

No. 1-12-1413

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> Demetrius G., a Minor)	Appeal from the
)	Circuit Court of Cook County
(THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
)	No. 12 JD 655
v.)	
)	
DEMETRIUS G., a Minor,)	
)	Honorable Stuart Katz,
Respondent-Appellant).)	Judge Presiding.

JUSTICE SIMON delivered the judgment of the court.
Presiding Justice Harris and Justice Liu concurred in the judgment.

ORDER

¶ 1 *Held:* The court did not commit plain error by conducting the suppression hearing and trial absent the presence of respondent's mother or another adult concerned solely with respondent's best interests because respondent did not have a statutory or constitutional right to the presence of such an individual and the court did not abuse its discretion by failing to appoint a guardian *ad litem*. Defense counsel was not ineffective for failing to request a continuance or the appointment of a guardian *ad litem* prior to the suppression hearing and trial because it is not reasonably probable that the result of the proceedings would have been different if counsel had done so. Although respondent was seized by the police officers before the officers recovered the incriminating evidence at issue, the court did not err by denying respondent's motion to suppress because the officers were entitled to conduct a *Terry* stop as respondent's actions of turning away from the police vehicle and making quick downward movements toward his waist area while present in

an area known for narcotics sales provided the officers with a reasonable suspicion that he was engaged in criminal activity.

¶ 2 Respondent, Demetrius G., was found guilty of possession of cannabis, adjudged a ward of the court, and sentenced to one year of probation. On appeal, respondent contends that the court violated his rights under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq.* (West 2010)) and his constitutional right to due process by conducting a suppression hearing and trial without ensuring that an adult solely concerned with his best interests was present at the proceedings, defense counsel was constitutionally ineffective for failing to request a continuance or the appointment of a guardian *ad litem* prior to the suppression hearing and trial, and the court erred by denying his motion to suppress. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 On February 17, 2012, the State filed a petition for adjudication of wardship as to respondent, alleging that he was delinquent for committing the offense of unlawful possession of cannabis on February 3, 2012, and that it was in the best interests of respondent and the public for respondent to be adjudged a ward of the court. On March 2, 2012, the trial court conducted an initial status hearing. Respondent's mother did not attend the hearing, and respondent was accompanied by a man he identified as his uncle. Respondent informed the court that his mother said she had to go somewhere that morning and told respondent to ask his uncle to accompany him. Defense counsel said the uncle was related to respondent by marriage through respondent's father, whom respondent had not seen in three or four years. The court characterized the uncle as "a friend of the family" and asked him to sit outside the courtroom for the remainder of the hearing. The court set a trial date for April 3, 2012, issued a summons for respondent's mother, and told respondent "your mother is going to be here with you next time; do you understand?"

1-12-1413

¶ 5 Prior to trial, respondent filed a motion to suppress evidence regarding his possession of cannabis, alleging that he was subjected to an unlawful search and seizure that was not based on a warrant or probable cause to believe he was involved in criminal activity and that the evidence at issue was obtained as a result of the unlawful search. The court conducted both a hearing on the motion to suppress and the trial on April 3, 2012.

¶ 6 At the hearing on the motion to suppress, respondent testified that around 11:30 a.m. on February 3, 2012, he was leaving a gas station when he saw a marked police vehicle with two police officers driving in his direction. Respondent testified that the officers "pulled up on the side of me and told me to come here" and that he did not feel free to walk away from the officers at that time. Respondent walked to the police car, and the officers grabbed him by the shoulder and began to subject him to a pat down search. During the search, one of the officers asked respondent if he had anything on him, and respondent said "I have four bags of weed." The officers then took respondent into custody.

¶ 7 Chicago police officer Deon Jones testified that around 11:30 a.m. on February 3, 2012, he was driving an unmarked police car while on patrol with his partner, Officer Morris, and that the officers were in plainclothes and were wearing their stars. The officers were on patrol in an area known for gang activity and narcotic sales, and Officer Jones estimated that approximately 150 narcotics arrests had been made in the area in the previous six months. Officer Jones had viewed a number of narcotics transactions that took place in the area prior to respondent's arrest and had been recorded by a surveillance camera. Officer Jones testified that those viewings gave him insight as to which people to target, locations in which people might hide narcotics, and the habits of certain people.

¶ 8 Officer Jones also testified that, while on patrol, he saw respondent standing in an alley.

