2017 IL App (1st) 152590-U
No. 1-15-2590
Order filed October 18, 2017

Third Division

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 6189
	)	
VINCENT WHITE,	)	Honorable
	)	Dennis J. Porter,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Justices Howse and Lavin concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err when it denied defendant's motion to quash arrest and suppress statements because the detention and use of handcuffs on him during the execution of a search warrant was reasonable and justified.

¶ 2 Following a bench trial, defendant Vincent White was found guilty of two counts of unlawful use or possession of a weapon by a felon (UUWF). The court merged the counts and sentenced defendant to three years in prison. On appeal, defendant contends that the trial court erred when it denied his motion to quash arrest and suppress evidence because the police lacked

probable cause to arrest him and his subsequent statements were the fruits of an unlawful arrest. He requests that we reverse his conviction because the State cannot prove him guilty without these statements. We affirm.

¶ 3 On March 9, 2014, the police executed a search warrant at an apartment at 3350 West Walnut Street, in Chicago. Defendant was not the target of the search but, during the execution of it, he came into the apartment, was placed in handcuffs and given his *Miranda* warnings, and then made certain statements to the police. Thereafter, defendant was charged with two counts of UUWF based on possession of a firearm (720 ILCS 5/24-1.1(a) (West 2014)) and firearm ammunition (720 ILCS 5/24-1.1(a) (West 2014)). Prior to trial, defendant filed a motion to suppress statements, alleging, *inter alia*, that his arrest was unlawful and his statements to police should be suppressed.

¶ 4 At the hearing on the motion, Chicago police officer Antonio Valentin testified that, at about 1 p.m. on March 9, 2014, he executed a search warrant in the second floor apartment located at 3350 West Walnut Street. Defendant was not the target of the search warrant and Valentin did not have a search warrant for defendant. Valentin's team conducted a "systematic search" at the apartment and recovered a gun in "bedroom number two." While the officers were searching, defendant came into the apartment and stated "what are you guys doing in my apartment?" Valentin testified that, "And with that being said and the weapon being found he was detained and to find out he was a convicted felon." Defendant was placed into handcuffs, and Valentin confirmed that he was not free to leave.

¶ 5 Defendant was given his *Miranda* warnings and then told Valentin that the gun was his and he used it for protection. Defense counsel asked Valentin if defendant "was under arrest at

the time that [Valentin] gave him Miranda [*sic*]?" Valentin responded, "No, he was still under investigation, he had come into the apartment while we were still conducting the systematic search so for our safety *** So for safety of the officers because we had already recovered a weapon, we placed him in handcuffs." Defense counsel asked, "So did you also Mirandize [*sic*] him for safety of the officers?" Valentin responded, "Once he stated that his apartment - - that it was his apartment and we had recovered the weapon, then he was Mirandized [*sic*]."

¶ 6 The trial court denied defendant's motion to suppress, concluding, "I think they had the right to detain him to make a reasonable investigation of that and so and plus he had his Miranda [*sic*] warnings prior to making his statement***."

¶ 7 At trial, Valentin's testimony was consistent with his testimony at the hearing on defendant's motion to suppress. He testified that, after he entered the apartment, he encountered a woman, detained her, and gave her *Miranda* warnings. The woman directed his team to narcotics in "bedroom number one." Officers found a gun in the second bedroom. Then, when Valentin's team was "still conducting the systematic search," defendant came into the apartment and immediately asked, "what are you doing in my apartment?" Defendant was detained and given his *Miranda* warnings. Valentine testified that defendant was asked "which was his bedroom" and that defendant stated that he "stayed in bedroom number two," the room where the gun was recovered, with his three children and either his "girl" or "wife." Valentin showed defendant the gun and defendant stated that "it was his gun" and "he keeps it for security." Valentin asked defendant if he had a Firearm Owners Identification (FOID) card, and defendant responded, "no."

¶ 8 Valentin testified that the recovered gun was a .38 caliber gun with five live rounds. Valentin kept the gun in his care and custody and took it to the police station, where another officer inventoried it following the Chicago police inventory procedures.

¶ 9 On cross-examination, Valentin testified that defendant was not the target of the search warrant. Valentin never saw defendant enter bedroom number two or possess the firearm recovered from that bedroom. Valentin did not find any weapons on defendant.

¶ 10 The State presented a stipulation that defendant had a prior conviction in 2007 for possession of a controlled substance with intent to deliver, a Class 2 felony.

¶ 11 Chicago police detective Anna Gall testified for defendant. Gall testified that, on March 9, 2014, the Secretary of State listed defendant's address as "4932 West Erie."

