

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERIC DAMEN WILLIS,

Defendant-Appellant.

UNPUBLISHED

July 15, 2008

No. 278739

Wayne Circuit Court

LC No. 06-001388-01

Before: Saad, C.J., and Fort Hood and Borrello

PER CURIAM.

Defendant was convicted, following a bench trial, of felon in possession of a firearm, MCL 750.224f, possession of a firearm during the commission of a felony, second offense, MCL 750.227b, and carrying a concealed weapon, MCL 750.227(2). He was sentenced to five years' imprisonment for the felony-firearm conviction, and three years' probation for the remaining convictions. He appeals as of right. We affirm.

Defendant's sole issue on appeal is that the police lacked reasonable suspicion to stop him and thus the trial court erred in denying his motion to suppress the evidence. This Court reviews a trial court's factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Marcus Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The application of the exclusionary rule is a question of law that is reviewed de novo. *People v Custer*, 465 Mich 319, 326; 630 NW2d 870 (2001).

The evidence showed that police officers Carlos Collins and Julian Sage were on patrol on the night of January 16, 2006, when they were dispatched to assist other officers investigating a report of shots fired. The officers were in plain clothes but had their badges displayed and were driving a semi-marked car. As they were driving along West Outer Drive approaching the intersection at Greydale, which was about two blocks from their destination, they saw defendant riding a bicycle south on Greydale; the bicycle was not equipped with any lights, which is a civil infraction. As the officers approached the intersection, defendant suddenly turned around and started heading north. The officers turned to follow him and he started pedaling faster. They pulled up beside defendant and, after Collins identified himself as a police officer, they asked him to stop. Defendant slowed, dismounted his bicycle, and ran up to the porch of a nearby house, which turned out to be his own. As he ran to the porch, he was clutching his right pocket. Collins ran after defendant, detained him, and patted him down. At the same time, Sage asked

defendant if he had “anything that you shouldn’t have” and defendant stated that he had a gun in his right coat pocket. Collins removed the gun, which was loaded.

“The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures.” *People v Kazmierczak*, 461 Mich 411, 417; 605 NW2d 667 (2000). An investigatory stop, which is limited to brief, nonintrusive detention, constitutes a Fourth Amendment seizure. *People v Bloxson*, 205 Mich App 236, 241, 249; 517 NW2d 563 (1994), lv den 447 Mich 1040 (1994). A police officer may briefly stop and detain a person to investigate possible criminal activity if he has a reasonable suspicion based on specific and articulable facts that the person detained has committed or is committing a crime. *People v Shankle*, 227 Mich App 690, 693; 577 NW2d 471 (1998). Defendant’s unprovoked flight at the sight of the police is a factor contributing to a finding of reasonable suspicion. *People v Oliver*, 464 Mich 184, 197; 627 NW2d 297 (2001). Further, riding a bike at night without a headlight is a civil infraction. MCL 257.662(1) and (6). A police officer who witnesses the commission of a civil infraction may stop and detain the person temporarily to issue a written citation. MCL 257.742(1). Because “the civil infraction provided a legitimate reason to stop the defendant, the fact that the [officers] may have had additional reasons which, if isolated, would not justify a stop, is irrelevant.” *People v Laube*, 154 Mich App 400, 407; 397 NW2d 325 (1986). Therefore, the trial court did not err in concluding that the stop was lawful.

Affirmed.

/s/ Henry William Saad

/s/ Karen M. Fort Hood

/s/ Stephen L. Borrello