

No. 1-25-1191

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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, Illinois.
	)	
v.	)	No. 24 CR 9545
	)	
CHEVADAS SMITH,	)	Honorable
	)	Barbara L. Dawkins,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE GAMRATH delivered the judgment of the court.
Justices Pucinski and Evans concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant’s conviction for aggravated unlawful use of a weapon is affirmed over his contention that the firearm should have been suppressed.
- ¶ 2 Defendant Chevadas Smith appeals his conviction for aggravated unlawful use of a weapon, arguing the trial court erred in denying his motion to suppress the firearm. Smith contends the officer unlawfully “frisked” his jacket while retrieving it from a vehicle without reasonable, articulable suspicion that Smith was about to commit a criminal offense or was armed and dangerous. For the following reasons, we disagree and affirm.

¶ 3

I. BACKGROUND

¶ 4

On June 13, 2024, Chicago Police Officers Marco Vasquez and Sean McDermott conducted a traffic stop in broad daylight, with other cars and people around, after observing that the vehicle had no valid registration and tinted windows. The driver, Malik Washington, was the sole occupant, and he was unable to produce a driver's license and proof of insurance.

¶ 5

During the stop, defendant Smith approached on foot from the sidewalk and asked officers if he could retrieve his jacket from the back seat. Washington confirmed the jacket belonged to Smith. With permission from Washington, Vasquez reached through the rear passenger window to retrieve the jacket. As he pulled the jacket out, it struck the interior car door, making "a very large thud," and Vasquez felt a "heavy L-shaped object" inside. Based on his training and experience recovering firearms, Vasquez believed the object was a gun.

¶ 6

After Vasquez retrieved the jacket, he moved toward the front of the vehicle. Smith hastened his steps toward Vasquez and reached for the jacket. Vasquez grabbed Smith's arm to detain him, and Smith "stiffened and pulled away" to resist. Vasquez dropped the jacket while handcuffing Smith. McDermott retrieved the jacket from the ground and recovered a loaded Glock 43 and an identification card bearing Smith's name and photograph.

¶ 7

Officers learned that Smith did not possess a valid FOID or concealed carry license and that he had an active warrant. Smith was charged with aggravated unlawful use of a weapon and felony possession.

¶ 8

Before trial, Smith moved to suppress the firearm, arguing officers lacked reasonable suspicion or probable cause to "frisk" his jacket and seize his person. The trial court denied the motion to suppress, finding that there "were other individuals on the street. The officer indicated that because of the weight, shape, [and] consistency of the object that was within the jacket [] he

believed that there was a firearm inside. It would have been completely unreasonable at that time for the officer to hand that jacket over to [Smith].” The court held that based “upon the totality of the circumstances *** the police *** had a reasonable articulable suspicion that there was a firearm inside the jacket.” Thus, they could detain Smith and recover the firearm.

¶ 9 At trial, both officers testified consistently with their suppression-hearing testimony, and the jury viewed body-worn camera footage of the encounter. The jury found Smith guilty on both counts, and the court sentenced him to four years’ imprisonment. On appeal, Smith challenges the denial of his motion to suppress.

¶ 10 II. ANALYSIS

¶ 11 Smith contends the trial court erred in denying his motion to suppress evidence where there was no reasonable, articulable suspicion that Smith had or was about to commit a criminal offense or that Smith was armed and dangerous before Smith’s property was “frisked” and his person seized. We disagree and affirm.

¶ 12 Evidence obtained through an unconstitutional search or seizure is subject to suppression. We review a ruling on a motion to suppress under a mixed standard, deferring to the trial court’s factual findings unless they are against the manifest weight of the evidence and reviewing *de novo* the ultimate question of whether suppression is warranted. *People v. Lee*, 214 Ill. 2d 476, 483 (2005); *People v. Hackett*, 2012 IL 111781, ¶ 18; *People v. Hill*, 2020 IL 124595, ¶ 14. In conducting our review, we may consider evidence presented at both the suppression hearing and trial. *People v. Almond*, 2015 IL 113817, ¶ 55.

¶ 13 The fourth amendment and article I, section 6, of the Illinois Constitution protect against unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6; *People v. Holmes*, 2017 IL 120407, ¶ 25. The fourth amendment applies to the states through the

fourteenth amendment. *People v. Hill*, 2020 IL 124595, ¶ 19. Its essential purpose is to impose a standard of reasonableness on the exercise of governmental authority, including police conduct. *People v. Jones*, 215 Ill. 2d 261, 269 (2005). The exclusionary rule serves to deter violations of those constitutional protections. *Terry v. Ohio*, 392 U.S. 1, 12 (1968).

