STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WENDELL SHANE MACKEY,

Defendant-Appellant.

UNPUBLISHED
June 16, 1998

No. 187597
Lenawee Circuit Court
LC Nos. 93-005988 FH;
93-005989 FH;
93-005990 FH;
93-005991 FH;
93-005992 FH

Before: Sawyer, P.J., and Kelly and Smolenski, JJ.

PER CURIAM.

Defendant conditionally pleaded guilty to four counts of breaking and entering a building with intent to commit larceny, MCL 750.110; MSA 28.305, and one count of possession of burglar's tools, MCL 750.116; MSA 28.311, in exchange for the dismissal of several other charges. He was sentenced to concurrent terms of 80 to 120 months' imprisonment for each conviction, to be served consecutively to other sentences that he was still serving while on parole. Defendant waived the right to appeal all issues except certain search and seizure issues, which he now appeals as of right. We affirm.

Defendant argues that the trial court clearly erred in denying his motion to suppress because it relied on post hoc facts as justification for the stop and measured the constitutionality of the stop under the wrong standard, and because there was no reasonable suspicion justifying the stop. Defendant further argues that the police officer's safety justification for the pat-down search was a mere pretext, and that the *Terry*[1] stop was overbroad because he had no obligation to identify himself, the police conducted an inventory search during the stop, went looking for evidence of other crimes, and refused to pursue less intrusive ways of ascertaining defendant's identity. Additionally, defendant claims that the inventory search of his vehicle was illegal because the prosecution failed to prove the existence and parameters of an inventory search policy, and because the vehicle was inventoried twice even though it

had not been abandoned. Lastly, defendant claims that there was no valid consent to the search of his room. We disagree.

We find that the trial court did not justify the stop with post hoc facts and that it used the appropriate legal standard. We further find that the police officer had a particularized suspicion to ask defendant for identification. *People v Shabaz*, 424 Mich 42, 54, 57, 59; 378 NW2d 451 (1985); *People v Burrell*, 417 Mich 439, 451 n 18; 339 NW2d 403 (1983). The record does not indicate that defendant refused to identify himself, as he now claims. Rather, he confirmed and increased the officer's suspicions by his failure, or inability, to produce proper identification, thereby justifying his continued detention. *Burrell*, *supra* at 456-459. The officer's safety concern was not pretextual.

Further, once defendant produced a false driver's license (thereby committing a misdemeanor), the police officer had probable cause to arrest him. See MCL 764.15(1)(a); MSA 28.874(1)(a) (may arrest without a warrant for misdemeanor committed in officer's presence). Thus, defendant was being validly detained when he fled the scene. Although an officer left the scene to investigate another crime before defendant fled, probable cause to arrest already existed, so the officer's conduct did not result in defendant's continued detention. Compare *People v Bryant*, 135 Mich App 206, 212-213; 353 NW2d 480 (1984).

Because there was probable cause to arrest defendant, the driver and passenger compartments of his vehicle were properly searched, even if defendant was not yet under arrest. *People v Champion*, 452 Mich 92, 115-116; 549 NW2d 849 (1996). Further, once defendant fled, his vehicle was properly subjected to an inventory search. *People v Toohey*, 438 Mich 265, 276, 278-279, 284-285; 475 NW2d 16 (1991). Defendant failed to challenge the officers' testimony that the car was searched in accordance with official police department policy.

When evidence connecting defendant to various break-ins was discovered at various crime scenes and at his home, his car was properly searched more thoroughly for evidence. *People v Armendarez*, 188 Mich App 61, 67; 468 NW2d 893 (1991); *People v Dinsmore*, 166 Mich App 33, 38-39; 420 NW2d 167 (1988), vacated on other grounds 430 Mich 894 (1988). Because police were not acting illegally, the trial court did not err in finding that defendant abandoned his car when he fled the scene. Compare *Shabaz*, *supra* at 66-67 (abandonment cannot purge taint of illegal police behavior). The car was lawfully impounded and searched.

Lastly, defendant's room and the common areas at his mother's home were properly searched by defendant's parole officer, in substantial compliance with parole regulations, because there was reasonable cause to believe that defendant violated his parole. See *Griffin v Wisconsin*, 483 US 868, 871-880; 107 S Ct 3164; 97 L Ed 2d 709 (1987); see also 1988 AACS, R 791.7735. Any error in failing to file the report required by Regulation 735 was harmless. *Bumper v North Carolina*, 391 US 543, 550; 88 S Ct 1788; 20 L Ed 2d 797 (1968).

Affirmed.

/s/ David H. Sawyer
/s/ Michael J. Kelly
/s/ Michael R. Smolenski

[1] *Terry v Ohio*, 392 US 1, 21; 88 S Ct 1868; 20 L Ed 2d 889 (1968).