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NO. 4-13-1031

FILED
August 15, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. DOUGLAS SMITH, Defendant-Appellee.	)	Appeal from Circuit Court of Vermilion County No. 13CF249 Honorable Craig H. DeArmond, Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices Holder White and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in granting defendant's motion to suppress evidence collected after police entered defendant's home without a warrant or defendant's consent.

¶ 2 In October 2013, the trial court granted defendant Douglas Smith's motion to suppress evidence collected after police entered his home without his consent or a search warrant. The State appeals, arguing the court erred in suppressing the evidence for the following reasons: (1) exigent circumstances justified the warrantless entry; (2) the evidence was recovered by means independent of the warrantless entry; (3) the evidence inevitably would have been discovered regardless of the warrantless entry; and (4) defendant's statements to police or evidence found pursuant to the second warrant were sufficiently purged of any taint resulting from the warrantless entry. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In May 2013, the State charged defendant by information with production of cannabis sativa plants (720 ILCS 550/8(d) (West 2012)), possession of cannabis (720 ILCS 550/4(e) (West 2012)), and possession of cannabis with intent to deliver (720 ILCS 550/5(e) (West 2012)). In July 2013, defendant filed a motion to suppress all evidence obtained as a result of an illegal search and seizure that occurred on March 4, 2013. The motion alleged the police unlawfully entered defendant's home in violation of defendant's rights under the fourth amendment (U.S. Const., amend. IV). The State responded, arguing the entry was lawful. According to the State, exigent circumstances justified the warrantless entry. The State also argued the evidence should not be suppressed pursuant to the inevitable-discovery rule.

¶ 5 In September 2013, the trial court held a hearing on defendant's motion to suppress. Troy Wasson, a police officer for the City of Danville, testified he received an anonymous Vermilion County Crime Stoppers report on March 4, 2013, alleging defendant was dealing cannabis. Wasson looked into defendant's background, obtained his driver's license information, including photograph, confirmed defendant's address, and then briefed other agents with the Vermilion County Metropolitan Enforcement Group. Defendant had a criminal history and had been in federal prison for a cannabis-related offense. Wasson also spoke to special agent Pat Ablinger, who was present during the search and arrest that led to defendant's federal incarceration. Wasson and other officers then went to defendant's residence.

¶ 6 After arriving at defendant's home, Wasson, accompanied by another officer, knocked on the front door. Defendant opened the door and was on the phone. Wasson showed defendant his badge and explained why he was there, *i.e.*, the Crime Stoppers tip alleging defendant was dealing cannabis. Wasson experienced an "overwhelming smell of cannabis"

coming from inside the residence. (Wasson did not testify whether he smelled burned or unburned cannabis. However, defendant's motion to suppress stated Wasson alleged he smelled "green non burning cannabis.") Defendant became nervous and started stuttering. Defendant said he did not "sell weed" and tried to shut the door. Wasson stepped forward into the doorway and prevented defendant from shutting the door. Wasson told defendant, "You can't do that. You have problems. We need to talk about this." Wasson then entered the residence. Defendant was still on the phone but ended the call. Wasson testified he "entered the residence to keep [defendant] from shutting the door and locking us out and preventing him from destroying any evidence that was inside the residence."

¶ 7 Wasson testified he did not have a search warrant. Nor, apparently, did he have an arrest warrant. Other law-enforcement officers, between five and eight of them, followed Wasson into the house. Defendant became agitated when the officers entered his home. Defendant was placed in handcuffs after his agitation continued to increase. Wasson told defendant he was being detained while Wasson sought a search warrant. Wasson verified defendant's name, date of birth, and legal designation of the residence for the purpose of getting the search warrant. Wasson left the residence and went to the courthouse seeking a search warrant for the house, which he received shortly thereafter. Special Agent Ablinger called Wasson after the first warrant was issued because defendant disclosed a "grow operation" in an outbuilding on the property and the presence of between half and one pound of cannabis in the house. Wasson testified defendant voluntarily made this statement to Ablinger. Wasson then sought and received a second search warrant for the outbuilding.

¶ 8 Wasson returned to defendant's residence with the warrants and searched the residence and outbuilding. Some cannabis and ammunition were found in the residence. The outbuilding had two separate rooms set up for growing cannabis.

¶ 9 Defendant was taken to the public-safety building. After he was advised of his *Miranda* rights (*Miranda v. Arizona*, 384 U.S. 436 (1966)), defendant gave a statement admitting everything on the property belonged to him. According to defendant, each plant on the property yielded a quarter-pound of marijuana or more.

