presented by the defendant has not been addressed previously by an Illinois court in a written opinion, although Illinois courts of review have held that a "knock and talk" is permissible as long as the area where it is conducted is impliedly open to the public. See, *e.g.*, *People v. Redman*, 386 Ill. App. 3d 409, 418 (2008). The *Redman* court also concluded that "[o]nce an officer is legitimately on the property [to conduct a 'knock and talk'], he or she may

properly observe any 'evidence lying about in the open,' " and that "[t]he ability to observe items in plain view extends to odors." 386 Ill. App. 3d at 419.

¶ 19 We note as well that courts in other states that have considered this question have written engaging and compelling opinions both in support of, and in opposition to, the position taken by the defendant. See, e.g., *State v. Blackwell*, 2010 WL 454864 at 7-8 (Tenn. Crim. App.) ("knock and talk" only lawful in absence of "express orders" from person in possession against possible trespass, so "No Trespassing" sign evinces "an actual subjective expectation of privacy and a revocation of the 'implied invitation' of the front door"; no valid consent following initial illegal "knock and talk"); *Nieminski v. State*, 60 So. 3d 521, 526-28 (Fla. App. 2 Dist. 2011) (presence of "no trespassing" signs, or violation of state trespassing statute, may render illegal an otherwise permissible "knock and talk"); but see *Jones v. State*, 962 A.2d 393, 399-401 (Md. 2008) (affirming intermediate court's conclusion that for fourth amendment purposes, "no trespassing" sign cannot invalidate otherwise lawful "knock and talk").

¶ 20 We conclude, however, that because our standard of review is in this case dispositive of this appeal, we need not—and indeed may not—offer an opinion on the question of whether a "no trespassing" sign may invalidate an otherwise permissible "knock and talk." We begin by noting that the burden of proof at a hearing on a motion to suppress evidence lies with the defendant, not the State. *People v. Lampitok*, 207 Ill. 2d 231, 239 (2003). Our review of a trial court's ruling on a defendant's motion to suppress evidence or statements "involves mixed questions of fact and law," and we will give "great deference to the trial court's factual findings," reversing them "only if they are against the manifest weight of the evidence." *People v. Redman*, 386 Ill. App. 3d 409, 417 (2008). Nevertheless, we review "*de novo* the trial court's legal determination of whether suppression is warranted under those facts." *Redman*, 386 Ill. App. 3d at 417. In cases involving motions to suppress, if the trial court

fails to make findings of fact on the record, we "must presume that the trial court found all issues and controverted facts in favor of" the party that prevailed on the motion. *People v. Lagle*, 200 Ill. App. 3d 948, 954 (1990). Accordingly, we consider questions of testimonial credibility to be resolved in favor of the prevailing party, "and must draw from the evidence all reasonable inferences in support of the judgment." *Lagle*, 200 Ill. App. 3d at 954.

¶ 21 In the case at bar, when denying the defendant's motion to suppress evidence, the trial court ruled that the agents "entered the property of the defendant lawfully and that the consent of the defendant to search the premises was voluntarily given." The court did not, however, make detailed findings of fact for the record. Later, the court denied, without explanation or commentary, the defendant's two motions to suppress statements. Because the court found in favor of the State on all three motions, we must presume that the court resolved all disputed factual questions in favor of the State. Such resolutions could have occurred in numerous ways, and in no case would such resolutions be against the manifest weight of the evidence.

¶ 22 First, on the basis of the evidence before it, the court could have concluded as a matter of fact that the "no trespassing" signs shown in the photographs were not present on the date the agents entered the defendant's property. Although the defendant testified that the signs were present, Agent Boerm testified that he did not recall seeing any such signs either along the private road leading to the defendant's driveway or along the driveway itself, and Agent Meier testified unequivocally that he did not see "no trespassing" signs posted in either location. Although the defendant makes much of the fact that both agents agreed on cross-examination that they had no basis to dispute the existence of the signs, the testimony of a witness that he or she cannot dispute the existence of something that he or she has not seen does not negate that witness's earlier testimony that he or she saw no such signs, and the defendant's contention on appeal that it is "undisputed" that a sign was "clearly posted on the

drive when Boerm and Meier drove past it and entered" the defendant's property is simply not true. The court, as the finder of fact, was entitled to believe the testimony of the agents over that of the defendant, and based upon the testimony of the agents, and upon the fact that photographs of the signs were not taken until more than a year after the incident, when neither the defendant nor anyone else still lived on the property or used the road, the court could have reasonably concluded that there were no "no trespassing" signs present on the date in question. Such a finding would not be against the manifest weight of the evidence and would not be grounds for reversal.

