2014 IL App (1st) 113775-U

FOURTH DIVISION
June 19, 2014

No. 1-11-3775

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. 07 CR 25129
	)	
JASON RUSSEL,	)	The Honorable
	)	William Lacy
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Howse and Justice Fitzgerald Smith concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant was arrested when six police officers approached his home late at night and asked him to come to the police station to discuss a murder victim. In addition, the police had probable cause to do so based on information indicating that an individual named Squirrel committed the offense and that defendant was Squirrel. The trial court did not abuse its discretion in sentencing defendant to 30 years in prison in addition to a mandatory 15-year sentencing enhancement.

¶ 2 Following a jury trial, defendant Jason Russel was found guilty of first-degree murder and was sentenced to 45 years in prison. On appeal, defendant asserts that the trial court erred in denying his motion to quash arrest and suppress evidence because he was arrested at home

without a warrant or probable cause. Defendant also asserts that his 45-year prison term was excessive. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Pretrial Proceedings

¶ 5 Defendant, known as Squirrel, and codefendant Ronald Noble, known as Z-Man, were jointly charged with the first degree murder of victim Christopher Fulcher. During a shooting at approximately 6928 South Wabash, the victim was shot five times and was dumped from a car. Codefendant apparently entered into a negotiated guilty plea. Prior to trial, defendant filed a motion to quash arrest and suppress evidence, namely, his inculpatory statement. Defendant argued that he was arrested on November 5, 2007, without a warrant or probable cause to believe he had committed a crime.

¶ 6 At the hearing on defendant's motion, Detective Oscar Arteaga was the sole witness. Examination by the parties revealed that during Detective Arteaga's investigation, he learned that the victim had been killed in a shooting at about 10:20 p.m. on November 3, 2007. Detective Arteaga spoke to the victim's girlfriend, Demetria Dorsey, who stated that on that night, an individual referred to as "Squirrel" had called the victim and asked him to come over. At about 10 p.m., Dorsey drove the victim to 1424 East 72nd Place, where she saw Squirrel standing outside waiting for the victim. At that time, she did not provide Squirrel's real name, although later, at some unspecified time, she knew him as defendant. In addition, Dorsey told the detective that Squirrel drove a two-door Buick.

¶ 7 Detective Arteaga also spoke to witnesses at the scene of the shooting, including Dexter Dale. Dale had been sitting in a vehicle when he heard gunshots and saw two men approach in a car. In addition, Dale described that car as a "late model four-door box style Chrysler, black

with possible silver on the bottom." In contrast, Linda Tigner told Detective Arteaga that she saw a body being dumped out of a dark burgundy square vehicle. Although Detective Arteaga testified that defendant, similar to the unidentified Squirrel, was known at the time to drive a 1994 Buick Regal, the detective did not specify how or when he learned this information. Defendant did, in fact, drive a two-door, black and silver, 1994 Buick Regal.

¶ 8 Detective Arteaga and his partner Detective Maria Vasquez also spoke to Wayne Holloway, who had previously seen Squirrel with a .38-caliber revolver and possibly another handgun. In addition, Holloway said that he spoke to a man named Dave, a mutual friend of Holloway and Squirrel, although Holloway did not know Dave's last name or provide his address. As a result, the police were unable to find Dave. According to Dave, Squirrel said that after the victim was dropped off at Squirrel's house, they, along with Z-Man, drove around before Z-Man shot the victim. Holloway said that Dave had given him this information "because they were all friends," but Detective Arteaga acknowledged he did not then know if Dave's allegations were true. Furthermore, Holloway told the detective that Squirrel washed his car on the day after the shooting. Detective Arteaga testified that through his investigation, he was able to identify Squirrel, apparently as defendant, but did not specify how he made that connection before coming to defendant's home.

¶ 9 At about 11:30 p.m. on November 5, 2007,[1] Detective Arteaga went to defendant's home, a second-floor apartment located at 1424 East 72nd Place, and was accompanied by five other officers, including Detective Vasquez, Officer Melvin Branch, Officer Brian Hawkins and two uniformed officers. Although the detectives as well as Officers Branch and Hawkins were in plain clothes, their stars and guns were showing and they wore Chicago Police Department vests.

