

THIRD DIVISION
April 29, 2015

No. 1-13-2092

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. 10 CR 12711
)	
NAJEI WEBSTER,)	Honorable
)	Brian K. Flaherty,
Defendant-Appellant.)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Pucinski and Justice Mason concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendant's convictions of home invasion and armed robbery affirmed over her contention that the trial court erred in failing to grant her motion to quash arrest and suppress evidence; mittimus corrected.

¶ 2 Following a jury trial, defendant Najei Webster was found guilty of home invasion and armed robbery, then sentenced to an aggregate term of 21 years in prison. On appeal, defendant contends that the trial court erred in failing to grant her motion to quash arrest and suppress evidence where there was no probable cause for her arrest. She thus requests this court to reverse

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the denial of her motion, and remand the case for a new trial. She also requests that her mittimus be corrected to properly reflect her pre-sentence custody credit.

¶ 3 The charges in this case arose from a home invasion and armed robbery that occurred on June 16, 2010, in Hazel Crest, Illinois. Prior to trial, defendant filed a motion to quash arrest and suppress evidence, alleging that the State lacked probable cause to arrest her, and that the inculpatory statement she made after the arrest should be suppressed.

¶ 4 At the hearing on the motion, Hazel Crest detective Darry Pierce testified that about 2:50 a.m. on the day in question, he went to the 17000 block of South California Avenue to investigate a home invasion. He interviewed the individuals he believed to be the victims in the robbery, including Melvin and Jhordyn Ford, brothers who lived at the residence, and defendant, who was also present. Detective Pierce learned that one of the robbers had touched a television set, so he asked to take elimination fingerprints from all three individuals, and instructed defendant not to leave the premises. Detective Pierce then went into a bedroom, and when he returned to the living room, defendant was gone. He testified that he "thought it was suspicious that she would leave after she was instructed not to." Detective Pierce then went to defendant's house and spoke to her mother, who called her on the phone, and asked her to report to the police station to give elimination prints.

¶ 5 Defendant subsequently arrived at the police station, where Detective Pierce advised her of her *Miranda* rights, and asked if she knew any of the offenders or had anything to do with the incident. Defendant responded that she did not, and left the police station. The following day, Melvin called Detective Pierce and informed him that he had received a call from defendant's friend, Shonquanell Razor, and Detective Pierce instructed Melvin to bring Razor to the police

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station for an interview. At the station, Razor informed Detective Pierce that about 8:40 a.m. on June 16th, she received a phone call from defendant, in which defendant told her that she and her boyfriend, Will Langston, had just robbed Jhordyn, and Razor should "take that information to her grave." Jhordyn and Melvin confirmed that Razor was defendant's friend, and Detective Pierce testified that he had never met Razor before that day, or used her as a confidential informant.

¶ 6 On June 21, 2010, Detective Pierce went to defendant's residence, placed her under arrest, transported her to the police station, and again advised her per *Miranda*. About 1:50 p.m., defendant gave an oral statement admitting her involvement in the crimes of June 16th, and the following day, an Assistant State's Attorney took a handwritten statement from her.

¶ 7 The trial court denied defendant's motion to quash arrest and suppress evidence, finding under the totality of the circumstances, there was probable cause to arrest her. The court noted that defendant was present after a call was made regarding the home invasion, but left without providing elimination prints despite being requested to stay, then confessed to her friend Razor that she and Langston were involved in the crimes.

¶ 8 At trial, Melvin Ford testified that he lived at 17311 South California Avenue in Hazel Crest with his three children and younger brother, Jhordyn. On the day of the incident, he watched a basketball game on television with his brother, his friend Jeremy Webster (defendant's brother), three children, and two other friends, Mario and Bobby. Defendant came to the house after the game, and around midnight, offered to drive her brother, Mario and Bobby home. Melvin then put his children to bed and started playing a video game. When defendant returned

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to the house, he let her back inside, and she went into Jhordyn's room. She then told Melvin that she needed to charge her phone in her car, so he opened the door for her again.