1-12-1413

Officer Jones was driving the vehicle in respondent's direction, and respondent looked at the car and walked away into a vacant lot. Officer Jones lost sight of respondent and drove through a gas station whereupon he saw respondent standing on a sidewalk. As Officer Jones neared respondent, respondent "turned his back towards [Officer Jones] and made some quick movements towards his waist area." Officer Jones demonstrated respondent's movements for the court, and the court stated that Officer Jones was "moving his hands in a downward movement at angles towards the center below his belt line." In light of his viewings of narcotics transactions recorded by the POD blue lights camera and his knowledge of the area, Officer Jones suspected that respondent was hiding narcotics. Officer Jones then drove the vehicle toward respondent and stopped as Officer Morris asked respondent to approach the vehicle. Respondent walked toward the vehicle, and Officer Morris told respondent that it looked like he had stuffed something in his pants and asked him what he was trying to hide. Respondent said "I only got a few bags of weed." Officer Morris asked respondent to give him the bags, and respondent took nine small bags of suspected narcotics out of his pants.

¶ 9 On cross-examination, Officer Jones stated that the officers "were wearing their stars" but did not inform respondent that they were police officers before Officer Morris told respondent to "come here" and that respondent was not free to ignore Officer Morris' order because, if he had, the officers would have followed him to investigate. Officer Jones also stated that he and Officer Morris exited the vehicle after Officer Morris told respondent to "come here" and that respondent handed Officer Morris the suspected narcotics after he had removed them from his pants. On redirect examination, Officer Jones testified that he conducted a pat down search of respondent after respondent had handed over the suspected narcotics and been taken into custody.

¶ 10 The court denied the motion to suppress, finding that Officer Jones was a more credible

1-12-1413

witness than respondent and that respondent was never seized by the officers because he was not coerced into speaking with the officers and he voluntarily disclosed that he was carrying drugs after Officer Morris said "come here." The trial commenced immediately following the court's denial of the motion to suppress. The parties stipulated to the testimony given by Officer Jones during the suppression hearing, and Officer Jones additionally testified that he inventoried the bags of suspected cannabis recovered from respondent. The parties also stipulated that testing of one of the bags revealed that it contained .6 grams of cannabis. Based on this evidence, the court found respondent guilty of unlawful possession of cannabis. The court then conducted a sentencing hearing, at which respondent's mother was present, and found that it was in the best interests of respondent and the public to adjudge respondent a ward of the court and place him on probation for one year.

¶ 11

ANALYSIS

¶ 12

I. Presence of a Parent or Other Concerned Adult

¶ 13 Respondent contends that the court violated his statutory rights under the Act and his constitutional right to due process by conducting the suppression hearing and trial in the absence of his mother or any other adult who was solely concerned with his best interests. Respondent acknowledges that he has not preserved this claim for appellate review because he did not object to the court's actions at the suppression hearing or trial (*In re M.W.*, 232 Ill. 2d 408, 430 (2009)), but asserts that this court may nonetheless review the issue under the plain-error doctrine.

¶ 14 A reviewing court may consider unpreserved error under the plain-error doctrine when the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or the error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process,

1-12-1413

regardless of the closeness of the evidence. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007).

Respondent maintains that his claim is reviewable under the plain-error doctrine because the absence of an adult concerned solely with his best interests undermined the fairness and integrity of the proceedings. As the first step in plain-error review is to determine whether error occurred at all (*People v. Rinehart*, 2012 IL 111719, ¶ 15), we now consider whether the court erred by conducting the suppression hearing and trial without ensuring that an adult solely concerned with respondent's best interests was present at those proceedings.

¶ 15 Respondent asserts that he had a statutory right "to have a parent-or other family representative-present at his suppression hearing and trial" and that the court was required to either grant a continuance so his mother could attend the proceedings or appoint a guardian *ad litem* to protect his best interests. The State responds that the Act only requires that a minor's parent be given sufficient notice of judicial proceedings, respondent's mother received notice of the proceedings and chose not to attend, and the court did not abuse its discretion when it did not appoint a guardian *ad litem* prior to the suppression hearing and trial.

¶ 16 The minor, the minor's parents, and the State all have vital interests at stake in a juvenile court proceeding, and the Act sets out the proper procedure for protecting those interests. *In re J.W.*, 87 Ill. 2d 56, 59-60 (1981). The Act provides that the minor and his parents are entitled to attend juvenile court proceedings and that a court may not conduct a hearing on any petition or motion unless the minor is represented by counsel. 705 ILCS 405/1-5(1) (West 2010). To that extent, all parties, including the minor's parents, shall be given written notice of the date, time, and place of all hearings on any petition or motion. 705 ILCS 405/5-530(1) (West 2010). Thus, the Act protects the minor's interests by guaranteeing the minor's rights to attend the proceedings and the representation of counsel and ensuring that the minor's parents are given an opportunity

1-12-1413

to attend the proceedings as well.