¶ 23 Second, on the basis of the evidence before it, the court could have concluded that even if a "no trespassing" sign was present on the private road, such a sign would not govern entry onto the defendant's property, because the private road was not owned or controlled by the defendant, nor exclusively used by the defendant, and because it is undisputed that no "no trespassing" signs were posted on the property actually owned and controlled exclusively by the defendant. Such a finding would not be against the manifest weight of the evidence and would not be grounds for reversal.

¶ 24 Third, on the basis of the evidence before it, the court could have concluded that the defendant never told the agents to leave his property, never pointed out to them the existence of the purported "no trespassing" signs or reiterated to the agents the contents of the signs and his legal right to enforce them, and that the defendant therefore consented to the presence of the agents on his property, even if the defendant did not initially consent to a search of that property. Such a finding would not be against the manifest weight of the evidence and would not be grounds for reversal.

¶ 25 Given the multiple findings of fact the trial court could have made reasonably and legitimately on the basis of the record before it, all of which support the denial of the motions to suppress, our *de novo* review of the application of the law to those facts reveals no error,

and no grounds for reversal.

¶ 26 The defendant next contends the agents should not have been allowed to seize his lawfully owned and possessed firearm under the "plain view" doctrine. However, the defendant was never charged with any crime related to the firearm, nor was the firearm used as evidence to convict the defendant of the crime with which he was charged. Accordingly, the defendant's argument is without merit and not relevant to the issues before this court on appeal.

¶ 27 The defendant also contends that he did not voluntarily consent to a search of his property. When a defendant denies the voluntariness of his or her consent to search, that voluntariness becomes a question of fact to be determined from the totality of the circumstances surrounding the consent, with the State bearing the burden of proving that the consent was truly voluntary. *People v. Shinohara*, 375 Ill. App. 3d 85, 96 (2007). We will not reverse a trial court's determination that the consent was truly voluntary unless that determination is clearly unreasonable. *Shinohara*, 375 Ill. App. 3d at 96. In the case at bar, the defendant claims his consent was involuntary because the agents: (1) ignored "no trespassing" signs that barred their entry onto his property, (2) lied to the defendant about which drug they were investigating, (3) entered his home without his permission, (4) removed him from his home on the basis of a legally owned firearm, (5) threatened to keep him from his home if he refused a search, and (6) promised him he would not be arrested if the agents found only marijuana. However, as explained above, there was conflicting testimony with regard to whether any "no trespassing" signs were present when the agents entered the defendant's property, and the court could have reasonably concluded they were not present. Moreover, as the above recitation of testimony makes clear, there was also conflicting testimony about whether the agents entered the defendant's home without his permission, as well as whether they threatened him or made promises to him, and the court

was free to believe the testimony of the agents rather than that of the defendant. Finally, the defendant cites no case law supporting the proposition that because Agent Boerm first told the defendant he was looking for a meth lab, rather than a marijuana-growing operation, and because the defendant was asked, for reasons of officer safety, to step outside his home and away from the firearm, the defendant's subsequent consent to search was somehow involuntary. See Ill. S. Ct. R. 341(h)(7) (eff. Mar. 16, 2007) (argument must contain the contentions of the appellant, the reasons therefor, and the citation of authorities; points not argued in an opening brief are forfeited and shall not be raised in the reply brief, in oral argument, or in a petition for a rehearing). Nor does the defendant cite any cases supporting the proposition that the consent was involuntary simply because the agents testified that if they had been forced to apply for a search warrant, they would have prevented the defendant from going into his home while the application was pending. See Ill. S. Ct. R. 341(h)(7) (eff. Mar. 16, 2007) (argument must contain the contentions of the appellant, the reasons therefor, and the citation of authorities; points not argued in an opening brief are forfeited and shall not be raised in the reply brief, in oral argument, or in a petition for a rehearing). The trial court's determination that the defendant's consent to the search was voluntarily given was not clearly unreasonable, and provides no grounds for reversal. See *People v. Shinohara*, 375 Ill. App. 3d 85, 96 (2007).

¶ 28 The defendant next contends that the statements given by the defendant are inadmissible as "fruit of the poisonous tree." The premise for this contention, however, is that an illegal entry, search, or seizure occurred, a premise we have rejected. The defendant's contention is without merit.