¶ 9 About 10 minutes later, Melvin heard the door open and close, and when he looked out of his room, he saw defendant moving towards him, being held around her neck by an armed individual. The man, who was pointing a handgun at Melvin, and wearing a bandana covering the lower portion of his face and a hooded sweatshirt, said, "do you know what this is, this is a mother fucking stick up." There were three other armed men in the house similarly dressed, and one was carrying a shotgun. One of the men went into Jhordyn's room, and he heard a thud and Jhordyn yelling out in pain. Another man asked Melvin the location of the money, guns and drugs, and Melvin handed over his phone and \$2000 in cash, but stated that there were no guns or drugs. As the man with the shotgun went through the drawers in his closet, Melvin's daughter woke up and started crying. The man holding defendant said, "do you want me to kill this bitch," referring to defendant, then pointed his gun at Melvin's daughter and said, "do you want me to shoot her." Melvin stepped in front of his daughter and said that the men had to leave.

¶ 10 After the three individuals came out of Jhordyn's room with a laundry bag, all four men left, knocking over a television set on their way out. Melvin went to a neighbor's house to call police, and when Detective Pierce arrived, Melvin, Jhordyn, defendant and the three children were present. Detective Pierce told them he needed to take their information and collect fingerprints, and Melvin testified that defendant appeared "offended" about the fingerprinting, and kept saying that she needed to call her mother. As Melvin was walking Detective Pierce through the events of the night, defendant left the premises.

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¶ 11 Melvin further testified that Jeremy called defendant on June 21, 2010, and he subsequently spoke with Jeremy's girlfriend, Razor, and brought her to the police station to meet with Detective Pierce. Later that day, Melvin returned to the police station and identified Langston in a lineup as the person who was holding defendant around the neck during the home invasion. Jeremy also gave Melvin two of Jhordyn's necklaces that were taken during the home invasion.

¶ 12 Jhordyn Ford's testimony was substantially similar to that of his brother, Melvin regarding the events at issue. Jhordyn added that he occasionally had sex with defendant, but they were not in a relationship, and would see each other two to three times a week. Defendant arrived at his house on the night of the incident and drove Jeremy, Mario and Bobby home. Defendant told Jhordyn that she was coming back, but he did not expect her to return and fell asleep in his bedroom.

¶ 13 He was awakened by someone hitting him in the head, and a second time was hit with a shotgun by a person wearing a bandana over his face. Two other individuals went through the closet in his room, and took jewelry, electronics, and \$2000 in cash. They also asked him where the guns, drugs, and money were located. Jhordyn had told defendant that he had money from a wrongful death lawsuit stemming from the death of his mother, and he previously sold marijuana. He also testified that he had spent money in front of defendant and bought things for her in the past.

¶ 14 When the individuals left, Melvin went across the street and called police. Detective Pierce arrived and spoke with them about the incident. When he suggested taking their finger prints, defendant kept saying that she did not touch anything, and left while Jhordyn was in

another room with a police officer. Later, Jeremy gave him back some of the jewelry that was taken from him.

¶ 15 Shonquanell Razor testified that she and defendant were very close friends in June, 2010, and that Razor was dating defendant's brother, Jeremy, who was also the father of her child. About 7:30 a.m. on June 16, 2010, Razor was heading home from work when defendant called her and said "we did it." Razor asked defendant what she meant, and defendant said, "we robbed Jhordyn," referring to herself and Langston. Razor did not tell anyone about this conversation, but Jeremy saw some texts between them while going through Razor's phone and found out about defendant's involvement in the incident. Razor testified that she did not want to say anything because defendant was her best friend, and she had told her she would not do so. However, Razor reluctantly told Detective Pierce about her conversation with defendant and claimed that he told her that if she did not tell him what she knew about the robbery and he found out later, she would go to jail.

¶ 16 Detective Pierce's testimony was substantially the same as that given at the hearing on the motion to quash arrest and suppress evidence. He added that when he told defendant that he needed to take her fingerprints and explained their purpose, she questioned him about it, and told him that she did not touch anything. He spoke with defendant after the arrest, and arranged a lineup for Melvin and Jhordyn in which Langston was a participant. Detective Pierce denied threatening Razor with jail.

