STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED August 21, 2008
v	No. 278878 Washtenaw Circuit Court
IFILL ST. AMIE, Defendant-Appellant.	LC No. 06-000263-FH

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Defendant appeals by right his bench-trial conviction of carrying a concealed weapon, MCL 750.227. He was sentenced to an 18-month term of probation. We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

Police officers, responding to a "be on the lookout" following a shooting, located the shooting suspect's vehicle parked in a residential area. Officers observed the vehicle from two locations near one of the nearby houses. Defendant, who matched the description of the shooter as a black male, exited one of the houses and began walking away from the residence. Defendant did not flee as officers approached. He complied with their instructions, stopped, and placed his hands on his head. The officers stopped defendant to determine if he was involved in the shooting. The stop occurred less than 30 minutes after the shooting, and less than five miles from the location of the shooting. Officers performed a *Terry*[1] search and found a firearm concealed in defendant's clothing.

Defendant's sole argument on appeal is that the stop and search violated his right to be free from unreasonable searches and seizures, and that the firearm obtained from the search therefore should have been suppressed. We disagree.

We review a trial court's findings of fact on a motion to suppress for clear error, and review the ultimate decision de novo. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997).

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

"The Fourth Amendment prohibits 'unreasonable searches and seizures' by the Government, and its protections extend to brief investigatory stops of persons . . . that fall short of traditional arrest." *United States v Arvizu*, 534 US 266, 273; 122 S Ct 744; 151 L Ed 2d 740 (2002). In such cases, the Fourth Amendment is satisfied when an officer's actions are "supported by reasonable suspicion to believe that criminal activity '"may be afoot,"'" or "'by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.'" *Id*. (citations omitted); see also *Terry v Ohio*, 392 US 1, 30; 88 S Ct 1868; 20 L Ed 2d 889 (1968). The police must rely on specific and articulable facts, and reasonable inferences therefrom, that justify the intrusion. *Terry*, *supra* at 21. Upon making a *Terry* stop, police officers may conduct a limited search of the person detained that is "reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer." *Id*. at 29. On review, the courts must look to the "totality of the circumstances" and must give "due weight" to factual inferences made by law enforcement officers. *Arvizu*, *supra* at 273-274.

Defendant correctly asserts that police cannot justify a stop based solely on a factor such as presence in an area of high crime, presence of a car in front of a particular residence, or identification solely by gender and race. However, defendant's argument on appeal ignores the totality of the circumstances at issue here. The police were justified in their reasonable suspicion that defendant might have been involved in the recent shooting based on a combination of facts that came together contemporaneously. The shooting occurred less than 30 minutes earlier, the shooting suspect's vehicle was found parked in a residential area less than five miles away from the crime scene, and defendant exited one of the houses in front of which that very vehicle was parked. Moreover, defendant matched the limited description of the shooter that had been made available to the officers—he was a black male. In view of the totality of the circumstances, and on the particular facts of this case, we must conclude that the police were justified in briefly detaining defendant to ascertain whether he had been involved in the shooting and in briefly searching defendant to determine whether he was armed with "hidden instruments for the assault of the police officer." See *Terry*, *supra* at 29-30.

Viewing the totality of the circumstances and affording due weight to the police officers' factual inferences in this case, *Arvizu*, *supra* at 273-274, we perceive no error in the brief detention and protective search of defendant. The trial court did not clearly err by determining that the officers had specific and reasonable justifications to detain and search defendant. *Darwich*, *supra* at 637. Accordingly, the trial court properly declined to suppress the evidence obtained from the protective search. See *People v Wallin*, 172 Mich App 748, 751; 432 NW2d 427 (1988). We affirm defendant's resulting conviction of carrying a concealed weapon.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly