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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

AARON ARREDONDO,

Defendant and Appellant.

B284959

(Los Angeles County
Super. Ct. No. LA085925)

APPEAL from the judgment of the Superior Court of Los Angeles County. Alan Schneider, Judge. Affirmed.

Christian C. Buckley, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Marc A. Kohm and Lindsay Boyd, Deputy Attorneys General, for Plaintiff and Respondent.

* * * * *

Following a plea of no contest, defendant and appellant Aaron Arredondo was convicted of one count of carrying a concealed firearm in violation of Penal Code section 25400, subdivision (a)(2). The sole issue on appeal is defendant's contention the trial court erred in denying his motion to suppress evidence pursuant to section 1538.5. We find no error in the court's ruling and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 30, 2017, Officer Jose Delgado, a 15-year veteran of the Los Angeles Police Department, was on patrol with his partner, assigned to the Van Nuys Division crime suppression detail. At that time, Officer Delgado had worked for three years as a gang enforcement officer, had attended numerous classes on gangs, and had spoken to "thousands" of gang members.

Around 4:00 p.m., Officer Delgado and his partner were in the vicinity of the 13000 block of Vanowen Street. At roll call, they had been advised of a recent assault with a deadly weapon incident in the area; an assault that was "gang-related between two gangs that [were] feuding within that area." He and his partner were "doing extra patrol in that area" because of the incident. The shooting had occurred at an apartment complex on Vanowen Street that was a "known gang location."

When Officer Delgado and his partner pulled up near the apartment complex where the shooting had occurred, Officer Delgado saw a car parked illegally in the alley. A man walked out of the apartment complex and started to approach the illegally parked car. They detained that individual. Officer Delgado then headed in the direction from which the man had come inside the building. He encountered three men, one of whom was defendant, seated in the courtyard of the building. The apartment complex, including the courtyard area, was gated private property.

Officer Delgado asked defendant and his two companions if they lived in the building. They all said no. Defendant was wearing dark, loose-fitting clothes. His two companions admitted they were both on probation, and both had tattoos that appeared gang-related.

Officer Delgado detained all three individuals on suspicion of trespassing. He asked all three individuals, including defendant, whether they had any weapons or narcotics and all said no. Officer Delgado determined that a patdown search for officer safety was warranted. When he patted on the exterior of the right front pocket area of defendant's pants, he felt a hard pistol grip. Officer Delgado recovered a handgun and placed defendant in handcuffs. Officer Delgado subsequently discovered a small quantity of methamphetamine in defendant's possession.

Officer Delgado did not have any prior contact with defendant before this detention, and he had not received any specific complaint about trespassing at that location on that afternoon.

Defendant was charged with one felony count of carrying a concealed weapon (Pen. Code, § 25400, subd. (a)(2); count 1), and one misdemeanor count of possessing a controlled substance (Health & Saf. Code, § 11377; count 2). Defendant pled not guilty to both charges.

Defendant moved, pursuant to Penal Code section 1538.5 to suppress the gun and methamphetamine recovered from him during the search, and the prosecution opposed. The hearing on defendant's motion took place on August 30, 2017. Officer Delgado testified to the above facts. The court found there was reasonable suspicion to detain based on the suspected trespassing and denied the motion.

After the motion was denied, defendant withdrew his guilty plea and pled no contest to count 1. The court advised defendant of

his rights and accepted defendant's waivers on the record. Count 2 was dismissed. The court placed defendant on three years formal probation on condition of serving 365 days in jail, less credit for 246 days. The court imposed various fines not at issue in this appeal.

This appeal followed.

DISCUSSION

In reviewing an order denying a motion to suppress pursuant to Penal Code section 1538.5, we "uphold those factual findings of the trial court that are supported by substantial evidence." (*People v. Camacho* (2000) 23 Cal.4th 824, 830.) We independently review the question whether the challenged search or seizure conformed to constitutional standards of reasonableness. (*Ibid.*) Our review is governed by federal constitutional standards. (*People v. Rogers* (2009) 46 Cal.4th 1136, 1156, fn. 8; *People v. Chung* (2010) 195 Cal.App.4th 721, 727.)

Law enforcement officers may reasonably stop and detain individuals without offending the Fourth Amendment where there are facts supporting an objectively reasonable suspicion that criminal activity has or is about to occur. (*Terry v. Ohio* (1968) 392 U.S. 1, 30-31.) "[W]hen circumstances are 'consistent with criminal activity,' they permit--even demand—an investigation" [Citation.] A different result is not warranted merely because circumstances known to an officer may also be 'consistent with lawful activity.'" [Citation.] As we said: "The possibility of an innocent explanation does not deprive the officer of the capacity to entertain a reasonable suspicion of criminal conduct. Indeed, *the principal function of [police] investigation is to resolve that very ambiguity and establish whether the activity is in fact legal or illegal . . .*" (*People v. Souza* (1994) 9 Cal.4th 224, 233, italics added (*Souza*).)

In reviewing whether there was reasonable suspicion for a detention, courts must consider the totality of circumstances confronting the detaining officer. (*United States v. Arvizu* (2002) 534 U.S. 266, 273.) The Supreme Court explained that “[t]his process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that ‘might well elude an untrained person.’” (*Ibid.*; accord, *People v. Parrott* (2017) 10 Cal.App.5th 485, 495; *People v. Limon* (1993) 17 Cal.App.4th 524, 532 (*Limon*) [“A police officer’s expertise can attach criminal import to otherwise innocent facts.”].)

Numerous factors may be relevant to the inquiry. “An area’s reputation for criminal activity is an appropriate consideration in assessing whether an investigative detention is reasonable under the Fourth Amendment.” (*Souza, supra* 9 Cal.4th at p. 240.) “ ‘ “That an area involved increased gang activity may be considered if it is relevant to an officer’s belief the detainee is armed and dangerous. While this factor alone may not justify a weapon search, combined with additional factors it may.” ’ ” (*Limon, supra*, 17 Cal.App.4th at p. 534.) “[T]he wearing of baggy clothing, coupled with other suspicious circumstances” may furnish the requisite facts to support a patdown search. (*People v. Collier* (2008) 166 Cal.App.4th 1374, 1377, fn. 1.)

Here, the facts attested to by Officer Delgado justified a detention based on the suspected trespass and a brief patdown search for officer safety. The motion to suppress was properly denied.

Indeed, there are more facts here to support reasonable suspicion than were found adequate in *People v. Conway* (1994) 25 Cal.App.4th 385. There, the detaining officer had received a report of a burglary in progress in the neighborhood in which he was on

patrol, but he was not given a description of the suspects or whether they were on foot or in a car. Nevertheless, the court found the officer's detention of two individuals in a car was justified, explaining as follows: "Less than two minutes after receiving the report of a burglary in progress, [the officer] saw a car leaving the area of the reported burglary. The time was approximately 3 a.m., and the officer saw no one else in the area. Under the circumstances, it was objectively reasonable for the officer to suspect the car's occupants were involved in the burglary. [Citations.] [¶] We recognize that driving in a residential area early in the morning is consistent with lawful activity. 'But the possibility that the circumstances are consistent with lawful activity does not render a detention invalid, where the circumstances also raise a reasonable suspicion of criminal activity. The public rightfully expects a police officer to inquire into such circumstances; indeed the principal function of the investigative stop is to resolve that ambiguity.' " (*Id.* at p. 390.)

DISPOSITION

The judgment of conviction is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

ROGAN, J.*

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.