STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 5, 1999
v	No. 211081 Muskegon Circuit Court
SHANTRELL GARDNER, Defendant-Appellant.	LC No. 97-140854 FH

Before: McDonald, P.J., and Neff and Smolenski, JJ.

PER CURIAM.

Defendant was convicted of carrying a concealed weapon, MCL 750.227; MSA 28.424, and sentenced to a term of two to five years' imprisonment. Defendant appeals as of right. We affirm.

I

Defendant first argues that the trial court erred in refusing to suppress evidence of the handgun on the basis that the gun was secured in violation of his state and federal right to be free from unreasonable seizures. US Const, Am IV; Const 1963, art 1, § 11.[1] The trial court held a suppression hearing where defendant unsuccessfully argued that the gun was discovered as a result of an illegal arrest. On appeal, defendant renews this argument, contending that his arrest without a warrant was unconstitutional because the police did not have probable cause to arrest him.

This Court reviews a trial court's findings of fact in deciding a motion to suppress for clear error, but reviews de novo the trial court's ultimate decision regarding a motion to suppress. *People v Powell*, 235 Mich App 557, 560; ___ NW2d ___ (1999).

"A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment." *People v Champion*, 452 Mich 92, 115; 549 NW2d 849 (1996). "A police officer may arrest an individual without a warrant if a felony has been committed and the officer has probable cause to believe that the individual committed the felony." *People v Kelly*, 231 Mich App 627, 631; 588 NW2d 480 (1998); MCL 764.15(c); MSA 28.874(c). "In reviewing a challenged

finding of probable cause, [this Court] must determine whether the facts available to the arresting officer at the moment of arrest would justify a fair-minded person of average intelligence in believing that the suspected individual had committed the felony." *Kelly*, *supra* at 631, citing *People v Oliver*, 417 Mich 366, 374; 338 NW2d 167 (1983). "The standard is one of objective reasonableness without regard to the underlying intent or motivation of the officers involved." *People v Holbrook*, 154 Mich App 508, 511; 397 NW2d 832 (1986).

In this case, the record reveals that the officers presented substantial evidence from which it was possible to identify defendant as the perpetrator of an armed robbery and shooting that had occurred ten days before the present incident. The testimony of the detective investigating the matter established that several witnesses had positively identified defendant as either being the perpetrator or being present near the scene immediately before and after the robbery. In addition, the officer had interviewed another individual who said that defendant had boasted of committing the crime. "Probable cause requires only a probability or substantial chance of criminal activity, not an actual showing of criminal activity." *People v Lyon*, 227 Mich App 599, 611; 577 NW2d 124 (1998). Given the abundance of information linking defendant to the robbery, we find that the officers had probable cause on which to base defendant's warrantless arrest.

II

Defendant also appears to argue that because the arresting officer did not himself have personal knowledge of the facts underlying the investigating officer's request to apprehend defendant, the arrest was constitutionally invalid. This argument lacks merit.

Initially, we note that at the hearing on the motion to suppress, the arresting officer testified that the detective who requested defendant's arrest had informed him that one of the robbery victims positively identified defendant as the perpetrator. This knowledge alone was likely sufficient for probable cause to arrest defendant on suspicion of the robbery.

That notwithstanding, under the "police team" theory of probable cause, the additional factual knowledge held by the investigating officer may be imputed to the arresting officer. *People v Dixon*, 392 Mich 691, 696-699; 222 NW2d 749 (1974) (collective perceptions of officers working on a case may be combined to satisfy the presence requirement for a misdemeanor arrest); *People v Mackey*, 121 Mich App 748, 753-754; 329 NW2d 476 (1982) (information from a fellow officer may properly be used as the basis of a warrant affidavit); *United States v McManus*, 560 F2d 747, 750 (CA 6, 1977) (probable cause for arrest may rest upon the collective knowledge of the police, rather than solely on that of the officer who actually makes the arrest).

In this case, the arresting officer was acting on the basis of both his limited personal knowledge of the factual basis underlying probable cause to believe defendant was the armed robbery perpetrator, as well as the facts uncovered by the investigating officer through his initial investigation of the crime. As such, the arrest was properly based upon probable cause and admission of the gun into evidence was not error.

III

Next, defendant argues that he was illegally arrested solely for questioning. "[A]n arrest for questioning [is] an illegal police practice long condemned by the United States Supreme Court and the appellate courts of this state." *Kelly*, *supra* at 633. However, based upon our finding that the officers possessed probable cause to effect an arrest of defendant as a suspect in the armed robbery, we find the arrest was proper. See, e.g., *People v Cook*, 153 Mich App 89, 91; 395 NW2d 16 (1986); see also *Kelly, supra* at 633 ("an officer's characterization of an arrest is not determinative of its legality").

Affirmed.

/s/ Gary R. McDonald
/s/ Janet T. Neff
/s/ Michael R. Smolenski

[1] Defendant presents this same argument in a separate appeal to this Court, Docket No. 208426, on the same facts. Our resolution is identical in both cases.