¶ 14 Police-citizen encounters generally fall into three categories: arrests, which require probable cause; brief investigative detentions under *Terry*, which require reasonable articulable suspicion; and consensual encounters, which do not implicate the fourth amendment. *People v. Bahena*, 2020 IL App (1st) 180197, ¶ 56; *People v. Flunder*, 2019 IL App (1st) 171635, ¶ 25. Whether an investigatory stop is reasonable is judged objectively based on the facts known to the officer at the time of the stop. *People v. Nitz*, 371 Ill. App. 3d 747, 751 (2007). Applying these principles, we conclude the trial court properly denied Smith’s motion to suppress because the officers had reasonable, articulable suspicion to detain him and inspect his jacket.

¶ 15 The encounter began as a consensual one. Smith voluntarily approached the officers during Washington’s traffic stop and asked for a jacket he claimed was in the vehicle’s back seat. After Washington confirmed the jacket belonged to Smith and authorized Officer Vasquez to retrieve it, Vasquez complied. Up to that point, no search or seizure had occurred, and the fourth amendment was not implicated.

¶ 16 The encounter shifted into a lawful *Terry* stop when Vasquez, while retrieving the jacket, heard the jacket strike the interior door with a heavy thud and felt a hard, L-shaped object inside. Based on his training and experience recovering firearms, Vasquez reasonably believed the object was a gun concealed within the jacket. Unlike the officer in *People v. Flowers*, 179 Ill. 2d 257, 264-66 (1997), who admitted he frisked the defendant as a matter of routine and without any reason

to believe he was armed, Vasquez's suspicion arose from specific, objective facts encountered during the retrieval of the jacket.

¶ 17 We reject Smith's argument that Vasquez unlawfully "frisked" the jacket before developing reasonable suspicion. The video and Vasquez's testimony show that Vasquez's contact with the object was incidental to retrieving the jacket through the vehicle window. The tactile impression was not the product of a pat-down, deliberate manipulation, or exploratory search, as Smith suggests. Rather, Vasquez inadvertently felt the object's shape while performing the authorized task of retrieving Smith's jacket. Once he reasonably believed the object was a firearm, he was not required to disregard that information.

¶ 18 The officers' suspicion was further reinforced by Smith's conduct immediately thereafter. As Vasquez moved toward the front of the car with the jacket, Smith rushed toward him with an outstretched arm. When Vasquez attempted to detain him, Smith resisted and pulled away, requiring multiple officers to secure him in handcuffs. Viewed objectively and considering the circumstances already confronting the officers, Smith's conduct supported the belief that the jacket contained a firearm and that he might be armed, dangerous, or engaged in criminal activity.

¶ 19 Under these circumstances, the officers were not required to hand the jacket to Smith without further investigation. Once Vasquez reasonably suspected that the jacket contained a weapon, a limited protective search was justified to determine whether a firearm was present and to neutralize the attendant risk to the officers and others nearby. See *Terry v. Ohio*, 392 U.S. 1, 24 (1968); *Flowers*, 179 Ill. 2d at 263. Because the officers possessed reasonable, articulable suspicion before searching the jacket pocket, the trial court properly denied Smith's motion to suppress.

¶ 20 We also reject Smith's contention that the officers were required to determine whether he lawfully possessed the firearm before detaining him. See *People v. Wallace*, 2023 IL App (1st) 200917, ¶ 24 (rejecting the argument that officers were required to ascertain whether the defendant possessed a FOID card or concealed carry license before conducting a *Terry* frisk and detention). The legality of possession does not control the validity of a protective search, as the danger posed by a firearm is not necessarily diminished by lawful possession. Officers need not first investigate whether a firearm is legally possessed before securing the individual and weapon for officer safety. *People v. Colyar*, 2013 IL 111835, ¶¶ 49-51; *People v. Burns*, 2020 IL App (3d) 170103, ¶ 44. The relevant inquiry is whether the officer reasonably believed the individual was armed and dangerous or that criminal activity was afoot. Under the circumstances here, Vasquez had ample grounds for such a belief.

¶ 21 Nor do the authorities on which Smith relies compel a different result. In *People v. Walker*, 2013 IL App (4th) 120118, ¶ 38, neither officer testified that he suspected the defendant was armed and dangerous. Here, by contrast, Vasquez testified that he believed the object in Smith's jacket was a firearm and was concerned for the safety of himself and his fellow officers.

¶ 22 Likewise, in *People v. F.J.*, 315 Ill. App. 3d 1053, 1057 (2000), the officer's suspicion rested only on generalized circumstances, namely nighttime conditions, a nearby gang disturbance, a high-crime area, and the defendant's act of placing an unidentified object in his pocket. The officer had no basis to know what the object was. Here, however, Vasquez reasonably believed, based on the jacket's weight, the audible thud, and the hard, L-shaped object he felt while retrieving it, that the jacket contained a firearm. Smith's subsequent actions only reinforced that suspicion.