¶ 17 Assistant State's Attorney, Stephanie Buck testified that on June 22, 2010, she interviewed defendant, who gave her a written statement at 7 p.m., which she read into evidence. In that statement, defendant indicated that she understood her *Miranda* rights, and wished to give

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the statement. Defendant stated that she was 18 years of age at the time of the incident, and was dating Langston, but also had sex with Jhordyn once, and considered him a friend. In May 2010, Langston inquired as to how Jhordyn got his money, and defendant told him that he sold drugs and got a lot of money when his mother died. She told Langston how Jhordyn gave her money, and how he spent over \$1000 in a day. Langston told her that he wanted to rob Jhordyn because he needed some money, wanted to get a car, and to help defendant with her car. He also expressed his displeasure at defendant going to Jhordyn's house.

¶ 18 Defendant further stated that on June 15, 2010, she watched a basketball game at Jhordyn's and went home around 7 p.m. Langston called and told her that he had some guys to help them rob Jhordyn, and that he wanted her to go to Jhordyn's house to see who else was there, and to call him and let him know. Defendant returned to Jhordyn's house, and told Langston that she was going to drive some people home. Langston then told her to call him when she returned to Jhordyn's house. Defendant dropped off Mario, "Banks," and her brother Jeremy, then went to the gas station to pick up cigarettes for Jhordyn, and called Langston who was near Jhordyn's house. She went inside the house, informed Langston that Jhordyn was asleep in his room, and that Melvin was awake in the next room. As she was talking to Langston, her phone battery died, and she told Melvin she was going outside to charge her phone.

¶ 19 When she got outside, Langston, and three other men, whom she did not know, approached her. One of the men suggested that Langston walk defendant into the house with his arm around her neck in a chokehold, and defendant agreed to this. Langston also asked defendant the location of the jewelry, and she told him it was in Jhordyn's room and that he had money in his pockets.

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¶ 20 Defendant and Langston then entered the house, with Langston holding her in a chokehold and a gun to her head. Defendant acknowledged that she did not stop him or tell him she did not want him to continue. One man ran into Jhordyn's room, the other two went into Melvin's room, and all four men had guns. Defendant heard a sound coming from Jhordyn's room as if someone was getting hit with a gun, then heard one of the men ask him the location of the guns and money. One of the men took defendant's phone from her to try and make her role look real, and Langston pushed her in the doorway of Jhordyn's room, causing her to fall to the floor. After talking with police, defendant went home, and was met by Langston, who took her to Walmart and told her that he got about \$700. Defendant further stated that later that morning, she called her friend Razor between 7:30 a.m. and 9 a.m. that morning and told her that she and Langston had robbed Jhordyn. Razor told defendant that she would not say anything and would take that knowledge to the grave. Defendant finally stated that she participated in the robbery willingly and no one forced her to do it.

¶ 21 Defendant's motion for directed verdict was denied, and defendant testified on her own behalf that she met Jhordyn through her brother, Jeremy Webster. They were friends, and she would occasionally have sex with him, and visited his house frequently. Defendant met Langston while they were in high school, and she became his girlfriend in the spring of 2009. Langston would call her several times a day and was violent with her, and when he found out that she was meeting Jhordyn and having sex with him, he acted jealous of Jhordyn, and beat her when he saw her wearing a pair of shoes purchased by Jhordyn.

¶ 22 Defendant further testified that on the evening of the incident, Jhordyn called her and asked her to come over. When she arrived at his house, Melvin, defendant's brother Jeremy, his

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two friends, and Melvin's three children were also present. Jeremy asked defendant to drive him and his friends home, and she agreed to do so. She dropped them off, then went to the gas station and picked up some cigarettes for Jhordyn, and returned to his house.