¶ 10 The State argued exigent circumstances justified the police entrance into the home without a warrant. The State also argued the evidence would have been discovered absent the warrantless entry because the police officers had sufficient information to receive a search warrant prior to entry.

¶ 11 On October 18, 2013, the trial court issued a seven-page written order suppressing all evidence seized pursuant to the execution of the search warrants as well as defendant's statements obtained in violation of his fourth-amendment rights. The court noted the police officers had no evidence of suspected criminal behavior before knocking on defendant's door. Even after defendant opened the door, the police only had evidence defendant may have either smoked or possessed cannabis in the residence.

¶ 12 The trial court noted nothing prevented the officers from seeking a search warrant; the potential offense in question could not be classified as grave; the officers had no information defendant was armed, had committed, or was committing a violent crime, and the officers had no information defendant was a threat or a flight risk. According to the court, at best, the officers had probable cause to arrest defendant for possession of cannabis. However,

the officers did not have an arrest warrant, and defendant was in his home. Therefore, entry into the home without an arrest warrant would likewise have been unlawful. The court noted the officers could have secured the home and sought a search warrant.

¶ 13 The trial court found the circumstances confronting the officers did not justify the warrantless entry. The court found "everything obtained after the illegal entry was subject to suppression." The trial court ruled the inevitable-discovery doctrine did not apply because "everything obtained for the search warrant came after the illegal entry." The court further ruled:

> "Even if the officers could have obtained a search warrant for the residence[,] which is doubtful, there was nothing other than the statements of the defendant obtained after the illegal entry which would have led the officers to the outbuilding. Those statements are also subject to suppression as fruits of the illegal entry and [,] therefore[,] anything seized pursuant to the second warrant would be subject to suppression as well."

The State filed a certificate of substantial impairment and this appeal followed.

¶ 14 II. ANALYSIS

¶ 15 The State argues the trial court erred in granting defendant's motion to suppress for various reasons. When reviewing a trial court's ruling on a motion to suppress, we give the court's factual findings great deference and will not disturb those findings unless they are against the manifest weight of the evidence. *People v. Sorenson*, 196 Ill. 2d 425, 431, 752 N.E.2d 1078, 1083 (2001). However, we review the court's ultimate ruling on a motion to suppress *de novo*. *Id.*

¶ 16 The parties do not dispute the police officers entered defendant's home without his permission or a warrant. A warrantless intrusion into an individual's home is *per se* unreasonable unless an exception to the warrant requirement is determined to be applicable. *People v. Abt*, 269 Ill. App. 3d 831, 836, 646 N.E.2d 1341, 1345 (1995). When a defendant makes a *prima facie* case evidence was obtained by means of an illegal search or seizure, the State bears the burden of establishing the search was lawful. *People v. Gipson*, 203 Ill. 2d 298, 306-07, 786 N.E.2d 540, 545 (2003). However, the defendant still bears the ultimate burden of proof. *Id.* at 307, 786 N.E.2d at 545.

¶ 17 The State makes the following four arguments why the trial court erred in granting defendant's motion to suppress: (1) exigent circumstances justified the warrantless entry; (2) the evidence was discovered by means wholly independent of any constitutional violation; (3) the evidence would have been inevitably discovered by lawful means regardless of the unlawful entry; and (4) defendant's statement to police and evidence recovered as a result of the second warrant, which issued as a result of defendant's statement, should not have been suppressed because it was sufficiently purged of any taint from the warrantless entry.

¶ 18 A. Exigent Circumstances

¶ 19 We first address the State's argument the trial court erred in suppressing the evidence because exigent circumstances justified the warrantless entry. Certain exigent circumstances have been recognized as justifying a warrantless entry. *People v. Abney*, 81 Ill. 2d 159, 168, 407 N.E.2d 543, 547 (1980). "The burden of demonstrating exigent need for a warrantless search or arrest is on the State." *People v. Foskey*, 136 Ill. 2d 66, 75, 554 N.E.2d 192, 197 (1990). The totality of the circumstances known to the officer at the time of the

warrantless entry must be considered when determining whether the exigent circumstances justified the warrantless entry. *Id*.

