2016 IL App (1st) 152290-U
No. 1-15-2290

THIRD DIVISION
November 30, 2016

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. REGINALD BAILEY, ARNULFO SALGADO-SANCHEZ, ANTHONY FUGATE, SHAQUILLE MIDDLETON Defendants-Appellees.	)))))))))))	Appeal from the Circuit Court of Cook County. No. 13 CR 1057 The Honorable Allen Murphy, Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Lavin concurred in the judgment.

ORDER

¶ 1 *Held:* circuit court's judgment granting defendants' motions to quash arrest and suppress evidence reversed where police had probable cause to arrest defendants for dog fighting.

¶ 2 Defendants Reginald Bailey, Arnulfo Salgado-Sanchez, Anthony Fugate and Shaquille Middleton were arrested at the scene of a dog fight and were charged with multiple counts of dog fighting. Defendants each filed pretrial motions to quash their arrests and suppress evidence, arguing that their arrests were effectuated absent probable cause. After conducting hearings on

the motions, the circuit court granted defendants' motions. The State appeals the circuit court's rulings, arguing that the court erred in granting defendants' motions because their arrests were supported by probable cause. For the reasons set forth herein, we reverse the judgment of the circuit court and remand for additional proceedings consistent with this disposition.

¶ 3 BACKGROUND

¶ 4 On December 5, 2012, police officers discovered a dog fight in progress in a vacant warehouse located at 1521 East 142nd Street in Dolton, Illinois. When police raided the warehouse, multiple individuals were immediately apprehended and arrested. Defendants were arrested several hours later when police officers discovered them hiding in a small crawl space area located in the rafters of the warehouse after the building had been secured. Defendants were each charged with multiple counts of animal cruelty related offenses including dog fighting.[1] Defendants each made incriminating statements after their arrests and filed motions to quash their arrests and suppress evidence.[2] In their respective motions, defendants each alleged that their arrests were effectuated absent probable cause. The circuit court subsequently conducted hearings on defendants' motions. A hearing on defendant Bailey's and defendant Fugate's motions was held first.

¶ 5 At the hearing, Michael Kizaric, an animal crimes investigator with the Cook County Sheriff's Police Department, testified that at approximately 8 p.m. on December 5, 2012, he received a phone call from his commander, who relayed that "there was a situation in Dolton that required [their] attention." Specifically, there was a "possible dog fight" at a "vacant garage [/] warehouse" located at 1521 East 142nd Street in Dolton, Illinois. He arrived around 8:30 p.m.

[1] The arguments of the parties solely pertain to the offense of dog fighting and whether police had probable cause to arrest them for dog fighting. As such, we need not address the other crimes with which defendants were charged.
[2] The statements themselves are not included in the record on appeal; however, the motions filed by each defendant reference incriminatory statements. In addition, the statements are referenced during the hearings on defendants' motions to quash their arrests and suppress evidence.

Although he had never been to that location before, Investigator Kizaric testified that "[i]t did not appear that there was a business currently being run out of that address." There were however, several vehicles parked outside of the warehouse. Police officers from other jurisdictions were already at the scene, which was "very" chaotic. Upon Investigator Kizaric's arrival, he learned that some individuals had been apprehended. He also received information that "there were subjects possibly on the roof of the building." As a result, Investigator Kizaric called for a helicopter to check the roof of the warehouse. The helicopter arrived on scene at approximately 9 p.m.; however, no individuals were seen on the rooftop.

¶ 6 Thereafter, he remained at the warehouse for approximately five or six hours while the evidence technicians processed the scene. When he first entered the warehouse, Investigator Kizaric immediately noticed a "tan dog with a severe [right] eye injury." There was another dog "confined to the first floor office" and an "injured dog tethered to the wall." He observed "blood on the wall, blood on the dog and on the bed that the dog was laying on." The dogs were turned over to the custody of the South Suburban Humane Society. When asked to describe the layout of the building, Investigator Kizaric testified that the majority of the warehouse was a big open space. However, there was a small office located to the right of the main entry and a second-floor office located directly on top of the first-floor office. In the middle of the open space, there was a "rectangular wooden ring" that was approximately "three-and-a-half feet high." The floor of the ring was covered in synthetic turf and blood was visible on the synthetic turf as well as "on the side walls of the wood of the ring itself." In addition, Investigator Kizaric testified that observed items known as "bite sticks," in the area around the ring. He explained that bite sticks are items used to "pry open the mouth of a dog that's latched onto another dog" during a dog

fight. In addition, a treadmill with "vertically extending two-by-fours," another item commonly found at the scene of dog fights, was also located nearby the wooden ring.[3]