¶ 12 Following argument, the trial court found defendant guilty of both counts of UUWF and merged the ammunition count into the firearm count. It denied defendant's amended motion to reconsider or for a new trial and sentenced him to three years in prison. This appeal followed.

¶ 13 Defendant contends on appeal that the trial court erred when it denied his motion to suppress statements he made to the officers. He asserts that the police lacked probable cause to arrest him and, as a result, his arrest was unlawful and the statements he made subsequent to the arrest should be suppressed. Defendant argues that we should reverse his conviction because, without his statements, the State cannot prove him guilty of UUWF.

¶ 14 A trial court's ruling on a motion to suppress involves a mixed question of law and fact. *People v. Lampitok*, 207 Ill. 2d 231, 240 (2003). We will uphold the trial court's factual findings and credibility determinations "unless they are against the manifest weight of the evidence." *Lampitok*, 207 Ill. 2d at 240. However, a reviewing court may "undertake its own assessment of

the facts in relation to the issues and may draw its own conclusions when deciding what relief should be granted." *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). We apply a *de novo* standard of review when we review the ultimate question regarding whether the evidence should have been suppressed. *People v. Pitman*, 211 Ill. 2d 502, 512 (2004). At a hearing on a motion to suppress, the defendant bears the burden of proof. *People v. Conner*, 358 Ill. App. 3d 945, 949 (2005).

¶ 15 Defendant asserts that, when he was placed in handcuffs and given *Miranda* warnings, he was arrested, and therefore Valentin needed probable cause to arrest him. The fourth amendment guarantees an individual's right to be free from unreasonable search and seizures. *People v. Colyar*, 2013 IL 111835, ¶ 31; U.S. Const., amend. IV. Generally, an official seizure of a person must be supported by probable cause. *Michigan v. Summers*, 452 U.S. 692, 696 (1981). However, there are exceptions to this rule, such as in cases where "the intrusion on the citizen's privacy 'was so much less severe' than that involved in a traditional arrest that 'the opposing interests in crime prevention and detection and in the police officer's safety' could support the seizure as reasonable." *Summers*, 452 U.S. at 697-98 (quoting *Dunaway v. New York*, 442 U.S. 200, 201 (1979)). The "central inquiry under the fourth amendment" is "the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security." *Terry v. Ohio*, 392 U.S. 1, 19 (1968).

¶ 16 In *Michigan v. Summers*, 452 U.S. 692, (1981), the United States Supreme Court held that, under the fourth amendment, "a warrant to search for contraband founded on probable cause implicitly carries with it the limited authority to detain the occupants of the premises while a proper search is conducted." *Summers*, 452 U.S. at 705. The court explained three important law

enforcement interests that justify detaining an occupant who is on the premises of the place being searched during a valid search warrant: "preventing flight in the event that incriminating evidence is found," "minimizing the risk of harm to the officers," and "the orderly completion of the search may be facilitated if the occupants of the premises are present." *Summers*, 452 U.S. at 702.

¶ 17 We conclude that Valentin's detention of defendant during the execution of the search warrant was reasonable and justified. The officers had a search warrant for the second floor apartment at 3350 West Walnut Street and defendant does not contest the validity of the search warrant. Although defendant was not the individual named in the search warrant, he came into the apartment while Valentine's team "was still conducting the systematic search." When he entered the apartment, he asked, "what are you guys doing in my apartment?", thereby acknowledging to Valentin that he lived there. Thus, defendant was a resident occupant of the apartment while the search warrant was being executed. It was therefore reasonable and permissible to detain him. See *Summers*, 452 U.S. at 705; see *Muehler v. Mena*, 544 U.S. 93, 98 (2005) (finding that, under *Summers*, the detention of the defendant for the duration of the search was reasonable because a warrant existed and, at the time of the search, the defendant was an occupant of the address listed in the warrant).

¶ 18 Next, we must determine whether Valentine's use of handcuffs on defendant was justified. See *Conner*, 358 Ill. App. 3d at 949, 958-59 (finding the detention of the defendant, a nonresident, during the execution of a search warrant was reasonable and then analyzing whether the use of handcuffs on the defendant was justified under *Summers*). "Inherent in *Summers'* authorization to detain an occupant of the place to be searched is the authority to use reasonable

force to effectuate the detention." *Muehler*, 544 U.S. at 98-99. "Indeed, *Summers* itself stressed that the risk of harm to officers and occupants is minimized 'if the officers routinely exercise unquestioned command of the situation.' " *Muehler*, 544 U.S. 93 at 99 (quoting *Summers*, 452 U.S. at 703).

