

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 12/4/2012
RUTH A. WILLINGHAM,
CLERK
BY: mjt

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 11-0556
)
Appellee,)
) DEPARTMENT D
v.)
)
PATRICK JAMES BEAMAN,) **MEMORANDUM DECISION**
) (Not for Publication -
Appellant.) Rule 111, Rules of the
) Arizona Supreme Court)
)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-007959-001

The Honorable Kristin C. Hoffman, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals/Capital Litigation Section
and Matthew H. Binford, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Appellate Defender Phoenix
By Christopher V. Johns, Deputy Public Defender
Attorney for Appellant

K E S S L E R, Judge

¶1 Patrick James Beaman ("Beaman") appeals from the superior court's order denying his motion to suppress evidence. For the following reasons, we affirm the superior court's order.

FACTUAL AND PROCEDURAL HISTORY

¶2 On May 18 2010, Officers K, D, L, and T responded to an emergency call to check on the welfare of Beaman's wife. An AT&T employee made the emergency call to report that Beaman had called and claimed he had blown his wife's head off. Upon arriving at Beaman's home, Officers T, L, and K approached the front door, while Officer D took a position near the garage. Because the garage was connected to the home, the windows on the garage door offered a limited view into the home. At the front of the home, the officers could see into the home through glass panels on the front door. From these positions, the officers did not notice signs of a struggle inside the home.

¶3 After an officer knocked on the door, Beaman met the officers at the door, but he did not open the door. Through the door, Officer K told Beaman it would be necessary to check his house for an injured person based on the emergency call. Beaman appeared "extremely angered" and "agitated," he used profanities toward the officers, and he punched a glass pane of the front door. During the encounter, Beaman told the officers that he would not let them in his home and to leave his property.

¶14 For five to ten minutes, the officers spoke to Beaman through the door. Generally, the officers felt uncertain about entering the house without a warrant. As a result, the officers continued to gather information. Eventually, Beaman provided a phone number with which he suggested the officers could contact his wife. Both Officers L and K called the phone number, but the calls went to voicemail. Beaman next told the officers that they needed to get off his property or something bad was going to happen. Seconds later, while looking through the garage windows, Officer D saw Beaman holding a gun in the garage area. Specifically, Officer D saw Beaman walk toward the area where Officers T and L were standing with a pistol in his right hand parallel to the ground.

¶15 After D reported the gun sighting over the radio, all of the officers took cover. A few minutes later, Beaman exited the garage area and walked toward Officer K. Officer T yelled to Beaman instructing him to put his hands up and get down on the ground, but Beaman continued walking. Because Beaman did not respond to commands, three officers detained Beaman. After detaining Beaman, the officers did not find a gun on Beaman. In total, the encounter lasted twelve minutes.

¶16 Officer K performed a protective sweep of the home.¹ In a subsequent search, police located loaded guns in the home including the pistol Beaman had pointed toward the officers. The State charged Beaman with disorderly conduct based on Officer D's observation of Beaman pointing a gun toward the other officers. In addition, the State charged Beaman with resisting arrest and threatening or intimidating.

¶17 Beaman filed a motion to suppress evidence alleging that the officers' observations constituted an unreasonable search in violation of the Fourth Amendment. At the suppression hearing, Beaman only testified that he lived at the home that the officers searched to meet standing requirements. After hearing arguments, the superior court denied the motion based on the officers' testimony about the emergency call, Beaman's demeanor, and the officers' inability to verify the wife's welfare.

¶18 The jury found Beaman guilty of Count 1, disorderly conduct, a class 6 felony and a dangerous offense, and Count 3, threatening or intimidating, a class 1 misdemeanor pursuant to Arizona Revised Statutes ("A.R.S.") sections 13-1202 (2010), - 2904 (2010). On Count 2, resisting arrest, the jury found Beaman not guilty. The superior court ordered a mitigated

¹ Beaman's wife arrived while the officers were attempting to detain Beaman. At this point, Officer K was inside the home performing the protective sweep.

sentence of two years' imprisonment and community supervision² for Count 1 and a sentence of time served prior to sentencing for Count 3.

¶9 Beaman timely filed a notice of appeal. This Court has jurisdiction under Article 6, Section 9, of the Arizona Constitution and A.R.S. §§ 12-120.21(A)(1) (2003), 13-4031 (2010), and -4033(A)(1) (2010).