¶ 7 At approximately 12:30 a.m., while evidence technicians were processing the scene, Investigator Kizaric received a phone call from Steve Davis, the Director of Animal Crimes for the Cook County Sheriff's Police. Davis told him that a number of suspects might still be on the on the premises. Specifically, Investigator Kizaric was advised that the suspects might be on the building's rooftop. He called again for a helicopter; however, no individuals were seen the second time that the helicopter flew over the roof of the warehouse.

¶ 8 Officers then conducted a more thorough search of the interior of the warehouse. Investigator Kizaric testified that he "provided cover" for Officers Tyra Brown, Pat Brosnan, and Sergeant Zepeda, who searched the area in and around the second floor office. During the course of that search, the officers found defendant Bailey and defendant Fugate and several other men in a small crawl space area between the ceiling of the second-floor office and the roof. Kizaric explained that the "gap" between the ceiling of the second-floor office and the roof was approximately "two-and-a-half feet." He testified that the crawl space is not accessible from the exterior of the building and that defendants would not have been visible to the helicopters while they were hiding in that location. After defendants were discovered, they were brought down from the crawl space and arrested. Investigator Kizaric acknowledged that there was no blood on defendant Fugate's clothing. Moreover, he was not found to be in possession of dog fighting proceeds or dog fighting apparatuses. Similarly, no dog fighting paraphernalia was found on defendant Bailey's person. Although Investigator Kizaric did not observe defendants Bailey or Fugate enter the premises, he "surmise[d]" that they must have been there before police arrived

[3] Although Investigator Kizaric testified that treadmills were commonly found at the scene of dog fights, he did not explain the purpose for which they were commonly used.

at the scene and broke up the dog fight. He explained: "there were officers present inside the building. The general vicinity was taped off. It was a secure crime scene." Therefore, "nobody came or left" the building after the officers arrived. Investigator Kizaric acknowledged, however, that he did not have any personal knowledge as to how defendant Bailey or defendant Fugate arrived at that location.

¶ 9 Investigator Kizaric testified at some point during the investigation, he was informed by Officer Brosnan that a black Chevy Impala parked outside of the warehouse was registered to defendant Fugate. A blue Kia Sedona was matched to defendant Bailey. An uninjured dog was recovered from Bailey's vehicle.

¶ 10 Dolton Police Department Sergeant Glen Orez[4] testified that on December 5, 2012, at approximately 7:30 p.m., he was "out on patrol" in his squad car when he received a radio dispatch directing him to the area of 1521 East 142nd Street. Officer John Frasure[5] was also dispatched to that location. Given that Sergeant Orez had been an officer with the Dolton Police Department for 28 years, he testified that he was "familiar with the area." Sergeant Orez explained that it was an "industrial" area that was comprised of a series of "abandoned" "cinder block garage-type" buildings. Trucking companies had used the site "years ago;" however, the buildings were now "vacant" and no longer in use. Sergeant Orez confirmed that he had never seen the buildings "rented out" or used during his tenure on the police force. When Sergeant Orez arrived at that location, he observed "numerous vehicles [parked] in the area adjacent th[e] building." He also noticed that some of the cars bore out-of-state license plates and some "had dogs inside of them in cages." When he shined his flashlight inside one of the vehicles, he also observed what appeared to be "blood on the interior seat of the vehicle." He then "began to

[4] We note that Sergeant Orez's name is misspelled as "Ores" in various parts of the record.
[5] We observe that Officer Frasure's name is mistakenly spelled as "Frazier" in various parts of the record.

radio into [his] dispatch center different plates that were on the vehicles." Afterwards, he exited his squad car and approached the building. By that time, Officer Frasure was also on scene. As he and Officer Frasure approached the building, they "heard dogs barking" and "a lot of noise inside" of the building.

