2015 IL App (2d) 131290-U
No. 2-13-1290
Order filed September 29, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 13-CM-493
REBECCA ANN COLLIER,	)	Honorable John S. Lowry,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Schostok and Justice Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly denied defendant's motion to suppress: having received a 911 call from an unidentified person in defendant's house, the police had reasonable grounds to believe that an emergency was at hand, even after encountering the two known occupants of the house; the police then had a reasonable basis to search anywhere a person might be in need of aid, including the basement where they discovered the evidence.

¶ 2 Defendant, Rebecca Ann Collier, appeals from an order of the circuit court of Winnebago County denying her motion to suppress cannabis plants found when the police conducted a warrantless search of her home. Because the warrantless search was justified by the emergency-aid exception to the warrant requirement, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged by information with one count of possession of cannabis (720 ILCS 550/8(a) (West 2012)). She filed a motion to suppress the cannabis found in the basement of her home. The trial court denied the motion. Following a stipulated bench trial, the court found defendant guilty, denied her posttrial motion, and sentenced her to 24 months' supervision.

¶ 5 The following facts were established at the hearing on the motion to suppress. On February 15, 2013, at about 1:30 a.m., Deputy James Abate and Deputy Fred Jones, both of the Winnebago County sheriff's department, were advised by radio that there had been a 911 call made from defendant's residence at 3510 Halsted Road, Rockford. The radio dispatch advised that the caller was a female and had requested that the police respond. A male was heard in the background arguing with the caller and then the call was disconnected. When the dispatcher called back, no one answered the phone. The dispatcher did not provide "very much information" regarding the call and did not identify the caller.

¶ 6 When Deputy Abate arrived at the residence, he walked around the outside of the house but did not hear anything. He saw what appeared to be lights flashing on and off in the upper level of the home. He went to the front door of the house, knocked for 10 to 15 minutes, but received no response.

¶ 7 Deputy Jones, who arrived a minute or so after Deputy Abate, knew that James Wilson and defendant lived at the house. He recalled that defendant's daughter had lived there at one time.

¶ 8 Deputy Jones asked the dispatcher to call Wilson. Wilson, who was out walking, told the dispatcher that he would return to the house.

¶ 9 When Wilson arrived, he met with Deputies Abate and Jones. After they explained to Wilson why they were there, Wilson told them that defendant had arrived home intoxicated and that he and she had argued. The deputies told Wilson that they needed to enter the house to check on defendant. Wilson unlocked the door and let the deputies in.

¶ 10 As the deputies entered the kitchen/dining area, they announced loudly that they were the police. After doing so, they saw defendant appear to run up the basement stairs, which were about 8 to 10 feet from where the deputies stood. Deputy Abate described defendant as looking "a little tired." When asked if defendant looked "frazzled," Deputy Abate answered, "[y]eah, a little upset I guess." Defendant did not appear to have been injured and did not ask for help.

¶ 11 According to defendant, she had been drinking earlier and when she arrived home she and Wilson had an argument. She denied that there had been any physical contact between them or that either one had been injured. She called 911 because she wanted Wilson to leave. According to Wilson, he went for a walk to "calm down." After Wilson left, defendant went to sleep in the bedroom off of the kitchen. She never heard the knocking at the door and awoke only when she heard a commotion in the kitchen. She denied having come up from the basement. Defendant described the basement door as being near the bedroom.

¶ 12 After encountering defendant, the deputies asked her if anyone else was in the home and she said no. Defendant told them that the argument was over and that she and Wilson were fine. Neither defendant nor Wilson asked the deputies to leave.

¶ 13 The deputies then searched the entire house to make sure that no one else was present or injured. In doing so, they limited their search to areas where a person might be found. They never found anyone. However, when they searched the basement they discovered several cannabis plants.

¶ 14 In ruling on the motion to suppress, the trial court found that the initial warrantless entry was justified, because the deputies had a reasonable belief that there was an emergency requiring immediate action. The court found that defendant did not consent to the search of the basement. In addressing whether the basement search exceeded the emergency-aid justification, the court gave "little weight" to the possibility that defendant's daughter still lived at the house. Nonetheless, based on the totality of the circumstances, the court ruled that the basement search was a "reasonable extension of the initial emergency aid entry" and denied the motion to suppress. After the denial of her posttrial motion, defendant filed a timely appeal.