[1] We note that although Detective Arteaga testified that the date was November 6, 2007, other portions of the record confirm that the police came to defendant's home on November 5, 2007.

Without a warrant, Detective Arteaga identified himself at defendant's door. The detective asked defendant if he would come in, apparently to the station, to be interviewed regarding the victim. When defendant asked the officers to step inside, Detective Arteaga and most, if not all, of the other officers entered. Detective Arteaga testified that he then learned defendant was a friend of the victim and that defendant was being treated as a potential witness due to this alleged friendship. When asked if he would come to the police station to be interviewed, defendant agreed to voluntarily accompany the police but wanted to get dressed first. Officers Branch and Hawkins then drove defendant to the police station. Defendant sat in the backseat and was not handcuffed but Detective Arteaga did not know whether the doors were locked.

¶ 10 While Detective Arteaga testified that defendant was not arrested at his home, the arrest report subsequently prepared by the detective stated that defendant was arrested at 1424 East 72nd Place. That report also stated that defendant's prints and photograph were taken at approximately 6 a.m. on November 6, 2007. Detective Arteaga testified that the arrest location written on his report was a mistake and his watch commander subsequently corrected it. In addition, we note that the watch commander, who apparently was not involved with defendant's initial encounter with the police, wrote that defendant "came into Area 2 voluntarily," was charged after further investigation and was arrested at the police station. Detective Arteaga's subsequently prepared supplemental report, however, reiterated that defendant was arrested at his home and transferred to the police station for processing.[2]

¶ 11 At the police station, defendant was placed in an interview room and the electronic recording of interrogation (ERI) began. See 725 ILCS 5/103-2.1(b) (West 2006) (providing that statements made by a person accused of murder, manslaughter or homicide, and made as a result of custodial interrogation at a police station, are presumed to be inadmissible absent an electronic

[2] The supplemental report is not included in our record on appeal.

recording). The detective did not testify, however, whether defendant was told he was being recorded. Detective Arteaga also advised defendant of his *Miranda* rights. In addition, Detective Arteaga testified that defendant was first identified as Squirrel when Dorsey identified him from a lineup after he was in custody. Defendant ultimately made an inculpatory statement and was officially arrested.

¶ 12 The trial court denied defendant's motion to quash arrest and suppress evidence, finding that defendant was not arrested at his home. Specifically, the court found that Detective Arteaga's testimony was not contradicted and accepted his explanation that his notations in the original report and subsequent supplemental report were mere mistakes, notwithstanding that the supplemental report containing the mistake was written after the watch commander's correction to the original arrest report. In addition, the court found to be credible Detective Arteaga's testimony that defendant invited the officers inside his home, voluntarily went to the police station, and was being treated as a friend of the victim at that time. With respect to probable cause, the court stated, "the fact that the victim was with the defendant mere minutes, within half-an-hour of his losing his life is a fact that [the officers] had within their knowledge and that is a strong fact." The court acknowledged that the witnesses' descriptions of the car seen at the crime scene did not exactly describe defendant's car and found that Holloway's information regarding Dave's statements was not a hefty factor, although one the officers could consider in assessing their information. The court found it highly suspicious that defendant, who had been seen with a firearm on prior occasions, washed his car the day after the victim's body was dumped from a vehicle. Accordingly, the police had probable cause to arrest defendant. We note that the court made no findings with respect to when or how Detective Arteaga determined that Squirrel and defendant were the same individual.

¶ 13 B. Trial Proceedings

¶ 14 At trial, Dorsey testified that she had known the victim's friend Squirrel for about a month before the shooting and had been to his home in the area of 1424 East 72nd Place. Dorsey had also seen his car, which she identified a photograph of in court. The photograph showed a black, two-door Buick with silver trim. After identifying defendant as Squirrel in court, Dorsey testified that on the night of the shooting, the victim received a phone call and Dorsey drove him to defendant's home shortly before 10 p.m. The victim then exited the car and joined defendant, who was standing outside. Dorsey did not know codefendant or see him at that time. After the shooting, Dorsey spoke to the police and identified defendant from a lineup on the evening of November 6, 2007.

