UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0273

September Term, 2015

MAURICE MARKELL FELDER

v.

STATE OF MARYLAND

Kehoe,
Leahy,
Davis, Arrie W.
(Retired, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: February 23, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Maurice Felder was convicted of robbery by a jury of the Circuit Court for Montgomery County.[1] He has appealed and presents us with the following questions:

> I. Did the trial court err in denying his motion to suppress the fruits of his warrantless arrest in Washington, D.C.?
>
> II. Was there legally sufficient evidence to support his conviction?

We will affirm Felder's conviction because the trial court did not err when it denied his motion to suppress and the State presented legally sufficient evidence to the jury.

Background

On July 15, 2014, members of the Montgomery County Police Department's ("MCPD") Patrol Division were dispatched to the scene of a reported armed robbery in Silver Spring. MCPD Corporal Charles Haak met with the victim, who reported that someone with a handgun had accosted her and stolen her purse and her cellular telephone, an iPhone that featured a global positioning system which can be used to track the device if it is lost or stolen. (The application is called "Find My iPhone.") The victim described the robber as an African-American male wearing dark clothing and a mask.

With the victim's permission, Corporal Haak activated the Find My iPhone application on her iPhone and learned that the cell-phone was located a few miles away in the District of Columbia. At this time, which was approximately five to ten minutes after the robbery was reported, Corporal Haak radioed the location of the stolen cell phone to other Montgomery County police officers. Corporal Haak then drove towards the stolen

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[1]Felder was also charged with armed robbery but was acquitted.

phone's apparent location. In the meantime, Corporal Haak continued to obtain a real-time location of the stolen cell-phone via his iPad, and he continuously updated the other officers as to any changes in the cell-phone's location.

After a short time, several MCPD officers, including Corporal Haak, converged on a group of several cars one of which, based on the information gleaned from the iPad, contained the stolen cell phone. One of these vehicles was a Cadillac driven by an African-American man wearing a dark-colored shirt. Because the last "ping" received by Corporal Haak indicated that the victim's iPhone was in the Cadillac, the police concentrated their attention on that vehicle. While still in the District of Columbia, the Cadillac stopped briefly and the driver got out for a few minutes before returning to the vehicle. Corporal Haak identified the driver as Felder. The Cadillac then drove to an apartment building in Southeast Washington, where Felder again exited the vehicle. Believing that Felder was the suspect in the robbery, Corporal Haak got out of his vehicle and told Felder to stop. Instead, Felder took to his heels. By then, Corporal Haak had been joined by several other MCPD officers and they ran after Felder.

During the chase, Corporal Haak saw Felder reaching for his waistband, which Corporal Haak thought was indicative of possession of a weapon. Finally, Felder stopped running, turned, and "squared up" on the officers, at which time the officers ordered Felder,

at gunpoint, to get on the ground. Felder paused for a moment, then started running again. After another brief chase, Felder was apprehended.

The police recovered the Cadillac. Through the car's window, in plain view, the police observed a purse matching the victim's description of her stolen purse, and a subsequent search of the car confirmed that it was the victim's. In addition, the officers found a handgun in the area where Felder "squared up" during the chase. The handgun was dry, even though it had been drizzling all night. A search of Felder's person revealed the victim's credit cards, although the stolen cell phone was never recovered. The police arrested Felder approximately one hour after the victim reported the robbery.

Analysis

I. The Suppression Hearing

Felder filed a motion to suppress the evidence recovered upon his arrest on the basis that the arresting officers violated the Uniform Act on Fresh Pursuit by arresting Felder in the District of Columbia despite the fact that the robbery occurred in Maryland. Felder also argued that the police did not have probable cause to make a warrantless arrest. The trial suppression court denied the motion after an evidentiary hearing.

"In reviewing the denial of a motion to suppress evidence . . . we look only to the record of the suppression hearing and do not consider any evidence adduced at trial." *Daniels v. State*, 172 Md. App. 75, 87 (2006). "We extend great deference to the findings

of the hearing court with respect to first-level findings of fact and the credibility of witnesses unless it is shown that the court's findings are clearly erroneous." *Id*. "Moreover, we view those findings of fact . . . in the light most favorable to the State." *Id*. On the other hand, we review the court's legal conclusions *de novo*, "making our own independent constitutional evaluation as to whether the officers' encounter with Felder was lawful." *Id.* When we apply this standard of review to the record generated at the suppression hearing, we have no basis to disturb the suppression court's ultimate conclusion.

Felder first claims that the Montgomery County police officers did not have the authority to arrest him in the District. Citing the District's version of the Uniform Act on Fresh Pursuit, D.C. Code § 23-901 *et seq.*, Felder claims that the arresting officers did not have reasonable suspicion to believe that he had committed a felony, which is required before an officer can cross state lines to arrest someone. This argument is not persuasive.