¶ 29 The final contention raised by the defendant on appeal is that he was in custody, and was interrogated, prior to receiving his *Miranda* warnings. The question of custody is crucial, because in the absence of custody, there is no requirement that an individual be given

Miranda warnings before being questioned. *People v. Slater*, 228 Ill. 2d 137, 149 (2008). To determine whether an individual is in custody for *Miranda* purposes, a court must consider the circumstances surrounding the interrogation of that individual and whether, given those circumstances, " 'a reasonable person, innocent of any crime' would have believed that he or she could terminate the encounter and was free to leave." *Slater*, 228 Ill. 2d at 150. Factors to be considered when examining the circumstances surrounding the interrogation include the following:

"(1) the location, time, length, mood, and mode of the questioning; (2) the number of police officers present during the interrogation; (3) the presence or absence of family and friends of the individual; (4) any indicia of a formal arrest procedure, such as the show of weapons or force, physical restraint, booking or fingerprinting; (5) the manner by which the individual arrived at the place of questioning; and (6) the age, intelligence, and mental makeup of the accused." *Slater*, 228 Ill. 2d at 150.

¶ 30 With regard to the first factor, in the case at bar, the "questioning" that took place prior to the defendant being given his *Miranda* warnings took place at the defendant's own home, in the early afternoon, for approximately five to seven minutes prior to his signing a consent to search his property, and for an undisclosed amount of time during the "tour" of his property that followed his voluntarily given consent to search it. Agent Boerm described the defendant's mood during the tour as "[e]xtremely" cooperative, and both agents, and the defendant, testified that during the tour, the defendant showed them around the property and made verbal statements about the location and ownership of the 412 marijuana plants the agents eventually recovered. Although the defendant testified that once he was outside his home, he did not feel free to go back into the home, or to leave his property, and that after signing the consent to search form, he did not believe he could refuse the agents' request to be shown the property, and to accompany the agents, he also conceded that he was never told

directly that he could not leave his property, and that he never asked to do so. Moreover, the defendant and the agents testified that the defendant's personal vehicle was located in his driveway at all relevant times, and it is clear from the photographic exhibits included in the record that the defendant's vehicle was not blocked or in any other way obstructed by the vehicle driven by the agents, and that the defendant easily could have used the vehicle to leave his property had he chosen to do so.

¶ 31 Additionally, Agent Boerm testified that after consenting to the search, the defendant never asked the agents to halt the search, but that if the defendant had done so, the agents would have ceased searching and instead applied for a search warrant. Agent Meier testified that although the defendant declined to give a written or videotaped statement, he did agree to speak with Meier. Moreover, the mode of questioning does not appear to have been the least bit coercive, as all the testimony in the record supports the conclusion that the defendant, without substantial or repeated direct questioning, freely and voluntarily showed the agents to the multiple locations where marijuana was growing or being processed, and described various aspects of his operation to the agents as he did so.

¶ 32 With regard to the remaining factors, there were two agents present for most or all of the pre-*Miranda* questioning, although two additional agents later arrived to help videotape and confiscate the many plants. Neither of the additional agents testified, and it appears from the record that their contact with the defendant was minimal at best. There is no testimony in the record regarding the presence or absence of family or friends of the defendant at his home at the time of the questioning. There were no indicia of a formal arrest procedure, such as the show of weapons or force, physical restraint, booking or fingerprinting: in fact, the testimony in the record is that although Agents Boerm and Meier were armed, their weapons were not visible to the defendant and were never displayed. Moreover, it is undisputed that the defendant was not arrested on the date of the questioning. Although there is no testimony

regarding the manner by which the defendant arrived at the place of questioning, we reiterate that the questioning took place at his own home and that his personal vehicle was present and available at the home. The defendant testified that he was in his early forties at the time of the questioning, and that he was "totally deaf in the right ear." No testimony was adduced that would indicate that the defendant was not of at least normal intelligence or that he did not hear, or understand, the questions of the agents on the date in question. We note as well that although at the time of the questioning the defendant had never been convicted of a felony, he had had numerous prior contacts with law enforcement authorities, including misdemeanor convictions for aggravated assault, unlawful use of a weapon, and battery, and numerous other arrests for, *inter alia*, battery and domestic battery.

¶ 33 Our review of the relevant factors leads us to conclude that, based upon the circumstances presented, a reasonable innocent person in the defendant's position would have felt free to terminate the encounter and leave if he so desired. See *People v. Slater*, 228 Ill. 2d 137, 150 (2008).

¶ 34 **CONCLUSION**

¶ 35 For the foregoing reasons, we affirm the denial of the defendant's motions to suppress evidence and statements, and we affirm his conviction and sentence.

¶ 36 Affirmed.

¶ 37 JUSTICE GOLDENHERSH, specially concurring:

¶ 38 I agree with the majority's disposition as to the factual findings of the circuit court in this case. Had the record been stronger as to the no-trespassing signs in issue, I would vote to reverse on the basis of *In re Brewer*, 24 Ill. App. 3d 330 (1974).