¶ 15 Dale testified that at about 10:15 p.m. on the night of the shooting, he was in a parked car near 6951 South Wabash, a residential neighborhood, when he heard two gunshots. A car then passed by carrying two black male occupants. Dale testified that the car that passed him was a small, dark-colored, two-door, box vehicle with silver trim and that he had also told the police that the car had two doors. In addition, Dale identified the car in a photograph, the same photograph that Dorsey had testified depicted defendant's car.

¶ 16 Dominique Alexander testified that in November 2007, she was dating codefendant, known as Z-Man. On the evening of the shooting, codefendant was supposed to come over at 7 p.m., but did not do so. As a result, Alexander went to a friend's house until her mother picked her up at 10:30 p.m. While Alexander waited for her mother in their car outside a store, Alexander saw codefendant and defendant. All four individuals then went to Alexander's home. Parking spots were available by Alexander's home but defendant parked his car further away. In addition, Alexander identified the same photograph of defendant's car that had been identified by

Dorsey and Dale. Alexander testified that defendant and codefendant generally remained on the porch while Alexander went inside. The two men were not trying to hide themselves, however, and Alexander did not observe any blood on them.

¶ 17 Holloway testified that in November 2007, he knew the victim, codefendant and defendant, who went by Squirrel. The victim was a flashy dresser and commonly carried money. At 10 p.m. on the night after the shooting, Holloway saw defendant wiping down his car at a gas station. When asked if he had seen the victim, defendant said no. Forensic evidence showed that blood and powder, which may have been a cleaning agent, were later found in defendant's car.

¶ 18 Officer Branch testified that at about 11:30 p.m. on November 5, 2007, he and Officer Hawkins went to defendant's address to assist Detectives Arteaga and Vasquez in a murder investigation. At that location, Officer Branch observed the same vehicle that other witnesses had identified in court as Squirrel's car. One of the detectives knocked on the door of defendant's second-floor apartment and spoke to defendant, who agreed to accompany the police to the station. Officer Branch testified that defendant only had to put on a jacket, not change his clothes. About three hours later, Officer Branch went to 7123 South Ingleside, where codefendant was placed under arrest. A search revealed bloody gym shoes in a garbage can in the alley. Forensic evidence admitted at trial showed that blood from the recovered shoes matched the victim's DNA profile.

¶ 19 Detective Arteaga testified that after speaking to Dorsey on November 4, 2007, he was looking for an individual referred to as Squirrel and a 1994 Buick Regal. Detective Arteaga testified, "[w]e later found out that she said that he had a possible name of Jason Russell," but did not specify when Dorsey relayed that information. After initially speaking to Dorsey, Detective Arteaga and five other officers went without a warrant to 1424 East 72nd Place, where

Arteaga saw a 1994 Buick Regal parked just east of that location. After radioing in the car's license plate and vehicle identification number (VIN), Detective Arteaga received information regarding that car. A certified vehicle record was also admitted into evidence and showed that defendant owned a 1994 Buick Regal and that his residence was 10033 S. Cottage Grove.

¶ 20 Detective Arteaga testified that he, Vasquez, Branch and Hawkins then went to the second floor landing of defendant's building, where Arteaga knocked on defendant's door. Arteaga testified that a witness he had previously spoken to, but who Arteaga did not name, told the police that Squirrel or defendant lived on the second floor. When defendant opened the door, the police explained to defendant why they were there and he was cordial. He agreed to accompany them to the station to discuss the investigation but needed to put more clothes on. Once defendant was fully dressed, the officers drove him, without use of handcuffs, to the police station and Detective Arteaga ordered that the vehicle be processed. At the station, defendant was placed in an interview room that was monitored by video surveillance. The room had no windows, no bed and no restroom. In addition, the door was cracked open and a restroom was around the corner but defendant was required to knock in order to use the restroom. Following Detective Arteaga's testimony regarding defendant's arrival at the police station, the following colloquy ensued:

> "Q. You did not allow him to leave at that point, correct?
>
> A. I mean, we were still talking to him. We were still talking to him. Yes, sir.
>
> Q. So you did not allow Jason to leave the station at that point?
>
> A. He never asked if he could he wanted to leave [*sic*]. We asked him, we were still doing the investigation. We were talking to him, obviously, of what he

said, and told him that we were going to check other things if he didn't mind, and he was very responsive.