¶ 20 The State agrees the potential destruction of narcotics alone is not a sufficient exigent circumstance justifying a warrantless entry into a home. See *People v. Cohen*, 146 Ill. App. 3d 618, 625-26, 496 N.E.2d 1231, 1235-36 (1986) (odor of burning cannabis and possibility evidence might be destroyed did not justify warrantless entry into residence); see also *People v. Hoffstetter*, 128 Ill. App. 3d 401, 407, 470 N.E.2d 1247, 1251 (1984) (odor of cannabis does not present the kind of exigent circumstances that would permit warrantless intrusion into a person's home). Further, the State agrees the police should have a particular reason to believe the narcotics are immediately disposable or that evidence will be destroyed. However, the State argues the totality of the circumstances in this case supported the warrantless entry.

¶ 21 According to the State, the officers were aware of defendant's criminal history involving cannabis and had an anonymous tip defendant was currently "dealing" cannabis. When defendant opened the door, Wasson detected the "overwhelming" odor of cannabis. Further, Wasson testified defendant became very nervous and started stuttering while speaking. According to the State:

> "[A] reasonable perspective, when considered with the rest of the evidence as set forth above, supports Wasson's belief that any evidence was presently and imminently being destroyed.
>
> Considering the totality of the circumstances known to the officers at the time, Wasson's belief that defendant would destroy

> evidence was reasonable and justified the warrantless entry due to exigent circumstances."

We disagree.

¶ 22 The State failed to present sufficient evidence justifying a warrantless entry based on exigent circumstances. The State established it had an anonymous tip defendant was dealing cannabis. The officers knew defendant had a criminal record involving drugs. When he answered the door, Wasson testified an overwhelming smell of cannabis came from inside the house. Further, Wasson said defendant was acting in a nervous fashion. This information alone did not justify entering the home without a warrant.

¶ 23 The State did receive a search warrant for the home based on this information. However, the fact a search warrant was issued after an unlawful entry does not establish the existence of sufficient exigent circumstances justifying entry into a home prior to receiving the warrant. The supreme court has stated:

> "While no list of factors constituting exigent circumstances is exhaustive, *** these factors *** may be taken into account in assessing exigency in a particular situation: (1) whether the offense under investigation was recently committed; (2) whether there was any deliberate or unjustifiable delay by the officers during which time a warrant could have been obtained; (3) whether a grave offense is involved, particularly one of violence; (4) whether the suspect was reasonably believed to be armed; (5) whether the police officers were acting upon a clear showing of probable cause;

> (6) whether there was a likelihood that the suspect would have escaped if not swiftly apprehended; (7) whether there was strong reason to believe that the suspect was on the premises; and (8) whether the police entry, though nonconsensual, was made peaceably." *Foskey*, 136 Ill. 2d at 75, 554 N.E.2d at 197.

Based on the evidence presented in this case, the totality of the circumstances did not justify the police officers entering defendant's home without his permission or a warrant.

¶ 24 The State presented no evidence defendant had recently engaged in any drug transactions or regarding the amount of cannabis they believed defendant possessed. Further, the State presented no details as to the anonymous tip. For example, the record does not reflect if the tip provided the location of the drugs, whether the drugs were kept in the house, or the quantity of drugs defendant was allegedly dealing. The State also presented no evidence the police officers believed defendant was armed and dangerous. In addition, the State provided no evidence the police officers feared defendant might escape if they did not enter his residence before getting the search warrant. Finally, while a search warrant was issued after the warrantless entry, the record does not establish the officers were acting on a clear showing of probable cause.

¶ 25 The only exigent circumstance the State argues was the possible destruction of evidence. However, destruction of evidence by itself is not sufficient to justify a warrantless entry. *People v. Eden*, 246 Ill. App. 3d 277, 287, 615 N.E.2d 1224, 1230 (1993). Our supreme court has stated:

> "What is needed, beyond the knowledge that narcotics are involved, is that ' "police have particular reasons to reasonably believe in a particular case that evidence will be destroyed" ' (2 LaFave 134-35). Particular reasons might include reliable and specific information that narcotics are always kept near a toilet (2 LaFave 135) or that buckets of water are kept near the toilet so as to aid in flushing the narcotics away." *People v. Ouellette*, 78 Ill. 2d 511, 520, 401 N.E.2d 507, 511 (1979).

¶ 26 In the instant case, the State failed to present any evidence showing the destruction of any evidence was imminent. As stated earlier, the State failed to put forth any evidence it had information defendant kept drugs in the home. Further, while Wasson testified the smell of cannabis was in the house, this does not establish cannabis was still inside the house. Finally, the record contains no information as to defendant's ability to destroy any drugs that may have been in the house.