¶ 11 Although the building's windows and an "overhead door" were covered with cardboard, Sergeant Orez testified that there was a small portion of a window that had not been covered. The opening was "big enough to see through." When he looked through the opening, Sergeant Orez observed "approximately 15 subjects or more" standing around a "wooden ring" and "could tell that this was a dog fight in progress." The individuals he observed were "yelling and screaming" and were exchanging money "back and forth." He testified that the ring was approximately 3 feet high and was located approximately 60 feet away from the window into which he was looking. After observing the dog fight in progress, Sergeant Orez used his police radio to report his findings and to request backup from his own department as well as from other jurisdictions, including the Cook County Sheriff's Police Department.

¶ 12 After conversing with dispatch, Sergeant Orez testified that an African American male walked out of the building and began approaching "a vehicle that was right in front of the door that had a dog inside a cage." When the man noticed Sergeant Orez, he quickly reentered the building and tried to close the door. Sergeant Orez, in turn, tried to force the door open; however, the man "managed to swing the door shut and he began screaming that the police were on scene." Immediately afterwards, "the lights [in the building] went out and [he] could hear total chaos inside the building." Officer Frasure indicated to him that he heard "rustling" sounds coming from the back of the building and said: "They're going out the back." Officer Frasure then relocated to the rear of the building while Sergeant Orez maintained his position at the front

of the building. Approximately 30 seconds later, several subjects ran out of the front door. Some individuals ran east toward the Bishop Ford expressway while others began running west toward a "wooded area." When tactical officers responding to Sergeant Orez's request for assistance arrived on scene, he immediately directed them to stop anyone fleeing in the direction of the wooded area.

¶ 13 On cross-examination, Sergeant Orez acknowledged that he did not write down the license plate numbers of the vehicles parked outside of the warehouse. Moreover, he did not personally run the license plate numbers through the police database. Accordingly, he did not know which of the vehicles, if any, belonged to defendant Fugate or defendant Bailey. Sergeant Orez also acknowledged that he could not provide any specific physical descriptions of the individuals that he observed standing around the dog fighting ring.

¶ 14 Dolton Police Officer John Frasure testified that he was on duty on the evening of December 5, 2012, and was tasked with conducting "normal patrol." While on patrol, Officer Frasure monitored the police radio inside of his squad car. Sometime after 7:30 p.m., he received a dispatch directing him to the location of 1521 East 142nd Street. As 20-year veteran of the Dolton Police Department, Officer Frasure was familiar with the area, which contained "vacant" industrial structures. Based on his personal knowledge, these structures have never been rented out. When he arrived at that location, he encountered Sergeant Orez. Upon his arrival, Officer Frasure immediately "noticed a lot of cars parked in the lot of the building," including one that appeared to have "blood on the inside of the interior of the vehicle."

¶ 15 Officer Frasure confirmed that he and Sergeant Orez were able to see into the building through a small pane of glass on a "service door." When he did so, Officer Frasure "noticed a lot of individuals inside and a wooden pit and [he also] noticed a gentleman with a dog on a chain.

He was beating that dog with a stick in the pit, trying to make it attack another dog that was in the pit that was already bleeding." A number of other individuals were standing around the wooden pit. Because there were "a lot of people inside," he and Sergeant Orez called for backup and waited for assistance. As they were waiting, the front door of the building unexpectedly opened and Sergeant Orez attempted to gain entry; however, the door was slammed shut, and someone yelled "police." Officer Frasure testified that he peered into the building and saw "a lot of people trying to exit out of the backdoor" before the lights of the building were turned off. When he relocated to the rear of the building, he saw people running out of the rear door of the premises and scattering in different directions. At that point, officers from other assisting agencies arrived on scene and various individuals were apprehended as they fled the scene of the dog fight.

¶ 16 On cross-examination, Officer Frasure acknowledged that even though the warehouse was vacant, there was still electricity being run to the building. He could not specifically recall the number of vehicles parked in the parking lot or any of the makes and models of those vehicles. Moreover, he did not recall specifically observing defendant Fugate or defendant Bailey when he looked into "small slit" in the window "for a good minute."