Q. So you didn't tell him that he could [go] home and wait to hear from you, right?

A. No. Not at that time, no, sir.

Q. In fact, at no time did you tell him that, right?

A. Not after the case evolved and more evidence was discovered.

Q. That was over time, right?

A. That's correct, sir."

¶ 21 Detective Arteaga further testified that based on information received from defendant, the police arrested codefendant on November 6, 2007. Defendant remained in the interview room while Detective Arteaga conducted further investigation. At about 11:30 p.m., 24 hours after defendant had been brought to the station, defendant was placed in a lineup. After Dorsey identified him as Squirrel, he was returned to the interview room. Detective Arteaga testified that defendant was not told he could leave at this point because the investigation was still being conducted. The detective next spoke to defendant the following day, about 48 hours after he was brought to the station. During the 48 hours defendant had been at the police station, defendant was never told that he could leave, that the door was unlocked or that he could go get something to eat or use the restroom on his own.

¶ 22 Officer Robert Bartik testified that when he spoke to defendant on November 7, 2007, defendant said that he was not tired. In a recorded conversation, defendant provided varying accounts of what happened on the night of the shooting, portions of which were published for the jury. Defendant, then 22 years old, stated that the victim called him and came over.

Codefendant was already there. The three men then got in defendant's 1994 Buick Regal. Defendant was to give codefendant a ride to meet a girl and then proceed to Calumet City with the victim. Codefendant believed that the victim had cheated him out of money from a joint credit card scheme, but there was no animosity between the two men. In addition, codefendant was not known to carry a gun and defendant did not know that he had one. When the three men were waiting in the car near 69th and Wabash for a girl to come outside, codefendant, sitting in the front passenger seat, turned around and shot the victim, who was sitting in the backseat. Codefendant pulled the victim from the car, went through his pockets and fired more shots. Defendant drove away with codefendant.

¶ 23 After Officer Bartik questioned defendant's veracity, defendant added that codefendant indicated that he shot the victim because he owed codefendant money from the credit card scam. Officer Bartik again questioned defendant's veracity. Defendant then acknowledged that when the three men got in the car, defendant knew codefendant was going to take the victim's money and he knew that codefendant had "something" but defendant did not know that it was a gun. In addition, defendant said that he did not go through the victim's pockets with codefendant and that the victim had between $20 and $40. By the end of the conversation, defendant acknowledged that he knew codefendant had a gun.

¶ 24 Assistant State's Attorney Phyllis Warren testified that she too spoke to defendant on November 7, 2007, and published their recorded conversation for the jury. Defendant stated that he knew about the robbery, that codefendant shot the victim three times and that codefendant told defendant to help pull the victim out of the car. Defendant did so. Codefendant then went through the victim's pockets before shooting him two more times.

¶ 25 The jury found defendant guilty of first-degree murder. The trial court subsequently denied defendant's motion for a new trial, which renewed his motion to quash arrest and suppress evidence. Following a hearing, the trial court sentenced defendant to 30 years in prison as well as an additional 15-year enhancement based on the jury's finding that defendant, or one for whom he was responsible, was armed in the course of this first-degree murder.

¶ 26 II. ANALYSIS

¶ 27 A. Motion to Quash Arrest and Suppress Evidence

¶ 28 On appeal, defendant asserts the trial court erred in denying his motion to quash his arrest and suppress his resulting inculpatory statements. Specifically, defendant contends he was arrested at his home without a warrant or probable cause. The State responds that defendant voluntarily accompanied the police to the station and was not arrested until after he gave inculpatory statements. Alternatively, the State argues that the police had probable cause to arrest defendant when they went to his home.