STANDARD OF REVIEW

¶10 We review a trial court's ruling on a motion to suppress "for abuse of discretion if it involves a discretionary issue, but review constitutional issues and purely legal issues *de novo*." *State v. Gay*, 214 Ariz. 214, 217 ¶ 4, 150 P.3d 787, 790 (App. 2007). When reviewing the ruling, "we review only the evidence presented at the hearing on the motion to suppress, and we view it in the light most favorable to sustaining the trial court's ruling." *Id.* (internal citations omitted); see Ariz. R. Crim. P. 31.13(c)(1)(iv).

DISCUSSION

¶11 Beaman argues that the superior court erred in denying the motion to suppress evidence. Beaman claims that the court should have suppressed testimony on the officers' observations of Beaman holding a gun because these observations constituted

² A.R.S § 13-603(I) (2010) requires community supervision to be served consecutively with the term of imprisonment.

an unreasonable search. Specifically, Beaman claims that Officer D's observations while looking through the garage windows constituted an unreasonable search because exigent circumstances were not present to justify Officer D's warrantless search and Beaman had ordered the police off his property. As a result, he argues the search violated the Fourth Amendment.

¶12 First, Beaman points to the officers' subjective belief that they did not have sufficient evidence to justify a warrantless entry into the home. Secondly, Beaman argues, other than the emergency call, there was no evidence of exigent circumstances. Based on the officers' subjective belief and lack of evidence, Beaman argues that exigent circumstances were not present.

¶13 The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. "[S]earches conducted outside the judicial process . . . are *per se* unreasonable under the Fourth Amendment—subject . . . to a few . . . exceptions." *Mincey v. Arizona*, 437 U.S. 385, 390 (1978) (citation omitted). One well-recognized exception is when "'the exigencies of the situation' make the needs of law enforcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment." *Id.* at 394 (citation omitted). When police reasonably believe that a person within a

dwelling is in need of aid, warrantless searches and entries are reasonable. *Id.* at 392-93. A search is reasonable "regardless of the individual officer's state of mind, as long as the circumstances, viewed *objectively*, justify the [search]." *Brigham City v. Stuart*, 547 U.S. 398, 404 (2006) (citation and internal punctuation omitted).

¶14 Additionally, when police respond to emergency calls, "the business of policeman . . . is to act, not to speculate or meditate on whether the report is correct." *State v. Sainz*, 18 Ariz. App. 358, 361, 501 P.2d 1199, 1202 (1972). Thus, "officers should be allowed sufficient freedom in performing their duties to protect the safety of the public." *Id.* at 360, 501 P.2d at 1201 (holding that exigent circumstances justified a search after a person at the home assured the police officers that everything was fine). Specifically, "[p]olice officers must not be doubted because they exercise caution and take the time to evaluate the need for a warrantless entry." *State v. Fisher*, 141 Ariz. 227, 238, 686 P.2d 750, 761 (1984).

¶15 Given the cumulative circumstances, the search was reasonable because the officers could have objectively believed Beaman's wife was in need of aid. At the time, the officers were responding to an emergency call resulting from Beaman's claim that he had blown his wife's head off. When the officers arrived, Beaman confirmed that he made such a claim. From the

confirmation, the officers knew they that were investigating the proper residence and that the call was not baseless. While the officers could not see blood or overturned furniture from the front windows, there were areas of the home that officers could not see. Beaman's injured wife possibly could have been in one of these areas. Adding to the officers' concern, Beaman acted "agitated" and "angered," punched a pane of glass, and used profanities toward the officers. As a result of Beaman's aggressive behavior, the officers cautiously observed the home through windows to further assess the situation.

¶16 Although Beaman eventually provided a phone number to contact his wife, the officers' calls went to voicemail. Similar to *Sainz*, the officers only had a potential assailant's statement that everything was fine. See *Sainz*, 18 Ariz. App. at 360, 501 P.2d at 1201. The officers' continued search through the windows of the home was merely a performance of their duty to ensure the wife's safety. From these facts, the officers had an objectively reasonable basis that someone in the home needed aid, justifying the officers' search of the home by looking

through the garage window.

CONCLUSION

¶17 For the foregoing reasons, we affirm the superior court's order denying the motion to suppress evidence and Beaman's convictions and sentences.

/S/

DONN KESSLER, Judge

CONCURRING:

/S/

MICHAEL J. BROWN, Presiding Judge

/S/

ANDREW W. GOULD, Judge