¶ 17 Although respondent asserts that he was statutorily entitled to the presence of a parent or other family representative at the suppression hearing and trial, he has not identified, and this court has not found, any provision in the Act which grants a minor that right. Also, while courts have held that the Act requires the State to provide a parent or guardian with written notice of judicial proceedings (*J.W.*, 87 Ill. 2d at 62; *In re Marcus W.*, 389 Ill. App. 3d 1113, 1123 (2009)), respondent has not identified, and this court has not found, any case in which a court has held that the Act provides a minor with the right to have a parent or other family representative present at court proceedings. To the contrary, this court has held that the Act does not require a court to postpone proceedings until a parent who has received proper notice is present in court and that the presence of a parent is not mandatory. *In Interest of Williams*, 36 Ill. App. 3d 917, 921 (1976). As such, respondent did not have a statutory right to the presence of his mother or any other family representative at the suppression hearing or trial and the court did not violate the Act by conducting the suppression hearing and trial absent the presence of any such person.

¶ 18 To the extent respondent maintains that his statutory rights were violated by the court's exclusion of his uncle from the initial status hearing, we reiterate that the Act does not provide a minor with the right to have a family representative present at court proceedings. Also, there is nothing in the record which shows that respondent's uncle was a "responsible relative" who was a party to the proceedings (see 705 ILCS 405/1-5(1) (West 2010)), and the court was required to exclude non-parties from hearings conducted under the Act (705 ILCS 405/1-5(6) (West 2010)). Thus, the court did not violate respondent's statutory rights when it excluded his uncle from the initial status hearing.

¶ 19 Respondent asserts that, in the absence of a continuance to allow his mother to attend the

1-12-1413

proceedings, the court was required to appoint a guardian *ad litem* to represent his best interests.

"The court may appoint a guardian ad litem for the minor whenever it finds that there may be a conflict of interest between the minor and his or her parent, guardian or legal custodian or that it is otherwise in the minor's best interest to do so." 705 ILCS 405/5-610(1) (West 2010). "Unlike abuse and neglect proceedings, there is no requirement that a guardian *ad litem* be appointed in delinquency proceedings." *People v. Austin M.*, 2012 IL 111194, ¶ 71. As the Act provides that the court "may appoint" a guardian *ad litem* and the use of the word "may" connotes discretion (*Krautsack v. Anderson*, 223 Ill. 2d 541, 554 (2006)), we review the court's failure to appoint a guardian *ad litem* under an abuse of discretion standard. A court abuses its discretion when its ruling is arbitrary, fanciful, or unreasonable, or when no reasonable person would adopt its view. *In re Marriage of Callahan*, 2013 IL App (1st) 113751, ¶ 27.

¶ 20 As the only reason provided by respondent as to why the appointment of a guardian *ad litem* was necessary in this case is the absence of his mother or other family representative, he is essentially asking this court to hold that the trial court must appoint a guardian *ad litem* any time a minor's parent or guardian does not attend court proceedings. The Act, however, contains no such requirement and only provides that the court may appoint a guardian *ad litem* when there is a conflict of interest between the minor and the parent or when it is otherwise in the minor's best interest to do so. If the legislature intended to require the appointment of a guardian *ad litem* any time a parent or guardian is not present, it could have done so in the statute, as it did in a prior version of the Act (Ill. Rev. Stat. 1973, ch. 37, par. 704-5) and as it provided the minor the right to counsel in the current Act (705 ILCS 405/1-5(1) (West 2010)). While our supreme court has stated that "when a guardian *ad litem* is appointed in a delinquency case, it is generally because there is no interested parent or legal guardian to represent the child's best interests" (*Austin M.*,

1-12-1413

2012 IL 111194, at ¶ 85), there is a difference between the observation that most appointments of guardians *ad litem* will occur when the minor is without an interested parent or guardian and respondent's assertion that all such minors must be appointed a guardian *ad litem*. Thus, we will not write a new requirement into the Act and will instead consider whether, in view of the circumstances present in this case, the court abused its discretion by not appointing a guardian *ad litem*.