¶ 29 Where the trial court's ruling on a motion to suppress depends on factual determinations and credibility assessments, such findings will be upheld unless against the manifest weight of the evidence. *People v. Lopez*, 229 Ill. 2d 322, 345 (2008); *People v. Jackson*, 374 Ill. App. 3d 93, 102 (2007). A trial court's factual finding is against the manifest weight of the evidence only where the opposite conclusion is clearly evident. *People v. Edward*, 402 Ill. App. 3d 555, 560-61 (2010). A reviewing court, however, may make its own assessment of the facts as they pertain to the issues presented and draw independent conclusions in determining what relief is warranted. *Jackson*, 374 Ill. App. 3d at 102. Accordingly, we review the ultimate determination of whether the fourth amendment requires the suppression of a defendant's confession *de novo*. *People v. Gomez*, 2011 IL App (1st) 092185, ¶ 54. Furthermore, reviewing courts may consider

evidence introduced at trial to affirm the trial court's denial of a motion to suppress. *People v. Brooks*, 187 Ill. 2d 91, 127-28 (2002).

¶ 30 When a defendant moves to quash his arrest and suppress evidence, he has the burden of showing that his seizure was illegal. *People v. Colquitt*, 2013 IL App (1st) 121138, ¶ 31; 725 ILCS 5/114-12 (b) (West 2006). An arrest occurs when a person's freedom of movement is restrained by means of physical force or a show of authority. *People v. Barlow*, 273 Ill. App. 3d 943, 949 (1995). To determine whether a defendant has been arrested, the court must decide whether a innocent reasonable person would have considered himself free to leave. *Lopez*, 229 Ill. 2d at 346. Although a defendant has not been arrested and seized within the meaning of the fourth amendment when he voluntarily accompanies officers (*Gomez*, 2011 IL App (1st) 092185, ¶ 59 (same)), determining whether an individual was under arrest also requires considering whether an individual would feel free to decline the officers' requests (*Colquitt*, 2013 IL App (1st) 121138, ¶ 32). Similarly, courts have repeatedly rejected the proposed fiction that a person who voluntarily consents to interrogation at a police station implicitly agrees to remain there while the police investigate the crime in order to obtain probable cause to arrest the interviewee. *Lopez*, 229 Ill. 2d at 353-54.

¶ 31 The test for determining whether a defendant is under arrest is deliberately imprecise because it focuses on the coercive effective of police conduct in its entirety, not on each particular detail. *People v. Stofer*, 180 Ill. App. 3d 158, 166 (1989). The factors to consider include (1) the place, time, length, mode and mood of the interrogation; (2) the number of officers present; (3) the presence or absence of family and friends; (4) indicia of formal arrest procedure, such as booking, fingerprinting, physical restraint, or a show of weapons or force; (5) the manner in which the accused arrived at the place of questioning; and (6) the defendant's

intelligence and mental makeup. *People v. Slater*, 228 Ill. 2d 137, 150 (2008). Other factors include the administration of *Miranda* warnings. *Jackson*, 374 Ill. App. 3d at 102. In addition, whether an officer has advised the defendant he was free to leave is one factor to consider, but is not dispositive, as such advisement is not required. *People v. Cosby*, 231 Ill. 2d 262, 278 (2008). Moreover, the test for determining whether an individual was under arrest is an objective one. *People v. Buie*, 238 Ill. App. 3d 260, 267 (1992). Thus, the undisclosed subjective views of the person detained and the officers involved are irrelevant. *People v. Griffin*, 385 Ill. App. 3d 202, 208-210 (2008) (citing *Stansbury v. California*, 511 U.S. 318, 323 (1994)); see also *People v. Reynolds*, 94 Ill. 2d 160, 165 (1983) (affirming the trial court's determination that an arrest was made where the defendant did not testify at the hearing on his motion to suppress); *People v. Carroll*, 318 Ill. App. 3d 135, 138-39 (2001) (rejecting the State's suggestion that the defendant was required to testify regarding his subjective belief, as the test for whether a defendant was in custody is an objective one).