¶ 23 When she returned, Jhordyn was asleep, and she woke him to let him know that she had his cigarettes, and tried to have sex with him. Her phone battery died at that point, and she told Melvin she wanted to charge her phone, and he unlocked the door and let her out. She walked to her car, which was parked in the driveway, switched out her SIM card from her uncharged phone and replaced it in a charge phone, then returned to the house. As she was walking to the door, four men approached her, and she hit in the face with a fist, then choked by one of the men. She testified that all of these men were bigger than her, and were wearing hoodies with bandanas covering their faces from the nose to the chin, leaving only their eyes visible. The man who was choking defendant walked her to the door, opened it, and pushed her in, as the other three men ran in front of her. The man walked her to the end of the hallway near Melvin and Jordyn's bedroom doors, pushed her to the floor, and one of the men put a shotgun to her head and told her "don't move, bitch." She heard Jhordyn being hit in the head with a gun, but after that, she blacked out from being choked and kept her head down. The men took all their cell phones, money and jewelry, then left.

¶ 24 Defendant testified that Langston had not mentioned that he wanted to rob anyone at any point prior to that day, and she did not help the robbers in any way. When the police officers came, she and Jhordyn were sitting in the living room, and then went outside the house to bring the dog in. Detective Pierce had told her that he wanted elimination prints from her, but she thought that would be done at the police station. He also asked her to stay for descriptions of the

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four robbers, however, once she went outside to get the dog, she told Jhordyn she was going home. Defendant left her phone number with Detective Pierce, and she did not think that she was not supposed to leave.

¶ 25 When defendant reached her house, but before she could enter, Langston approached and asked her to drive with him to Walmart, where he told her that he had robbed the Fords. He then choked defendant and told her that if she called police or told anyone, he "had guys to get [her] mother and [her] grandmother" and she had to go along with whatever he said. After receiving a call from her mother and Detective Pierce, she went to the police station to have her prints taken, but did not tell them anything because she was afraid of Langston. Defendant also testified that she called Razor after the incident, and told her that Langston had robbed Jhordyn, and that he had threatened her, and she could not go to the police because she was afraid of what he would do to her. She considered Razor a close friend and confided in her, and Razor promised to keep their conversation private.

¶ 26 Defendant further testified that she and Langston were arrested five days later when Detective Pierce came to her house, and that during her interview, Detective Pierce added things to her statement. She told ASA Buck and Detective Pierce that Langston committed the crime, but not that she was threatened, and testified that she never agreed to the robbery and did not use the words "participated willingly in the robbery." She stated that she signed the statement despite the incorrect statements and chose not to make any corrections because she was tired, overwhelmed, hungry, and wanted the ordeal to be over.

¶ 27 Following deliberations, the jury found defendant guilty of home invasion and armed robbery. Defendant's motion for a new trial was denied, and she was sentenced to six years in

prison for home invasion with a mandatory 15-year enhancement for the use of a firearm, to run concurrently with the 21-year term imposed on her armed robbery conviction, followed by three years of mandatory supervised release.

¶ 28 In this appeal from that judgment, defendant does not challenge the sufficiency of the evidence to sustain her conviction or the length of her sentence. She solely contends that her inculpatory statement should have been suppressed because the police lacked probable cause to arrest her, and that the trial court erred by not granting her motion to quash arrest and suppress evidence.

¶ 29 In reviewing a ruling on a motion to quash arrest and suppress evidence, this court applies a two-part standard of review. *People v. Hopkins*, 235 Ill. 2d 453, 471 (2009). The trial court's factual findings are accorded great deference, and this court will reverse those findings only if they are against the manifest weight of the evidence, whereas, the court's ultimate ruling on a motion to suppress involving probable cause is reviewed *de novo*. *Id.* In addition, we may affirm a ruling on a motion to suppress on any basis supported by the record, which includes the evidence presented at trial. *Id.* at 458, 473.

¶ 30 Probable cause to arrest exists when the facts known to the officer at the time of the arrest are sufficient to lead a reasonably cautious person to believe that the arrestee has committed a crime. *People v. Love*, 199 Ill. 2d 269, 279 (2002). Whether probable cause exists in a given case depends on the totality of the circumstances at the time of the arrest, including the officer's factual knowledge and his prior law enforcement expertise, and requires a case-specific analysis, governed by commonsense, practical considerations and not by technical legal rules. *People v. Rucker*, 346 Ill. App. 3d 873, 886 (2004), and cases cited therein. The standard for determining

whether probable cause is present is the probability of criminal activity, rather than proof beyond a reasonable doubt. *People v. Garvin*, 219 Ill. 2d 104, 115 (2006).