The Uniform Act on Fresh Pursuit authorizes police officers from one state to enter another to arrest suspects under certain circumstances. *Bost v. State*, 406 Md. 341, 350 (2008). Under the District's version of the Act, a police officer from another jurisdiction may enter that jurisdiction when in "fresh pursuit" of someone believed to have committed a felony. D.C. Code, § 23-901. The Act's definition of "fresh pursuit" includes "the pursuit of a person who has committed a felony or one who the pursuing officer has reasonable

grounds to believe has committed a felony." D.C. Code, § 23-903. In addition, fresh pursuit "shall not necessarily imply an instant pursuit, but pursuit without unreasonable delay." *Id*.[2]

In the present case, the police officers' actions were in compliance with both the spirit and the letter of the District's Fresh Pursuit Act. Based on statements made by the victim at the scene, the officers had reasonable grounds to believe that an individual had committed a robbery, which is a felony in both the District of Columbia and Maryland. D.C. Code § 22-4502; Md. Code, Criminal Law § 3-403. Within minutes of learning of the robbery, Corporal Haak located the position of the stolen phone. He immediately relayed this information to other members of the MCPD, and, a few minutes later, the officers entered the District in pursuit of the iPhone. It was reasonable for the officers to believe that the person in possession of the stolen cell phone minutes after the robbery was the person who committed the robbery. *See Bost*, 406 Md. at 364 ("Reasonable suspicion" is a less demanding standard than probable cause, and requires merely a particularized suspicion of criminal activity.).

Felder nevertheless insists that the information gleaned from Corporal Haak's iPad was not enough to justify the officers' entry into the District, as there was no evidence that the information reported by the iPad was peculiar to the victim's cell phone. Felder's assertion is belied by the record. Corporal Haak testified that he obtained the cell-phone's

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[2]Maryland's version of the Uniform Fresh Pursuit Act is substantively identical. *See* Criminal Procedure Article § 2-204 *et seq.*

unique ID and password from the victim, which he then used to locate the phone's position. Moreover, Corporal Haak retrieved the location of the phone minutes after the robbery was reported, and the phone was shown to be only a few miles away from the scene of the robbery. Therefore, it was reasonable for Corporal Haak to suspect that the phone located by his iPad was the same phone stolen from the victim.

Once inside the District, the officers had sufficient probable cause to make a warrantless arrest of Felder for robbery. *See State v. Wallace*, 372 Md. 137, 148 (2002) (A warrantless arrest may be made when the police have probable cause to believe that the person arrested has committed a felony.). The victim told police that the robber had pressed what she believed to be a handgun into her back during the robbery. According to the information from Corporal Haak's iPad, the stolen cell phone was in the car Felder was driving. When Felder was approached by the officers, he fled, discarding a handgun in the process. *See Hoerauf v. State*, 178 Md. App. 292, 323 (2008) (discussing flight as being indicative of a consciousness of guilt). After Felder was apprehended, the officers discovered, in plain view, the victim's purse in Felder's car.[3] Taking all of these facts together, it was reasonable for the police to assume that Felder had committed the robbery. *Wallace*, 372 Md. at 148 (2002) ("[T]o justify a warrantless arrest the police must point to

[3]Felder's clothing was consistent with the suspect's description given by the victim but that description, an African-American male wearing dark clothing, was so general that it can be of very limited significance in a probable cause analysis.

specific and articulable facts which, taken together with rational inferences from those facts, reasonably warranted the intrusion.”).

Accordingly, we hold that the trial court did not err in denying Felder’s motion to suppress.

II. Sufficiency of the Evidence

Felder argues that the evidence adduced at trial was insufficient to sustain his conviction for robbery. He contends that the victim had been drinking before the robbery and could not positively identify him as the person who robbed her. Felder also asserts that there was no direct evidence that he was the person who actually committed the robbery. Felder’s claims are unpersuasive.

In reviewing whether the evidence was sufficient to support a criminal conviction, we determine “whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly convince a trier of fact of the defendant’s guilt . . . beyond a reasonable doubt.” *Taylor v. State*, 346 Md. 452, 457 (1997). This does not mean that we should weigh the evidence, nor does it mean that we should undertake “a review of the record that would amount to a retrial of the case.” *Winder v. State*, 362 Md. 275, 325 (2001). Instead, our role is to decide whether “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original).

In the present case, the victim testified at trial that she was accosted by an African-American male in dark clothes who pressed an object, which the victim believed to be a handgun, into her back and demanded money. After a brief struggle, the suspect took the victim's purse, which contained her cell phone, and ran away.

Shortly after his arrival at the scene of the robbery, Corporal Haak pinpointed the location of the victim's phone using his iPad. The police immediately went to the location of the phone, where they found Felder. When confronted, Felder took flight, discarding a handgun in the process. Although the victim's phone was never recovered, the victim's purse was found in Felder's car and the victim's credit cards were found on Felder's person. Given these circumstances, a reasonable inference can be drawn that Felder committed the robbery. *See State v Suddith*, 379 Md. 425, 447 (2004) ("Where it is reasonable for a trier of fact to make an inference, we must let them do so[.]"); *Molter v. State*, 201 Md. App. 155, 162–63 (2011) (Absent an exculpatory explanation, a fact-finder may infer that a person in possession of recently stolen items also stole them.).

Felder's assertion that the victim had been drinking prior to the incident, if believed by the jury, affected the probative weight, but not the legal sufficiency, of her testimony. *See Pryor v. State*, 195 Md. App. 311, 329 (2010). ("[W]e do not weigh the evidence or judge the credibility of the witnesses, as that is the responsibility of the trier of fact."). That the victim was unable to positively identify Felder as her assailant was not fatal to the State's

case because "[a] valid conviction may be based solely on circumstantial evidence." *State v. Smith*, 374 Md. 527, 534 (2003)).

THE JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.