¶ 21 As an initial matter, there is no indication of a conflict of interest between respondent and his mother and, therefore, respondent had the opportunity to consult with his mother regarding the juvenile court proceedings in the weeks leading up to the suppression hearing and trial. In addition, respondent's only participation in the proceedings was his testimony at the beginning of the suppression hearing. Officer Jones then testified and, following argument, the court denied the motion to suppress. Immediately thereafter, the court conducted a brief trial, primarily by stipulation, and found respondent guilty of possession of cannabis. Thus, respondent was never required to make any decisions based on developments which arose during the course of the proceedings and under these circumstances we cannot say that the court's failure to appoint a guardian *ad litem* constitutes an abuse of discretion.

¶ 22 As there is no provision in the Act which provides a minor with the right to have a parent or other family representative present at juvenile court proceedings or which requires a court to appoint a guardian *ad litem* in the absence of a parent or family representative, we conclude that the court did not violate respondents' statutory rights when it conducted the suppression hearing and trial. To the extent respondent maintains a minor's best interests would be better protected if there was a requirement that a parent, family representative, or other adult solely concerned with the minor's best interests be present at judicial proceedings, it is the province of the legislature,

1-12-1413

and not this court, to rewrite a statute and any appeal to that effect must be made to the General Assembly. *DeSmet ex rel. Estate of Hays v. County of Rock Island*, 219 Ill. 2d 497, 510 (2006).

¶ 23 Also, we have considered *Williams*, 36 Ill. App. 3d 917, and disagree with respondent's claim that the decision recognizes a minor's statutory right to the presence of a parent or other family representative at a judicial proceeding. As stated earlier, the *Williams* court supports our determination that respondent was not entitled to the presence of his mother or another family representative because the court pointed out that the Act does not require a parent's presence at juvenile court proceedings or require the court to postpone proceedings until a parent chooses to appear. *Id.* at 921. Also, while the court stated that the minor's rights were fully protected by the presence of a family representative throughout the proceedings and the presence of his probation officer and mother during parts of the proceedings, it did so in response to the minor's claim that the court erred by failing to appoint a guardian *ad litem* pursuant to the Act which, at that time, required the appointment of a guardian *ad litem* if the minor's parent, guardian, custodian, and/or relative did not appear. *Id.*

¶ 24 Respondent further asserts that the court violated his constitutional right to due process by conducting the suppression hearing and trial absent the presence of his mother or any other adult solely concerned with his best interests. While courts have held that a minor's right to due process is violated when the minor's parent is not given proper notice of the judicial proceedings (*M.W.*, 232 Ill. 2d at 430-32; *Marcus W.*, 389 Ill. App. 3d at 1124), respondent has not identified, and this court has not found, any case in which a court has held that the minor's right to due process is violated when the court conducts a proceeding absent the presence of a parent or other adult solely concerned with the minor's best interests. Unlike those cases involving the failure to provide a minor's parent with notice of a judicial proceeding (*M.W.*, 232 Ill. 2d at 430-32; *J.W.*,

1-12-1413

87 Ill. 2d at 62-63; *Marcus W.*, 389 Ill. App. 3d at 1124-28), here respondent's mother received notice of the proceedings and respondent had the opportunity to consult with his mother and, in the weeks leading up to the suppression hearing and trial, receive guidance regarding decisions, such as whether to plead guilty and whether to testify. As such, we conclude that the court did not violate respondent's constitutional right to due process by conducting the suppression hearing and trial absent the presence of respondent's mother or another adult solely concerned with his best interests. Having determined that the court did not violate respondent's statutory or constitutional rights, we conclude that the plain-error rule does not apply to excuse respondents' procedural default of those issues in this case.

¶ 25

II. Ineffective Assistance of Counsel

¶ 26 Respondent next contends that he was denied the effective assistance of counsel when counsel failed to request a continuance or the appointment of a guardian *ad litem* prior to the suppression hearing and trial. A minor in a delinquency proceeding has a constitutional right to the effective assistance of counsel. *Austin M.*, 2012 IL 111194, ¶ 74. To prevail on a claim of ineffective assistance, respondent must show that counsel's performance fell below an objective standard of reasonableness and that he was prejudiced by the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). As a failure to make the requisite showing of either deficient performance or sufficient prejudice defeats a claim (*People v. Palmer*, 162 Ill. 2d 465, 475 (1994)), we need not determine whether counsel's performance was deficient before examining whether respondent was prejudiced by the alleged deficiency (*People v. Montgomery*, 192 Ill. 2d 642, 671 (2000)). To establish prejudice, respondent must show there is a reasonable probability that, but for counsel's deficient performance, the result of the proceedings would have been different. *People v. Hughes*, 2012 IL 112817, ¶ 63. "A reasonable probability is a

probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694.