¶ 17 After hearing from the aforementioned witnesses as well as the arguments of the parties, the circuit court took the matter under advisement. At a later court date, the court granted the motions to quash arrest and suppress evidence filed by defendant Bailey and defendant Fugate. The court explained the rationale behind its ruling as follows:

> "There is zero evidence, none, in this record, that Bailey or Fugate committed any criminal offense. Neither Bailey [n]or Fugate are identified by Sergeant Orez or Officer Frasure as being in a dog fighting ring or near the dog fighting ring.

No evidence of dog fighting was ever recovered from Bailey or Fugate, not even United States currency that would be proceeds of the gambling going on. They are discovered by Cook County Sheriff's police officers after the crime scene was secured on top of an office structure inside the warehouse. They appear to be hiding. There is no doubt about that, they appear to be hiding. Nobody testified as to how they ended up there or how long they had been up there. The record is unclear how long it took to find them. Incidents to a formal arrest were clearly present. The defendants were searched, they were handcuffed, they were transported to a Cook County Sheriff's Police office[] in Maywood, Illinois." ***

This encounter between police and Bailey and Fugate can only be characterized as an arrest in its inception. An arrest requires probable cause that a crime was committed, and there is no evidence that Bailey and Fugate did anything except hide on a roof of that office hut.

I recognize fully that they are hiding on top of the office hut would arouse suspicion and a *Terry* inquiry would have been more than appropriate something along these lines. ['']Hey, fellas, we had a big dog fight going on downstairs. You guys are hiding up here in the rafters, what gives?['] That would have been perfectly appropriate. Such a detention would have been warranted, and again, most appropriate. That did not happen in this case.

What happened was Investigator Kizaric saw fit to arrest and transport everybody for questioning to Maywood. This constitutes an arrest without probable cause. This Court cannot and will not find that a probable cause existed for an arrest without an identification of a defendant doing something illegal.

> This Court will no[t] make the leap of saying because defendants' presence in the building, defendant[s] must have been at a minimum patronizing or attending a dog fight without an identification of them near the dog fight actually watching. The police encounter warranted a *Terry*-like investigation which did not occur. Rather an arrest without probable cause occurred. Bailey and Fugate's custodial statements are suppressed."

¶ 18 Following the circuit court's ruling, the State filed a motion to reconsider, which the court subsequently denied. The cause then proceeded to a hearing on the motions to quash arrest and suppress evidence filed by defendant Salgado-Sanchez and defendant Middleton. At the hearing, the parties stipulated to Investigator Kizaric's prior testimony. The parties further stipulated that Investigator Kizaric would further testify that defendants Salgado-Sanchez and Middleton were found with defendants Bailey and Fugate "hiding on the second floor office in the space between the exterior roof of the building and the interior roof of the second floor office." Finally, Investigator Kizaric would also testify that a gray Jeep Grand Cherokee registered to defendant Salgado-Sanchez was found parked outside of the warehouse and that a "tan dog" was left inside of that vehicle. The parties also stipulated to the prior testimony provided by Sergeant Orez and Officer Frasure. After entering into the aforementioned stipulations, the parties argued their respective cases to the circuit court. The court, upon considering those arguments, granted defendant Salgado-Sanchez's and defendant Middleton's motions to quash their arrests and suppress evidence. In doing so, the court emphasized:

> "There [wa]s no identification of any of the defendants before me now, Middleton or Salgado[-Sanchez], anywhere near the dog fighting pit. They were not in the dog fighting pit. They didn't have any accoutrements or tools used in dog fighting. They

were not identified exchanging money. There was no money found on their person, no blood. They were merely found up in the rafters, and I can't speculate as to how they got up there. I just find that there was not probable cause for a full custodial arrest.

Was there grounds for a *Terry* search—a *Terry* stop, I should say, in a brief investigation? Absolutely. The police saw fit not to do that. And what they did was they arrested the defendants in this case without probable cause."

¶ 19 Following the circuit court's ruling, the State filed a notice of appeal and a certificate of impairment as to each defendant.

¶ 20 ANALYSIS

¶ 21 On appeal, the State argues that the circuit court erred in granting defendants' motions to quash arrest and suppress evidence "where the police had probable cause to believe that defendants had 'knowingly attended' a dog fight in violation of 720 ILCS 5/48-1(g) when they were discovered hiding in a secured building hours after a police raid broke up an organized dog fighting event there."