¶ 31 Here, the record shows that Detective Pierce was called to the Fords' house where defendant was purportedly one of the victims of the home invasion and armed robbery that occurred there. When Detective Pierce suggested taking elimination prints, defendant questioned him about it, then left the premises after being instructed to remain there. Detective Pierce "thought it was suspicious that she would leave after she was instructed not to." In his trial testimony, Detective Pierce added that defendant questioned the need to take fingerprints, and told him she did not touch anything. Melvin and Jhordyn corroborated that scenario in their trial testimony, noting that defendant kept saying she did not touch anything in the house, and left even though Detective Pierce told her to stay there.

¶ 32 On the following day, Detective Pierce spoke to Razor, defendant's close friend, who gave him details about a telephone call in which defendant admitted her involvement in the crime, and told her that she and Langston had robbed Jhordyn. At this point, the detective's suspicions rose to the level of probable cause, and several days later, Detective Pierce arrested defendant in her apartment. After being advised of her *Miranda* rights, defendant gave the inculpatory statement at issue. Based on the totality of the circumstances known to the detective at the time of the arrest, including defendant's suspicious behavior at the crime scene, and the inculpatory statement made to one of her close friends which was reported to Detective Pierce, we find that a reasonably cautious person could believe that defendant had committed a crime, giving rise to probable cause for her arrest. *Love*, 199 Ill. 2d at 279.

¶ 33 Defendant contends, nevertheless, that it was error for the trial court to rely on her failure to stay for elimination prints to establish probable cause because the prints would not have been "inculpatory." However, as the State points out, the purpose of the elimination prints was not to implicate defendant in the crime, and that it was her uncooperative behavior and hasty departure from the scene despite being requested not to leave, which Detective Pierce found suspicious. That suspicion was strengthened the following day when Melvin informed him of the call from Razor, who then told Detective Pierce about her conversation with defendant where she had implicated herself in the crimes, and provided him with probable cause to arrest her.

¶ 34 Defendant further contends, however, that Razor's report was "an unsubstantiated statement of a witness that the police [had] no reason to believe is reliable." There is no indication of this in the record, which clearly shows to the contrary that Razor was a close friend of defendant. This fact was corroborated by defendant's testimony that Razor was her close friend and one in whom she confided, and confirmed by Razor at trial. As such, Razor's reliability as a citizen-informant was established. *Village of Mundelein v. Minx*, 352 Ill. App. 3d 216, 221 (2004).

¶ 35 Although Razor did not witness the robbery, and her conversation with defendant was brief, the fact that she was a close friend and confidant of defendant, identified herself to police, and testified at trial, weigh in favor of her reliability. *Minx*, 352 Ill. App. 3d at 221. At trial, Razor expressed that she had come forward reluctantly, because defendant was her best friend, and she only did so because Jeremy had discovered conversations on her phone with defendant.

¶ 36 Thus, unlike *Minx*, 352 Ill. App. 3d 216, on which defendant relies, we find that the statement made by Razor was sufficiently reliable, and when combined with defendant's

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suspicious behavior as a purported victim who was reluctant to go forward with the elimination fingerprints and left the crime scene despite being instructed not to do so, was sufficient to lead a reasonably cautious person to believe that defendant had committed a crime and was subject to arrest. *Love*, 199 Ill. 2d at 279. Accordingly, we find that the trial court properly denied her motion to quash arrest and suppress evidence.

¶ 37 Defendant also contends, the State concedes, and we agree, that her mittimus should be corrected to reflect her entitlement to 102 days of pre-sentence custody credit. Pursuant to our authority under Supreme Court Rule 615(b)(1) (eff. Aug. 27, 1999), we direct the clerk of the circuit court to correct her mittimus to that effect, and affirm the judgment of the circuit court of Cook County in all other respects.

¶ 38 Affirmed; mittimus corrected.