¶ 32 Here, a reasonable person, innocent of all crimes, would not have felt free to decline the officers' request for him to leave his home and come to the police station to be interviewed. That the officers came to his home at 11:30 p.m., at a time when defendant apparently was not fully dressed, suggests a certain urgency beyond mere investigation. Although Detective Arteaga testified that he asked, rather than ordered, defendant to come to the station, a reasonable innocent person would not feel free to decline the detective's request given that he was accompanied by five other officers, two of whom were in uniform. See *People v. Williams*, 303 Ill. App. 3d 33, 41 (1999) (where a detective testified that arrests usually involve six police officers). In addition, there was no question that the four other individuals, who Detective Arteaga testified had stars and guns showing, were also officers. *Cf. Cosby*, 231 Ill. 2d at 287

(the mere fact that police officers' guns are visible does not mean that that they are displayed in a manner meaningful to fourth amendment analysis). Furthermore, while defendant's 10 prior arrests, albeit not convictions, lead us to reject his contention that he was inexperienced with the legal system, this factor cuts both ways. An individual who was innocent of the present crime but nonetheless had previously been arrested numerous times would be more likely to reject the notion that six officers were necessary to merely question him regarding a friend. *Cf. Gomez*, 2011 IL App (1st) 092185, ¶¶ 4, 14-15, 60-61 (the defendant was not arrested when four officers arrived at his home at about 5 a.m., at a time when the defendant had not been associated with the homicide). The officers' permission for defendant to put on more clothing and the absence of a formal declaration of arrest would not undermine the gravity of this situation.

¶ 33 Any lingering uncertainty as to whether a person in defendant's position would feel free to leave was surely eliminated by what immediately followed. Defendant was transported in a police car, without being offered the use of alternative transportation. The State's representation that the doors of the police car were unlocked is not supported by the record, as Detective Arteaga testified he did not know whether they were locked. In addition, although defendant was not handcuffed during transportation, he was *Mirandized* upon arrival, further confirming the officers' apparent intentions. Furthermore, the requirement that defendant knock in order to use the restroom, when considered with other circumstances, would also lead an innocent person to believe he was not free to leave, notwithstanding Detective Arteaga's testimony that the door was slightly ajar. To be clear, we place no weight on evidence that ERI began when defendant was placed in the interview room, as the record does not show whether defendant knew that he was being recorded. Similarly, the officers' subjective intentions as expressed in the police reports have no bearing on our inquiry given that defendant was not made aware of those reports

while in custody. Moreover, while notable that defendant was fingerprinted and photographed within about six hours of his arrival and remained with the police for approximately two days before he gave an inculpatory statement, we need not consider events subsequent to his immediate arrival at the police station. No innocent person would have reasonably felt free to decline the officers' request that he join them at the station or feel free to leave following his arrival.

¶ 34 We are not persuaded by the State's reliance on *People v. Anderson*, 395 Ill. App. 3d 241 (2009). In *Anderson*, unlike the present case, the defendant did not dispute that he voluntarily accompanied police officers to the station; rather, he asserted only that his voluntary presence subsequently transformed into an unlawful seizure. *Id*. at 249. In addition, the reviewing court in *Anderson* acknowledged that a variety of factors must be considered under the totality of circumstances and that no factor is dispositive. *Id*. at 250-51. The court's application of these principles, however, was more dubious. Specifically, the court acknowledged several factors that frequently weigh in a defendant's favor: (1) the defendant accompanied the police in the police car; (2) he was read his *Miranda* rights at the police station; (3) he was directed to stay in the interview room; (4) he required an escort to the restroom; and (5) he stayed overnight. *Id*. at 249-51. Rather than determining that the totality of circumstances would nonetheless lead a reasonable person innocent of any crime to believe that he remained free to leave, the court categorically found there was no indicia of seizure. *Id*. at 249. Furthermore, the reviewing court found, "We have no testimony from the defendant that at some point during his stay at the police station, he felt his stay was a product of police coercion." *Id*. at 252. As stated, however, our inquiry is an objective one. *Carroll*, 318 Ill. App. 3d at 138-39 (2001) (rejecting the State's suggestion that the defendant was required to testify regarding his subjective belief, as the test

for whether a defendant was in custody is an objective one); *cf. People v. Brownlee*, 186 Ill. 2d 501, 520 (1999) (finding that although the test for whether a reasonable person would feel free to leave is objective, the defendant's subjective reaction bolstered the court's determination). Without commenting on whether the ultimate determination in *Anderson* was proper, we disagree with the State's contention that *Anderson* compels a determination that defendant was not under arrest based on the circumstances presented here.