¶ 22 Defendants, in turn, collectively respond that the circuit court's correctly found that their arrests were effectuated absent probable cause. They contend that their mere presence in the warehouse was insufficient to provide officers with probable cause to believe that they had committed the offense of dog fighting. As such, defendants submit that the circuit properly granted their motions to quash their arrests and suppress evidence.

¶ 23 A circuit court's ruling on a motion to quash arrest and suppress evidence, is subject to a two-part standard of review. *People v. Almond,* 2015 IL 113817, ¶ 55; *People v. Grant,* 2012 IL 112734, ¶ 12. The circuit court's factual findings and credibility determinations are accorded great deference and will not be disturbed unless they are against the manifest weight of the

evidence. *Almond*, 2015 IL 113817, ¶ 55; *Grant*, 2013 IL 112734, ¶ 12. The circuit court's application of the facts to the law as well as its ultimate determination as to whether suppression is warranted, however, is subject to *de novo* review. *Almond*, 2015 IL 113817, ¶ 55; *Grant*, 2013 IL 112734, ¶ 12; *People v. Simpson*, 2015 IL App (1st) 130303, ¶ 22. As such, "[a] court of review 'remains free to engage in its own assessment of the facts in relation to the issues presented and may draw its own conclusions when deciding what relief should be granted.' " *People v. Gherna*, 203 Ill. 2d 165, 175-76 (2003) (quoting *People v. Crane*, 195 Ill. 2d 42, 51 (2001)).

¶ 24 An individual's right to be free from unlawful searches and seizures is protected by both the federal and Illinois state constitutions. U.S. Const., amend. IV; Ill. Const. 1970 art. I, § 6; *People v. Bartlett*, 241 Ill 2d. 217, 226 (2011). Our supreme court has construed the search and seizure provision set forth in the Illinois constitution in a manner that is consistent with the United States Supreme Court's fourth amendment jurisprudence. *Gherna*, 203 Ill. 2d at 176; *People v. Anthony*, 198 Ill. 2d 194, 201 (2001). A seizure occurs when the police, by means of physical force or show of authority, have in some way restrained a person's liberty. *People v. Luedemann*, 222 Ill. 2d 530, 550 (2006); *People v. Jackson*, 348 Ill. App. 3d 719,727 (2004). It is well-settled, however, that not every counter between police officers and private citizens results in a seizure or implicates the fourth amendment. *Almond*, 2015 IL 113817, ¶ 56; *Luedemann*, 222 Ill. 2d at 544. Courts have recognized that there are three tiers of police-citizen encounters that comport with constitutional requirements and do not run afoul of the fourth amendment: (1) arrests, which must be supported by probable cause; (2) investigative *Terry* stops, which must be supported by reasonable, articulable suspicion of criminal activity; and (3) consensual encounters that involve neither coercion nor detention and do not implicate a

citizen's constitutional rights. *Grant*, 2013 IL 112734, ¶ 11; *People v. Hackett*, 2012 IL 111781, ¶ 20. In the instant case, there is no dispute that the encounter between the officers and defendants was not consensual. As such, this court will focus its attention on the first two tiers of citizen-police encounters: investigative *Terry* stops supported by reasonable articulable suspicion and arrests supported by probable cause.

¶ 25 Reasonable articulable suspicion is a "less exacting standard" than probable cause. *Hackett*, 2012 IL 111781, ¶ 20. A reasonable articulable suspicion is "more than a mere hunch or suspicion" (*People v. Jackson*, 348 Ill. App. 3d 719, 729 (2004)) and exists "where the officer can point to specific and articulable facts which, taken together with rational inferences from those facts," suggest that an individual is involved in criminal activity (*Hackett*, 2012 IL 111781, ¶ 20). "[T]he determination of reasonable suspicion must be based on commonsense judgments and inferences about human behavior." *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000). When a law enforcement officer possesses a reasonable articulable suspicion that a person is committing or has committed a criminal offense, he or she may briefly and temporarily detain that individual in order to verify or dispel that suspicion. *Hackett*, 2012 IL 111781, ¶ 20; *Simpson*, 2015 IL App (1st) 130303, ¶ 23.