¶ 27 B. Inevitable Discovery

¶ 28 The State next argues the trial court erred in suppressing the evidence discovered pursuant to the first search warrant for the home because the State established by a preponderance of the evidence the cannabis would have been inevitably discovered by lawful means. We again disagree.

¶ 29 The inevitable-discovery doctrine allows admission of evidence if the State can establish by a preponderance of the evidence the information ultimately or inevitably would have

been discovered by lawful means. *People v. Alvarado*, 268 Ill. App. 3d 459, 470, 644 N.E.2d 783, 790-91 (1994).

> "Generally, courts will find evidence inevitably would have been discovered if (1) the condition of the evidence when actually found by lawful means would have been the same as that when improperly obtained; (2) the evidence would have been discovered through an independent line of investigation untainted by the illegal conduct; and (3) the independent investigation was already in progress at the time the evidence was unconstitutionally obtained." *Id.* at 470, 644 N.E.2d at 791.

¶ 30 As support for its argument, the State cites *People v. Mitchell*, 189 Ill. 2d 312, 727 N.E.2d 254 (2000), and *People v. Durgan*, 281 Ill. App. 3d 863, 667 N.E.2d 730 (1996), for the proposition the trial court erred in finding the inevitable-discovery rule did not apply to the evidence found in the residence. However, the circumstances in *Mitchell* and *Durgan* were vastly different from the circumstances in the case *sub judice*.

¶ 31 In *Mitchell*, an appeal from the dismissal of the defendant's postconviction petition, the relevant issue was whether physical evidence recovered from the defendant's basement should have been suppressed as the fruit of his unlawful arrest. *Mitchell*, 189 Ill. 2d at 340-41, 727 N.E.2d at 271. A jury had convicted the defendant of two counts of first degree murder, and he was sentenced to death. *Id.* at 318, 727 N.E.2d at 259-60. The supreme court affirmed the defendant's conviction and sentence on direct appeal. *Id.*, 727 N.E.2d at 260. In his postconviction petition, the defendant argued his trial counsel was ineffective for failing to

establish the evidence found in his basement was the fruit of his unlawful arrest. *Id.* at 339-40, 727 N.E.2d at 271.

¶ 32 According to the defendant in *Mitchell*, the recovered evidence was the fruit of his illegal detention because he told the police during that detention he was with Maurice Douglas on the night of the murders. *Id.* at 340, 727 N.E.2d at 271. When later questioned by the police, Douglas told them where the murder weapon was probably hidden. *Id.* The supreme court noted:

> "We held [on direct appeal] that the record did not establish that Douglas told the police where the weapon was hidden and that defendant's argument was based solely on conjecture. Without establishing that Douglas informed the police where defendant's Ninja equipment and the murder weapon were hidden, defendant could not meet his initial burden of showing a connection between his detention and the police's finding that evidence." *Id.*

¶ 33 The defendant attached an affidavit from an investigator with the office of the State Appellate Defender to his postconviction petition. The investigator said Douglas told him he (Douglas) told the police where the murder weapon was probably hidden. *Id.* at 340-41, 727 N.E.2d at 271. The defendant argued this affidavit established "the crucial connection showing that the physical evidence was the fruit of his unlawful detention" because the defendant told the police about Douglas and Douglas told the police where the murder weapon was probably hidden. *Id.* at 341, 727 N.E.2d at 271.

¶ 34 Our supreme court found the defendant's ineffective-assistance argument meritless because the defendant had not shown a reasonable probability the outcome of the suppression hearing would have been any different if the defendant's trial attorney had "argued the Douglas connection" because of the inevitable-discovery exception to the suppression rule. *Id.*, 727 N.E.2d at 271-72. The court stated:

> "Here, before defendant was taken to the police station, the police were looking for a car that had been seen near where the murders occurred. The police had the car's license plate number and knew that two black males were seen in the car. The police traced the car to defendant's sister and learned that defendant had been driving the car the night before. The police also spoke to defendant's mother, who knew that defendant and Douglas were together the night of the murders. Defendant and Douglas had been friends since they were five years old. Douglas' father also knew that defendant and Douglas were together on the night of the murders. Considering the above evidence, we simply cannot accept defendant's contention that the police would not have found out that Douglas was with him the night of the crime if they had not illegally detained him. Before the police detained defendant, they knew he had been in the car and that there was another black male in the car. Given that a thorough investigation into the violent murder of two teenagers was underway, that defendant and

> Douglas were friends, and that the police were speaking to people who knew that Douglas and defendant had been together that night, we believe that it was inevitable that the police would have found Douglas even if defendant had not told them that Douglas was the person who was with him." *Id.* at 342-43, 727 N.E.2d at 272-73.