¶ 35 Having determined that defendant was arrested at his home and taken to the police station, we now determine whether the police had probable cause to do so. When detained for custodial interrogation, an individual is not free to leave, and his detention must be supported by probable cause. *People v. Prince*, 288 Ill. App. 3d 265, 273 (1997). Probable cause for arrest exists where the totality of facts and circumstances that are known to the arresting officer would cause a reasonably prudent person to believe that the arrestee has committed or is committing a crime. *People v. Geier*, 407 Ill. App. 3d 553, 557 (2011). While mere suspicion is insufficient to show probable cause, the evidence relied on by the arresting officer is not required to be sufficient to prove the defendant guilty beyond a reasonable doubt or be admissible at trial; rather, technical rules do not control this inquiry. *Gomez*, 2011 IL App (1st) 092185, ¶ 63. Furthermore, the test for assessing whether a seizure is justified is an objective one. *People v. Cordero*, 358 Ill. App. 3d 121, 133-34 (2005).

¶ 36 We first reject defendant's assertion that no evidence supported the trial court's implicit determination that the police knew of information indicating he was Squirrel when they knocked on defendant's door. According to Detective Arteaga's testimony at the hearing on defendant's motion, Dorsey told Detective Arteaga that about 20 minutes before the victim was killed, she left him with Squirrel outside his home at 1424 East 72nd Place. She also told Detective Arteaga

that Squirrel owned a two-door Buick, notwithstanding that eyewitnesses had provided somewhat different descriptions. At trial, Detective Arteaga added that after speaking to her, he was looking for Squirrel and a 1994 Buick Regal. Detective Arteaga also added that when he and the other officers went to the address Dorsey provided, Detective Arteaga saw a 1994 Buick Regal parked nearby. It would be reasonable for Detective Arteaga to believe that that car did, in fact, belong to Squirrel. In addition, Detective Arteaga testified at trial that he radioed in the car's license plate and VIN number. Because the parties do not dispute that defendant owned this car, it is reasonable to infer that the information received from the dispatcher linked defendant's real name to the car and thus, to Squirrel. Accordingly, the police had probable cause to believe that Squirrel and defendant were the same man when they approached defendant's door, notwithstanding that no individual had specifically made that connection for the police.

¶ 37 The police also had probable cause to believe that defendant committed the offense at hand. Initially, we note that the trial court gave little weight to Dave's statement that defendant said Z-Man shot the victim while with defendant. *Cf. Gomez*, 2011 IL App (1st) 092185, ¶ 63 (evidence relied on need not be admissible). As a result, we do likewise. Dave's statement aside, the police knew from Dorsey that Squirrel was with defendant at East 72nd Place just before the murder. In addition, the victim had been shot to death and Holloway said defendant had previously been seen with a firearm. The police also knew from Tiger that the victim's body was dumped from a car, although Tigner's description of that car otherwise missed the mark, and Squirrel was seen washing his car on the day after the murder. Furthermore, when the police saw defendant's car outside his home, it was black with silver detail, the same color as the car reported to have been seen by Dale, even if Dale failed to accurately identify the make and model of the vehicle. *Cf. Barlow*, 273 Ill. App. 3d at 952 (Probable cause is not shown merely

because the defendant was last seen with the victim). Given that (1) defendant was seen with the victim about 20 minutes before his murder; (2) had previously been seen with a firearm; (3) the victim was dumped from a car after being shot to death; (4) defendant cleaned his car the next day; and (5) his car partially matched the description provided by another witness, the police had probable cause to believe defendant committed the offense, even if such evidence would have been insufficient to prove his guilt beyond a reasonable doubt.

¶ 38 To the extent defendant argues in a conclusory fashion that the State also lacked exigent circumstances to make a warrantless arrest, the State correctly responds that consent to enter a private residence, coupled with probable cause, justifies an at-home warrantless arrest. *People v. Williams*, 305 Ill. App. 3d 517, 523, 526 (1999). While we have accepted defendant's contention that he did not voluntarily agree to accompany the officers to the police station, defendant has developed no argument that he did not consent to the officers' entry into his home. Accordingly, the trial court properly denied defendant's motion to quash arrest and suppress evidence.