¶ 26 Probable cause to arrest, in turn, exists where the facts and circumstances known to an investigating officer would lead a reasonably prudent person to believe that a crime has occurred and that the suspect committed that crime. *Grant*, 2013 IL 112734, ¶ 11; *People v. Geier*, 407 Ill. App. 3d 553, 557 (2011). The existence or nonexistence of probable cause is a determination that depends upon the totality of the circumstances present at the time of the arrest and is adjudged in accordance with commonsense considerations regarding the *probability* of criminal activity and not proof beyond a reasonable doubt. *Grant*, 2013 IL 112734, ¶ 11. "Indeed,

probable cause does not even demand a showing that the belief that the suspect has committed a crime be more likely true than false." *People v. Wear*, 229 Ill. 2d 545, 564 (2008). An officer's experience and knowledge is a relevant consideration when determining if probable cause to arrest exists. *Grant*, 2013 IL 112734, ¶ 11. Moreover, when multiple officers are working in concert, probable cause can be established from all of the information collectively received by the officers even if that information is not specifically known to the officers who make the arrest. *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 54; *People v. Moorman*, 369 Ill. App. 3d 187, 193-94 (2006).

¶ 27 In support of their argument that the circuit court correctly granted their motions to quash arrest and suppress evidence, defendants rely on the oft-recited legal maxim that mere presence at a crime scene is insufficient to establish probable cause. This case, however, is unique in that the specific offense with which defendants were charged—dog fighting—criminalizes an individual's knowing presence at a dog fight. Specifically, section 48-1(g) provides: "No person may *knowingly attend* or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment." (Emphasis added.) 720 ILCS 5/48-1(g) (West 2012). Based on the unique facts and circumstances of this case, we find that police officers possessed probable cause to believe that defendants had knowingly attended a dog fight at the time of their arrests.

¶ 28 The undisputed testimony presented at the hearings on defendants' motions to quash their arrests and suppress evidence, established that at approximately 7:30 p.m. on December 5, 2012, Dolton Police Officers Orez and Frasure responded to an industrial warehouse/garage location to investigate a possible dog fight that was in progress. Both officers confirmed that the structure

located at 1521 East 142nd Street was a vacant building. Upon their arrival, the officers observed a number of vehicles parked in the area adjacent to the building. Some of the vehicles contained dogs and one vehicle contained a visible bloodstain on one of the interior seats. After Sergeant Orez used his radio to provide the dispatch center with the license plate numbers affixed to the vehicles, he and Officer Frasure approached the building. They could hear the sound of dogs "barking" as well as a "lot of [other] noise" inside of the building. Although pieces of cardboard had been taped to the windows and doors of the building, Sergeant Orez and Officer Frasure both testified that one of the windows had a small opening, which allowed them to see into the building. When they looked through the opening, the officers saw a dog fight in progress. Sergeant Orez testified that he observed "15 subjects or more" standing around a wooden ring. Those subjects were "yelling and screaming" and exchanging money. Officer Frasure, in turn, testified that he observed an individual beating a dog with a stick in an effort to make it attack an already injured dog that was in the ring. Injured dogs were also observed by Investigator Kizaric when he arrived at the scene. Based on this testimony, the circuit court found, and we agree, that there was "no doubt" that a dog fight was in progress. Given that officers clearly had probable cause to believe that a dog fight was in progress, the relevant inquiry thus becomes whether officers had probable cause to believe that defendants were the perpetrators of that crime. See *Simpson*, 2015 IL App (1st) 130303, ¶ 31 (recognizing that "[probable cause exists where the facts and circumstances known to the arresting officer at the time of the arrest would lead a reasonable person to believe that a crime had occurred *and* the suspect had committed it") (Emphasis added).

¶ 29 Initially, we note that "[t]he difficulty of establishing probable cause is lessened when it is known that a crime has been committed." *People v. Hopkins*, 235 Ill. 2d 453, 476 (2009). In

this case, Investigator Kizaric testified that the crime scene was secured within a relatively short time after officers arrived on scene and broke up the dog fight. He explained: "there were officers present inside the building [and] [t]he general vicinity was taped off." As a result, "nobody came or left" the building after the building was secured. Defendants were ultimately found at approximately 12:30 a.m. after Investigator Kizaric received a second phone call informing him that additional suspects were likely still on the premises. When a helicopter was unable to visualize suspects on the roof, the officers conducted a careful search of the interior of the building and discovered defendants "hiding" in a small 2 ½ foot crawl space area between the ceiling of the building's second-floor office and the roof. The space in which defendants were hiding was only accessible from inside of the building.