¶ 35 In *Durgan*, the police were conducting surveillance and investigating drug activity at a residence in Danville on March 16, 1993. *Durgan*, 281 Ill. App. 3d at 865, 667 N.E.2d at 731. A confidential informant made a controlled drug buy at the house on March 15. *Id.* On March 16, the police observed people entering and leaving the house all afternoon. *Id.* Around 4:30 p.m., an informant went into the house and made a controlled buy of rock cocaine using marked currency. *Id.* The informant saw other drugs inside the house. *Id.*

¶ 36 Only then did the police decide to seize the house and hold it until a search warrant could be obtained. *Id.*, 667 N.E.2d at 732. Officers went into the residence and searched room to room for individuals to secure the home. *Id.* at 865-66, 667 N.E.2d at 732. The officers did not have any arrest warrants at the time. *Id.* at 865, 667 N.E.2d at 732. After defendant and four other members of defendant's family were secured, the officers found a small plastic bag containing a white substance under defendant. *Id.* at 866, 667 N.E.2d at 732.

¶ 37 Defendant refused to give the officers consent to search the home. *Id.* One of the officers then left to get a search warrant. *Id.* While waiting for the warrant, defendant's son told investigators where cocaine and drugs could be found in the house. *Id.* The police did not search the house during this time. *Id.*

¶ 38 A search warrant was issued solely on facts obtained by the police prior to the warrantless entry, authorizing the police to search for narcotics, narcotics packaging, weapons, and money. *Id.* The officers first recovered the cocaine and guns described to them by defendant's son. *Id.* The officers then recovered other weapons and drugs. *Id.*

¶ 39 Defendant moved to suppress the evidence found in the house because the evidence was the product of an illegal search and seizure. *Id.* at 865, 667 N.E.2d at 731. The trial court denied the motion. *Id.* at 866, 667 N.E.2d at 732. On appeal, this court found defendant forfeited the suppression issue by failing to raise the issue in a posttrial motion. *Id.* at 867, 667 N.E.2d at 732-33. In *dicta*, this court also stated defendant's suppression argument was meritless, finding all of the evidence, with the possible exception of the plastic bag containing cocaine and the $15 found under defendant, was admissible pursuant to either the independent-source rule or the inevitable-discovery rule. *Id.* at 867-68, 667 N.E.2d at 733.

¶ 40 The parties in *Durgan* did not dispute the bases for the search warrant. *Id.* This court noted:

> "[T]he search warrant itself was not tainted by improperly obtained evidence. In short, the search warrant and its later fruit were derived from sources independent of the warrantless entry into defendant's home. In addition, even though defendant's son informed police where some of the drugs and weapons were located, there is nothing in the record which indicates these items were located in such unusual or hidden places they would not have been inevitably discovered, and in the same condition, by the

> search based on the valid search warrant. Further, the investigation which gave rise to the facts which supported the search warrant was initiated prior to the seizure and search of defendant's home. In short, most of the evidence found in defendant's home would have been inevitably discovered notwithstanding any illegality in police conduct here." *Id.* at 868, 667 N.E.2d at 733.

¶ 41 Based on the record in this case, unlike in *Mitchell* and *Durgan,* the State failed to present sufficient evidence to establish the inevitable discovery of the drugs in the residence. The State presented no evidence as to the scope of the search warrant received or anything about the tip they received from the anonymous source other than defendant was dealing cannabis. For example, the record does not even establish the informant said defendant either kept drugs in or dealt drugs from his residence.

¶ 42 In addition, without defendant's statement to the officers regarding the presence and, presumably, location of drugs in the residence, the record does not establish the drugs would have even been found. Defendant's statement to the police was made before he was *Mirandized,* while detained in his home during the warrantless entry. Acquisition of a search warrant does not make inevitable the discovery of contraband inside a home. The State presented no evidence the drugs would have been found absent defendant's statement, *i.e.*, the State presented no evidence of the location or amount of drugs found in the residence.

¶ 43 Further, unlike in *Mitchell* and *Durgan*, the investigation in this case was in its infancy. When the team of officers went to defendant's home, they were only acting on an anonymous tip and defendant's criminal history. In *Durgan*, the police investigation of a double

murder was far along before the defendant's arrest. The same was true in *Mitchell*. Based on the record in this case, the police had done little investigatory work, other than talking among themselves and pulling defendant's driver's license information. They performed no controlled buys or any surveillance of defendant. Applying the inevitable-discovery rule in a case like this would encourage police officers to ignore warrant requirements. The trial court did not err in finding the inevitable-discovery rule inapplicable.