¶ 39 B. Sentencing

¶ 40 Finally, defendant asserts the trial court abused its discretion by sentencing defendant to 45 years in prison. Specifically, he contends that his sentence was excessive because the trial court ignored the nature of his participation in the offense, lack of criminal or juvenile background, his strong family support, his education and his age at the time of the offense, 22 years old. We will not disturb a sentence imposed within the permissible statutory range absent an abuse of discretion. *People v. Kibayasi*, 2013 IL App (1st) 112291, ¶ 60.

¶ 41 It is well settled that the trial court has broad discretionary authority in sentencing a defendant and is in a better position that the appellate court to determine an appropriate sentence. *Gomez*, 2011 IL App (1st) 092185, ¶ 86. Courts must consider the retributive and rehabilitative

purposes of punishment, assessing the seriousness of the offense and the likelihood of returning the defendant to productive citizenship. *Id*. ¶ 87. With that said, the seriousness of the crime, rather than mitigating factors, is the most important factor in imposing an appropriate sentence and even the absence of aggravating factors does not require a trial court to impose the minimum sentence. *People v. Quintana*, 332 Ill. App. 3d 96 (2002). In addition, the trial court is not required to detail the process used in determining what penalty was appropriate or articulate how it considered mitigating factors. *People v. Powell*, 2013 IL App (1st) 111654, ¶ 32. Similarly, a presumption exists that the trial court considered all mitigating evidence before it and the defendant bears the burden of demonstrating otherwise. *Id*. Furthermore, a reviewing court cannot substitute the trial court's sentencing judgment with its own merely because the reviewing court would have weighed factors differently. *People v. Campbell*, 2014 IL App (1st) 112926, ¶ 67.

¶ 42 We first note that a mandatory 15-year sentencing enhancement was required based on the jury's finding that defendant, or one for whose conduct he was legally responsible, was armed with a firearm. 730 ILCS 5/5-8-1(d)(i) (West 2010). Thus, the trial court had no discretion with respect to that portion of his sentence. The sentencing range for first-degree murder, however, was between 20 and 60 years in prison. 730 ILCS 5/5-8-1(a)(1)(a) (West 2010). The 30-year prison term imposed by the trial court, although not the minimum sentence available, was well within the sentencing range and at the lower end of the spectrum. *Cf. People v. Maldonado*, 240 Ill. App. 3d 470, 484-86 (1993) (the reviewing court found that the *maximum* prison term was unwarranted where the defendant was 20 years' old at the time of the offense, was a father, had completed three years of high school and had no prior felony convictions); *People v. Maggette*, 195 Ill. 2d 336, 344-45, 354-55 (2001) (pursuant to its supervisory authority, the supreme court

reduced the defendant's 10-year sentence, which fell within the middle of the permissible sentencing range for residential burglary (720 ILCS 5/19-3(c) (West 1998); 730 ILCS 5/5-8-1(a)(4) (West 1998)) but was unwarranted where the defendant did not actually commit another felony once inside, notwithstanding his appalling and harmful behavior). In sentencing defendant, the trial court stated that it had considered the evidence presented in mitigation, including a letter from his sister, and the facts of the case. In addition, the judge had before it the presentence investigative report (PSI), which included defendant's birth date. The PSI also showed that defendant was a high school graduate with no felony convictions or juvenile adjudications, and informed the judge of defendant's familial situation. Accordingly, defendant has not overcome the presumption that the trial court considered the mitigating evidence before it.

¶ 43 The trial court also stated, however, that it had considered the facts and circumstances of this case. Here, the victim died unnecessarily due to a financial dispute. Despite defendant's claim that he was not a party to that dispute, he agreed to help codefendant rob the victim, an alleged friend, knowing that codefendant had brought a gun with him. Codefendant ultimately shot the victim multiple times. Under these circumstances, we cannot say the trial court abused its discretion in determining that the minimum sentence would be inappropriate.

¶ 44 For the foregoing reasons, we affirm the trial court's judgment.

¶ 45 Affirmed.