

know, Erica Taylor, and Quinton Bradley were the three passengers in the car. Because the officers had been advised by their dispatcher that Quinton had been the one who "had actually struck the complainant," he was handcuffed, placed in the back of Rizzo's squad car, and transported to the Centralia police department. When Officer Brad Rueter subsequently arrived at the scene of the stop, Ramsey had him wait with the car's remaining occupants while he went to the residence on Sixth Street to further "investigate the battery complaint."

¶ 5 While waiting with the car's remaining occupants, Reuter asked the defendant for identification, and the defendant stated that he had left his identification at home. When Reuter asked the defendant his name, the defendant looked at Erica, claimed that he was "Eric Taylor," and gave a purported date of birth. Reuter later testified that he knew Erica's brother, Eric Taylor, but he ran the information that the defendant had provided "just in case there happened to be two Eric Taylors." When the information check "came back no record on file," Reuter told the defendant to truthfully identify himself or else he would be arrested for obstructing justice (720 ILCS 5/31-4(a) (West 2010)). At that point, the defendant looked at Erica, said, "I've got a warrant," and continued to claim that his name was "Eric Taylor." As Reuter was subsequently placing the defendant under arrest, the defendant "spun" into him, a fight ensued, and the defendant "was able to get free." When the defendant "took off running," he was "shot with a taser" by Sergeant Nick Heath of the Wamac police department, who had earlier arrived to assist Officer Reuter. The defendant was then subdued, handcuffed, and placed into the back of Heath's squad car, where he finally gave his "correct name" and date of birth. An information check revealed that the defendant had two warrants out for his arrest, both of which had been issued by St. Louis County, Missouri.

¶ 6 The following day, the State filed an information charging the defendant with aggravated battery (720 ILCS 5/12-4(b)(18) (West 2010)). The information alleged that the defendant had "knowingly made physical contact of an insulting or provoking nature with

Centralia Police Officer Brad Rueter, *** knowing Officer Rueter to be a peace officer engaged in the execution of his official duties." In September 2010, the cause proceeded to a jury trial, where the defendant was found guilty as charged. In December 2010, following the trial court's imposition of sentence and denial of the defendant's motion for a new trial, the defendant filed a timely notice of appeal.

¶ 7

DISCUSSION

¶ 8 On appeal, the defendant argues that his trial attorney was ineffective for failing to file a motion to quash his arrest on fourth amendment grounds. Suggesting that the sole purpose of the traffic stop in the present case was to apprehend Quinton Bradley, the defendant premises his argument on his assertion that his arrest would not have occurred "had the police officers not improperly prolonged the traffic stop that gave rise to the arrest." See, e.g., *People v. Bunch*, 207 Ill. 2d 7 (2003) (motion to quash arrest for possession of heroin improperly denied on fourth amendment grounds where the purpose of the traffic stop had concluded and the arresting officer's further interaction with the defendant-passenger was unsupported by a reasonable articulable suspicion of criminal conduct). In response, the State maintains that we need not decide whether the defendant was improperly detained prior to his arrest, because even assuming, *arguendo*, that he was, the fourth amendment protection that he seeks to invoke "does not apply to acts of physical resistance that occur after an arrest, even an unlawful arrest." We agree with the State and thus find that the defendant's ineffective-assistance-of-counsel claim is without merit.

¶ 9 A criminal defendant is guaranteed the right to the effective assistance of counsel under both the United States Constitution and the Illinois Constitution. *People v. Mata*, 217 Ill. 2d 535, 554 (2005). To succeed on a claim of ineffective assistance of trial counsel, a defendant must satisfy the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), *i.e.*, a defendant must show "(1) that his attorney's performance fell below an

objective standard of reasonableness and (2) that the attorney's deficient performance resulted in prejudice." *People v. Shaw*, 186 Ill. 2d 301, 332 (1998).

¶ 10 The fourth amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const., amend. IV. "A seizure occurs when the police, by means of physical force or show of authority, have in some way restrained the person's liberty." *People v. Perkins*, 338 Ill. App. 3d 662, 666 (2003). "A vehicle stop implicates the fourth amendment because stopping a vehicle and detaining its occupants constitutes a 'seizure' within the meaning of the fourth amendment." *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 43.

¶ 11 "[E]vidence obtained as a result of a violation of the defendant's fourth-amendment rights must be suppressed as 'fruit of the poisonous tree.'" *People v. Leggions*, 382 Ill. App. 3d 1129, 1134 (2008). The fruit-of-the-poisonous tree doctrine is based on the fourth amendment "exclusionary rule," which is a "judicially created device designed to safeguard fourth amendment rights generally." *People v. Winsett*, 153 Ill. 2d 335, 351 (1992). Nevertheless, the exclusionary rule and the fruit-of-the-poisonous tree doctrine do not apply to evidence of crimes that arise from and are in reaction to an illegal search or seizure. *People v. Villarreal*, 152 Ill. 2d 368, 377-79 (1992); *People v. Abrams*, 48 Ill. 2d 446, 455-57 (1971). A person cannot lawfully use force to resist an arrest, even if the arrest is unlawful (720 ILCS 5/7-7 (West 2010); *People v. Locken*, 59 Ill. 2d 459, 464-65 (1974)), and "[t]o countenance, through the use of the exclusionary rule, what can be regarded as an unlawful species of self-help would be to encourage unlawful and retaliatory conduct" and would resultingly "set a policy fundamentally in opposition to a civilized rule of law" (*Abrams*, 48 Ill. 2d at 456).

¶ 12 Here, as the State observes on appeal, had the defendant been charged with an offense

not involving his resisting arrest, then "it is arguable a motion to quash would have been relevant." Under the circumstances, however, the evidence of the defendant's physical resistance was not subject to suppression on fourth amendment grounds, and hence any motion to quash would have been pointless. "An attorney is not required to make futile motions to avoid charges of ineffective assistance of counsel" (*People v. Ivy*, 313 Ill. App. 3d 1011, 1018 (2000)), and the defendant's contention that his trial attorney was ineffective for failing to file a motion to quash arrest in the present case is without merit.

¶ 13

CONCLUSION

¶ 14 For the foregoing reasons, the defendant's conviction is hereby affirmed.

¶ 15 Affirmed.