¶ 15 II. ANALYSIS

¶ 16 On appeal, defendant contends that the search of the basement was unreasonable because the emergency-aid justification for the warrantless entry into the house had dissipated before the deputies searched the basement.[1]

¶ 17 A trial court's ruling on a motion to suppress is reviewed under a two-part standard. *In re D.L.H.*, 2015 IL 117341, ¶ 46. Under that standard, the court's factual findings will be reversed only if they are against the manifest weight of the evidence, while the court's ultimate legal ruling, as to whether suppression is proper, is reviewed *de novo*. *In re D.L.H.*, 2015 IL 117341, ¶ 46.

¶ 18 Generally, a search is unreasonable if it is not done pursuant to a warrant supported by probable cause. *People v. Jones*, 215 Ill. 2d 261, 269 (2005). However, there are exceptions to the warrant requirement, and the totality of the circumstances can render a warrantless search

[1] Defendant concedes that the emergency-aid exception justified the deputies' entry into her home. Thus, we need decide only whether the subsequent search of the basement was within the emergency-aid exception.

reasonable. *Illinois v. McArthur*, 531 U.S. 326, 330 (2001). When deciding whether a warrantless search is reasonable, courts must balance the legitimate promotion of government interests against the protection of fourth-amendment principles. *Jones*, 215 Ill. 2d at 269.

¶ 19 One example of a search for which a warrant is not required is one made pursuant to the emergency-aid exception. *People v. Lomax*, 2012 IL App (1st) 103016, ¶ 29. Under that exception, no warrant is necessary to enter and search a home when the police have a reasonable belief that they need to act immediately to provide aid to persons or property. *Lomax*, 2012 IL App (1st) 103016, ¶ 29.

¶ 20 There is a two-part test for whether the emergency-aid exception applies. *People v. Ferral*, 397 Ill. App. 3d 697, 705 (2009). First, the police must have reasonable grounds to believe that there is an emergency at hand; and second, they must have some reasonable basis, approaching probable cause, connecting the emergency with the area entered or searched. *Ferral*, 397 Ill. App. 3d at 705. An assessment of the reasonableness of an officer's belief is objective according to the circumstances known to the officer when he entered or searched. *Ferral*, 397 Ill. App. 3d at 705. Emergency situations include instances where someone might be injured or threatened with injury. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006).

¶ 21 In this case, we first address whether the deputies had reasonable grounds for believing that an emergency was at hand when they searched the basement. In that regard, the 911 call provided a significant basis to believe that an emergency existed within the home and that someone therein might be in need of aid. See *United States v. Richardson*, 208 F.3d 626, 630 (7th Cir. 2000) (911 calls are a universal method by which the police learn that someone is in danger and urgently needs help). The unidentified caller reported an argument, the dispatcher could hear a man's voice arguing in the background, and the call was abruptly disconnected.

The caller requested that the police come to the house. Further, when the dispatcher called back there was no answer. The circumstances related to the 911 call were compelling reasons for the deputies to believe that there was an emergency at defendant's home and that someone inside might be injured and in need of aid.

¶ 22 Additionally, when Deputy Abate arrived he observed a light that appeared to be in an upstairs room being turned on and off. Even though someone inside the house had apparently called 911 and requested police assistance, when he walked around the outside of the house he heard nothing from the inside. When he knocked on the door for over 10 minutes he received no answer. Those unusual circumstances provided further reasonable grounds to believe that someone in the house might need emergency aid.

¶ 23 When the deputies entered the home, they had to yell loudly before defendant appeared. Once she did, she looked tired, frazzled, and upset. Those facts further fueled the deputies' reasonable belief that an emergency situation was at hand.