¶ 27 Respondent asserts that he was prejudiced by counsel's allegedly deficient performance because it deprived him of the support, advice, and assistance of his mother or a guardian *ad litem* during the suppression hearing and trial. Respondent, however, has not explained how the assistance of his mother or a guardian *ad litem* would have resulted in a different outcome. As stated earlier, respondent had the opportunity to consult with his mother and receive guidance regarding decisions, such as whether to plead guilty and whether to testify, in the weeks leading up to the suppression hearing and trial. Also, there is no indication that the evidence presented at the suppression hearing and trial would have differed in any way had respondent's mother or a guardian *ad litem* been present. As such, respondent has not established that the result of the suppression hearing or trial would have been different had counsel requested a continuance or the appointment of a guardian *ad litem*, and we conclude that respondent cannot succeed on his claim of ineffective assistance of counsel.

¶ 28 III. Motion to Suppress

¶ 29 Respondent further contends that the court erred when it denied his motion to suppress. In reviewing a trial court's ruling on a motion to suppress, we accept the court's findings of fact unless they are against the manifest weight of the evidence, but review *de novo* its ultimate ruling as to whether suppression is warranted. *People v. Colyar*, 2013 IL 111835, ¶ 24.

¶ 30 The United States and Illinois Constitutions guarantee citizens the right to be free from unreasonable searches and seizures. U.S. Const., amends. IV, XIV; Ill. Const. 1970, art. I, § 6. Thus, the guarantees of the fourth amendment only attach if a "search" or a "seizure" has taken place. *People v. Bartelt*, 241 Ill. 2d 217, 225-26 (2011). In this case, the court determined that respondent's right to be free from unreasonable searches and seizures was not violated because

1-12-1413

respondent was never seized by Officer Jones and Officer Morris, and respondent challenges that decision on appeal.

¶ 31 A person is seized under the fourth amendment when a law enforcement officer, by physical force or show of authority, in some way restrains that person's freedom of movement. *People v. Cosby*, 231 Ill. 2d 262, 273-74 (2008). In other words, a person is seized when, "in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *United States v. Mendenhall*, 446 U.S. 544, 554 (1980). Circumstances which may indicate a seizure include the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person by the officer, or the use of language or tone of voice by the officer which indicates that compliance with the officer's request might be compelled. *Id.*

¶ 32 Officer Jones, who the court found to be more credible than respondent, testified that he suspected respondent was hiding narcotics in his pants when, upon driving toward respondent, he saw respondent turn his back to the police vehicle and make quick movements toward his waist area. Officer Jones stopped the vehicle and Officer Morris told respondent to "come here." As respondent approached the vehicle, Officer Morris told respondent that it looked like he stuffed something in his pants and asked him what he was trying to hide. On cross-examination, Officer Jones stated that he and Officer Morris exited the vehicle after Officer Morris told respondent to "come here" and that respondent was not free to ignore Officer Morris' order because, if he had, the officers would have followed him to investigate.

¶ 33 Respondent, citing *People v. Ocampo*, 377 Ill. App. 3d 150 (2007), and *People v. Billingslea*, 292 Ill. App. 3d 1026 (1997), asserts that a reasonable person in his situation would not have believed that he was free to leave and walk away from the officers in light of Officer

1-12-1413

Morris' direct command, backed by police authority, to "come here." In *Ocampo*, 377 Ill. App. 3d at 160-61, the court held that the defendant was seized because the defendant was confronted by two or three officers and one of the officers told the defendant that he "needed to talk" with him, even though the officer was not in uniform, approached the defendant in a public area, and did not block the defendant's path with his vehicle. In *Billingslea*, 292 Ill. App. 3d at 1030, the court held that the defendant was seized because the officer who confronted him stepped in front of him to block him if he intended to flee and told him to "come here." The State responds that the mere presence of multiple officers does not convert a voluntary encounter into a seizure and that the officers did not display their weapons, make physical contact with respondent until they had probable cause to arrest him, or use language or a tone which indicated that their request that respondent "come here" might be compelled.