¶ 44 C. Independent-Source Doctrine

¶ 45 We next address the State's argument the evidence found inside defendant's home should not have been excluded because it was discovered pursuant to an independent source. The State recognizes it forfeited this issue by not raising it in the trial court. However, as forfeiture is a limitation on the parties and not the court, the State asks this court to reverse based on the independent-source doctrine. Because this issue was not argued to the trial court, we find the issue forfeited. Regardless of the State's forfeiture of this issue, the State's argument is meritless.

¶ 46 The independent-source doctrine allows admission of evidence discovered by means wholly independent of any constitutional violation. *Nix v. Williams*, 467 U.S. 431, 443 (1984). The test for determining whether evidence was discovered as a result of the illegal police conduct is "whether the chain of causation proceeding from the unlawful conduct has become so attenuated or has been interrupted by some intervening circumstance so as to remove the 'taint' imposed upon that evidence by the original illegality." *United States v. Crews*, 445 U.S. 463, 471 (1980). The State cites *Segura v. United States*, 468 U.S. 796, 814 (1984), for the

proposition "[a] valid search warrant is a 'means sufficiently distinguishable' to purge the evidence of any 'taint' arising from a warrantless entry." According to the State:

> "Wasson clearly testified the evidence presented to the trial court to establish probable cause to secure the first search warrant was based largely on evidence gathered prior to arriving at defendant's home, including defendant's identity, history of cannabis offenses, and the [Crime Stopper's] complaint. The final evidence presented to establish probable cause for the search warrant was the odor emanating from defendant's residence when he and Millis were standing on defendant's porch."

Therefore, according to the State, "The valid search warrant was a 'means sufficiently distinguishable' to purge the evidence of any 'taint' arising from a warrantless entry."

¶ 47 We first note the State is not arguing the independent-source rule would allow admission of evidence found in the outbuilding. The source of the information leading to the second warrant for the outbuilding came from defendant during the course of the warrantless entry. As for the evidence found in the residence, as we stated earlier, the State failed to establish it would have found any illegal drugs in the residence (regardless of the fact we know drugs were in the house) without the statements made by defendant to Special Agent Ablinger. The State did not establish where the drugs in the home were located, whether they were hidden, or whether they had access to a police canine for purposes of the search. We also do not know the scope of the first search warrant received by the police officers or anything about the amount of cannabis believed to be inside the home. It is difficult to conceive of how the statements of a

defendant—who was the target of the police action—made during a warrantless entry could possibly be considered a source wholly independent of the unconstitutional invasion of his home.

¶ 48 D. Defendant's Statements to Special Agent Ablinger

¶ 49 The State next argues the trial court erred in suppressing evidence discovered pursuant to the second search warrant because the warrant was issued pursuant to defendant's statements to special agent Ablinger while he was being detained pending acquisition of the first search warrant. According to the State, defendant's voluntary statements to Ablinger were sufficiently distinguishable from the illegal search to be purged of any taint resulting from the warrantless entry.

¶ 50 Our supreme court has stated:

> "The relevant inquiry is whether the statements bear a sufficiently close relationship to the underlying illegality. [Citation.] Generally, courts resolve this question by considering whether the evidence was obtained 'by means sufficiently distinguishable to be purged of the primary taint' of illegality." *People v. Lovejoy*, 235 Ill. 2d 97, 130, 919 N.E.2d 843, 861 (2009) (quoting *Wong Sun v. United States*, 371 U.S. 471, 487-88 (1963)).

If a "causal nexus" exists between the illegal police activity and the disputed evidence, the evidence must be excluded. *People v. Johnson*, 237 Ill. 2d 81, 92, 927 N.E.2d 1179, 1186-87 (2010).

¶ 51 The State argues the intervening event purging the taint of the officers' illegal entry into defendant's home was the officers telling defendant they were obtaining a search

warrant. According to the State, "The knowledge that a search warrant based on probable cause was going to be executed was certainly an intervening circumstance." We disagree. Considering defendant's statements were made soon after he had been handcuffed in his home by police officers who were there unlawfully, a "causal nexus" exists between his statements and the unlawful entry.

¶ 52 We appreciate the trial judge's thorough written order, which was helpful to this court in deciding this case.

¶ 53 III. CONCLUSION

¶ 54 For the reasons stated, we affirm the trial court's suppression order.

¶ 55 Affirmed.