¶ 19 We conclude that Valentin's use of handcuffs on defendant was reasonable. Defendant came into the apartment while Valentine's team was executing a search warrant. When defendant arrived, Valentin had already recovered narcotics and a gun, and, as the United States Supreme Court has stated, "the execution of a warrant to search for narcotics is the kind of transaction that may give rise to sudden violence or frantic efforts to conceal or destroy evidence." *Summers*, 452 U.S. at 702-03. In fact, Valentin specifically testified that he placed defendant in handcuffs for the officers' safety, testifying that defendant "had come into the apartment while we were still conducting the systematic search so for safety -- *** So for safety of the officers because we had already recovered a weapon, we placed him in handcuffs." Thus, we are unpersuaded by defendant's assertion that "the facts do not indicate that the officers had any basis to fear for their safety." Further, the officers had to detain not only defendant but also the woman who was in the apartment when they entered, which made the use of handcuffs all the more reasonable. *Muehler*, 544 U.S. 93 at 100 ("the need to detain multiple occupants made the use of handcuffs all the more reasonable."); *Conner*, 358 Ill. App. 3d at 960 ("[the officer's] need to detain several people during this search made the use of handcuffs reasonable."). Accordingly, we conclude that the use of handcuffs on defendant was reasonable and justified. See *Muehler*, 544 U.S. 93 at 100 (finding that the use of handcuffs on the defendant during the execution of a search warrant

was reasonable); *Conner*, 358 Ill. App. 3d at 960 ("the use of handcuffs on defendant for only a few minutes did not outweigh the officers' continuing safety interests and was reasonable").

¶ 20 We next address whether the questioning of defendant after he was detained prolonged the detention such that an additional seizure under the fourth amendment was created. See *Conner*, 358 Ill. App. 3d at 949, 960-61 (finding the use of handcuffs on the defendant when he was detained during the execution of a search warrant for narcotics was lawful and then analyzing whether the questioning of the defendant impermissibly prolonged the detention). " 'Mere police questioning does not constitute a seizure.' " *Muehler*, 544 U.S. at 101 (quoting *Florida v. Bostick*, 501 U.S. 429, 434 (1991)). If a defendant is questioned while being lawfully detained during the execution of a search warrant, the questioning does not constitute an additional seizure under the fourth amendment, as long as the questioning does not prolong the detention. *Muehler*, 544 U.S. at 100-01; *Conner*, 358 Ill. App. 3d at 960-61.

¶ 21 Here, as previously discussed, it was lawful for the police to detain defendant during the execution of the search warrant. After defendant was placed in handcuffs and given his *Miranda* warnings, Valentin's team asked him what room was his, and he responded that his room was bedroom number two. Valentin showed defendant the recovered gun, and defendant admitted that he owned the gun and had it for protection. Valentin then asked defendant about his FOID card status. Although it is not clear from the record how long the entire search took, based on these few questions, it appears that the handcuffing and questioning of defendant could not have lasted longer than a few minutes and thus did not impermissibly prolong the detention. See *Conner*, 358 Ill. App. 3d at 960-61 (finding that, "based on the scant facts," asking the defendant his name and birth date when he was detained during the execution of a search warrant did not

impermissibly prolong the detention). Because the questioning did not prolong defendant's detention, there was no additional seizure under the fourth amendment and the officers did not need reasonable suspicion to question him. See *Muehler*, 544 U.S. at 96, 100-01 (during the execution of a search warrant where an Immigration and Naturalization Service (INS) officer was present, an officer asked the detained defendant, her name, date, place of birth, and immigration status; the United States Supreme Court found that the officer did not need reasonable suspicion to ask these questions during the two hour detention, as the court of appeals had previously held that these questions did not prolong the detention). The lawful detention of defendant only became a proper arrest when, given his admission that he owned the gun, his felon status was determined.

¶ 22 Accordingly, we conclude that Valentin's detention of defendant in handcuffs during the execution of the search warrant was reasonable and lawful and the police did not need probable cause to detain him. See *Conner*, 358 Ill. App. 3d at 962 (concluding that the officers' detention of the nonresident defendant in handcuffs while they executed search warrant for narcotics was reasonable and did not violate the fourth amendment). Further, the questioning of defendant after he was lawfully detained was not an independent fourth amendment violation, as it did not prolong the detention. See *Muehler*, 544 U.S. at 102 (concluding that the detention of the defendant in handcuffs during a search warrant was reasonable, did not violate the fourth amendment, and the questioning of him was not an independent fourth amendment violation). Thus, defendant's statements were not the fruit of an unlawful arrest and the trial court did not err when it denied defendant's motion to suppress statements. Given our determination, we need

not address defendant's argument that we should reverse his conviction rather than remand to the trial court for further proceedings.

¶ 23 For the reasons stated above, we affirm defendant's conviction.

¶ 24 Affirmed.