¶ 34 While the presence of two officers, without more, is not a factor which indicates that a seizure has occurred (*Cosby*, 231 Ill. 2d at 278), here the officers' presence was accompanied by Officer Morris' directive to "come here," just as the officer in *Ocampo* told the defendant that he "needed to talk" with him and the officer in *Billingslea* told the defendant to "come here." In *Ocampo*, 377 Ill. App. 3d at 160, the court explained that a reasonable person in the defendant's position would interpret the officer's statement that he "needed to talk" as a command because the word "need" indicated a requirement and the comment came after the officer had stopped his vehicle in the defendant's vicinity, exited the vehicle, and showed the defendant his badge. In this case, a reasonable person in respondent's position would interpret Officer Morris' statement "come here" as a command because the statement was not phrased as a question and did not indicate that respondent had an option to walk away. In addition, the officers were wearing their stars, Officer Jones had just driven their vehicle in respondent's vicinity, and the officers exited

1-12-1413

the vehicle after Officer Morris' statement. While there is no evidence that the officers stepped in front of respondent to block him if he attempted to flee, the officers' exit from their vehicle evidences a similar intent. In addition, although Officer Jones' subjective belief that respondent was not free to ignore the order to "come here" does not establish that a reasonable person in respondent's position would have believed that he was not free to walk away, it does show that Officer Jones did not intend to act in such a way as to communicate to respondent that he was free to leave. Thus, we determine that respondent was seized when Officer Morris told him to "come here" and the officers exited their vehicle.

¶ 35 The State asserts that this court should nonetheless affirm the trial court's denial of the motion to suppress because Officer Jones and Officer Morris were entitled to conduct a brief investigatory stop of respondent based on a reasonable suspicion that respondent was engaged in criminal activity. In *Terry v. Ohio*, 392 U.S. 1, 29-31 (1968), the United States Supreme Court held that a police officer may conduct a brief investigatory stop of an individual when the officer has a reasonable and articulable suspicion that the person has committed or is about to commit a crime. *People v. Gherna*, 203 Ill. 2d 165, 177 (2003). While the reasonable suspicion standard is less demanding than probable cause, the fourth amendment requires at least a minimal level of objective justification for making a stop. *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000).

Although a person's presence in an area of expected criminal activity does not, by itself, support a reasonable suspicion of criminal activity (*People v. Jackson*, 2012 IL App (1st) 103300, ¶ 22), a person's presence in an area of heavy narcotics trafficking and a person's nervous or evasive behavior are pertinent factors in determining whether an officer had reasonable suspicion of criminal activity (*Wardlow*, 528 U.S. at 124).

¶ 36 Officer Jones testified that he encountered respondent while on patrol in an area known

1-12-1413

for gang activity and narcotics sales, that approximately 150 narcotics arrests had been made in the area in the previous six months, and that he had previously viewed a number of narcotics transactions which had occurred in the area and were recorded by a surveillance camera. Thus, the evidence shows, and respondent does not contest, that respondent was in a high-crime area known for narcotics sales at the time of the stop. Also, the evidence shows that respondent engaged in evasive and furtive behavior as he was approached by the officers because Officer Jones testified that respondent "turned his back towards [Officer Jones] and made some quick movements to his waist area." Officer Jones, based on his observations of respondent and the recorded narcotics transactions and his knowledge of the area, suspected that respondent was hiding narcotics. Based on this evidence, we determine that Officer Jones' suspicion of criminal activity was reasonable.

¶ 37 Although respondent suggests various innocent explanations for moving his hands toward his waist area which do not indicate suspicious activity, respondent does not account for Officer Jones' testimony that he turned his back to Officer Jones when he made "quick movements to his waist area." In addition, while there may be an innocent explanation for each individual factor supporting a *Terry* stop, when all the factors are viewed together, they may nonetheless combine to provide a reasonable suspicion of criminal activity. *People v. Ortiz*, 317 Ill. App. 3d 212, 223-24 (2000). In this case, respondent's quick movement of his hands to his waist area occurred as he turned away from Officer Jones' police vehicle while he was in an area known for narcotics transactions. While Officer Jones' observations did not conclusively establish that respondent was engaged in criminal activity, the *Terry* standard accepts the risk that an officer may stop an innocent person as it only requires a reasonable suspicion of criminal activity. *Wardlow*, 528 U.S. at 126. The totality of the circumstances as articulated by Officer Jones supports a

1-12-1413

reasonable suspicion that respondent was engaged in criminal activity at the time he was stopped by Officer Jones and Officer Morris. We find that the court did not err when it denied respondent's motion to suppress because the officers were entitled to conduct a brief investigatory stop of respondent at that time.

¶ 38

CONCLUSION

¶ 39 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 40 Affirmed.