¶ 24 Defendant relies heavily on the fact that she and Wilson were not injured and that she told the deputies that no one else was in the home. The lack of apparent injuries to defendant and Wilson, and her assertions that no one else was there, were insufficient, however, to render unreasonable the deputies' belief that someone might be in need of aid. The fact that neither defendant nor Wilson was injured did not mean that no one else was in the house and in need of aid. Indeed, the deputies did not know who had made the 911 call. Nor were the deputies obliged to accept Wilson's and defendant's assertions that no one else was present. Had they done so, they would have ignored their duty to provide aid to a possible victim of crime or domestic abuse. See *Sneed v. Howell*, 306 Ill. App. 3d 1149, 1159 (1999) (Illinois Domestic Violence Act of 1996 (750 ILCS 60/305 (West 2012)) puts an affirmative duty on the police to

respond to, and investigate complaints of, suspected domestic violence); see also *Wayne v. United States,* 318 F.2d 205, 212 (D.C. Cir. 1963) (the business of the police is to act, not to speculate or meditate on whether the report of an emergency is correct, because people could well die if the police act with the calm deliberation of the judicial process).

¶ 25 Defendant relies on *People v. Jones*, 2015 IL App (2d) 130387, in contending that the emergency had evaporated once the deputies had the opportunity to observe and speak with defendant and Wilson. The *Jones* case, however, is distinguishable from this case.

¶ 26 In *Jones*, the court was required to decide, in the context of reviewing the sufficiency of the evidence for an obstructing-a-peace-officer conviction, whether the officer's remaining on the front porch of a home was a violation of the fourth amendment. *Jones,* 2015 IL App (2d) 130387, ¶¶ 13-15. The officer had responded to a neighbor's 911 call reporting a domestic dispute at a house across the street. *Jones*, 2015 IL App (2d) 130387, ¶ 3. When the officer arrived, he saw the male defendant and a woman arguing on the enclosed front porch. *Jones*, 2015 IL App (2d) 130387, ¶ 4. After identifying himself, the officer opened the front-porch door, advised that he was there to investigate a domestic disturbance, and asked if there was a problem. The defendant informed him that there was no problem and that the officer needed to leave. *Jones*, 2015 IL App (2d) 130387, ¶¶ 4-5. We held that the officer's remaining on the porch violated the fourth amendment because the defendant had assured him that there was no problem, the officer saw that the woman was not injured, and the woman did not request assistance. *Jones*, 2015 IL App (2d) 130387, ¶ 15. Thus, we held that the officer's authority to remain on the porch had ended. *Jones*, 2015 IL App (2d) 130387, ¶ 16.

¶ 27 Our case differs significantly from *Jones*. Here, the 911 call came from an unidentified caller in the home, who asked that the police respond. Also, the call was disconnected suddenly.

When the deputies arrived, unlike in *Jones*, the source of the disturbance was not readily apparent. Wilson was gone, the house was quiet, and defendant failed to answer the door. Although defendant and Wilson were uninjured, as were the two participants in *Jones*, defendant appeared tired, frazzled, and upset, which reasonably would have concerned the deputies. Finally, neither defendant nor Wilson asked the deputies to leave as did the defendant in *Jones*.

¶ 28 Based on all of the circumstances known to the deputies, the need for emergency aid had not dissipated after they encountered defendant and they had reasonable grounds to remain in the house and search for anyone in need of aid. Therefore, the first requirement of the emergency-aid exception was satisfied.

¶ 29 We turn next to the question of whether the deputies had a reasonable basis approaching probable cause to associate the need for emergency aid with the basement. Clearly, the deputies were confined to searching locations in the home in which they could reasonably expect to find persons in need of aid.[2] Of course, one such place would have been the basement.[3] Therefore, the second part of the emergency-aid exception was met.

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[2] The record establishes that the deputies searched only in those places where a person could be found. Therefore, they did not exceed the scope of a search authorized by the emergency-aid exception.

[3] Although defendant testified that she had exited the bedroom, it is undisputed that the bedroom door and the basement door were close to one another. Thus, it might have appeared to the deputies that defendant had come from the basement. Nonetheless, even if defendant did not exit from the basement, the deputies still had a reasonable basis to believe that someone could be in the basement as the person who called 911 asking for police assistance remained unidentified.

¶ 30 Based on the foregoing, the search of the basement was valid under the emergency-aid exception to the warrant requirement of the fourth amendment. Thus, the trial court properly denied the motion to suppress.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, we affirm the order of the circuit court of Winnebago County denying defendant's motion to suppress. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2014); *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 33 Affirmed.