¶ 30 Although a suspect's attempt to hide or flee from police, standing alone, is not enough to support a finding of probable cause; we note that it may nonetheless be considered in connection with other factors and circumstances that tend to support a finding of probable cause. *People v. Ruppel*, 303 Ill. App. 3d 885, 890 (1999). Here, we find defendants' efforts to avoid detection after police raided the warehouse to be a relevant factor, especially when considered in connection with the totality of the circumstances that preceded their arrests. In so finding, we observe that the circuit court, when granting defendants' motions to quash their arrests and suppress evidence, declined to "speculate" as to how or why defendants were found in the rafters of the building. Additionally, in their respective briefs, defendants submit that their presence could be explained by "any one of a panoply of other [unspecified, lawful] activities." We note, however, that "[t]he existence of possible innocent explanations for the individual circumstances or even for the totality of the circumstances does not necessarily negate probable cause." *Geier*, 407 Ill. App. 3d at 557. Moreover, we find defendants' suggestion that they were present in the

building for an unspecified lawful reason is unpersuasive in light of the testimony provided by Sergeant Orez and Officer Frasier. Both men, veterans of the Dolton Police Department, testified that they were familiar with the area in which the warehouse was located. They testified that the area contained a number of vacant "cinder block garage-type" buildings. Although trucking companies had used the site "years ago," the buildings were no longer in use and were not rented out for any known lawful purpose.

¶ 31 We are similarly unpersuaded by the circuit court's reliance on the fact that defendants were not found to be in possession of tangible dog fighting materials at the time of their arrests to support its conclusion that police lacked probable cause to arrest them for dog fighting. In granting defendants' motion to quash their arrests and suppress evidence, the circuit court repeatedly emphasized that no dog fighting proceeds, paraphernalia or blood was found on any of defendants' persons or clothing at the time of their arrests. While perhaps probative, such evidence is not necessary to establish probable cause for the offense of dog fighting, which as set forth above, criminalizes an individual's knowing *attendance* of a dog fight. 720 ILCS 5/48-1(g) (West 2012). We reiterate that the statute does not require active participation in a dog fight; rather, it prohibits one from "knowingly attend[ing] *** a fight between 2 or more dogs." *Id*.

¶ 32 We emphasize that "whether probable cause exists is governed by commonsense considerations, and the calculation concerns the probability of criminal activity, which does not even demand a showing that the belief that the suspect has committed a crime be more likely true than false." *Hopkins*, 235 Ill. 2d at 477. Applying this standard, we find that the circuit court erred in concluding that officers lacked probable cause to arrest defendants for dog fighting. Defendants were found hiding in a small crawl space area hours after police officers had discovered a vicious dog fight in progress in a vacant building and had secured the premises.

Although investigating officers did not immediately ascertain defendants' whereabouts, they were discovered after police conducted a thorough search of the premises after being notified that additional suspects were likely still in the building. In light of the foregoing, we find that investigating officers had probable cause to believe that defendants had knowingly attended a dog fight at the time of their discovery and arrests.[6]

¶ 33 Having found that the circuit court erred in granting defendants' motions to quash their arrests and suppress evidence, we need not consider the State's alternative argument regarding the good faith exception to the exclusionary rule.

¶ 34 CONCLUSION

¶ 35 The judgment of the circuit court is reversed and the cause is remanded for additional proceedings consistent with this disposition.

¶ 36 Reversed and remanded.

[6] We note that in reaching our conclusion, this court did not consider the fact that the cars of three of the four defendants were found parked outside of the warehouse prior to the police raid. Although there is evidence that Sergeant Orez relayed some of the license plates of the vehicles to dispatch before breaking up the dog fight, there is no evidence that the officers had matched the vehicles to any of the defendants at the time of their arrests; rather, Investigator Kizaric testified that he became aware that several of defendants' cars were found parked at the scene at some unspecified point in his investigation. See *Grant*, 2013 IL 112734, ¶ 11 ("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") (Emphasis added.)