STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1691

State of Minnesota,
Respondent,

vs.

Christopher Edward Coleman,
Appellant.

Filed August 17, 2020
Affirmed
Florey, Judge

Mower County District Court
File No. 50-CR-18-59

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Kristen Nelsen, Mower County Attorney, Megan Burroughs, Assistant County Attorney, Austin, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Reilly, Judge; and Florey, Judge.

U N P U B L I S H E D O P I N I O N

FLOREY, Judge

Appellant challenges his conviction, following a stipulated-facts trial, for possessing a firearm as a prohibited person. He argues that (1) the district court erred by

finding that he provided police with valid voluntary consent to search his apartment and denying his motion to suppress evidence revealed by that search and (2) that the state's case was founded primarily on the testimony of an accomplice for which the state lacked sufficient corroborating evidence. We affirm.

FACTS

On January 7, 2018, appellant Christopher Coleman and his girlfriend, Samantha Bennett, were driving back to Coleman's apartment after picking up another individual, Kaira Green, from a local store. Coleman stated that he intended to show Green the aftermath of a burglary of his apartment unit that occurred earlier that day. Upon parking in the driveway of his building, Coleman left his vehicle running and entered the building with Bennett and Green. Once they were inside, Coleman heard two car doors slam closed and turned to see his car backing out of the driveway. Coleman ran out towards the vehicle and claimed that he heard gunshots, at which point he turned and went back into the building. By the time Coleman returned, Bennett was on the phone with 911 operators. Green and Bennett would both later report to police that they also heard gunshots after Coleman ran outside. After the vehicle had left the property, Coleman asserts that he went back outside and ran after it, that he followed a pedestrian he suspected to be involved in the theft of his vehicle, and that he made it about one block away from his house before flagging down the squad car that was responding to Bennett's 911 call.

The responding officers brought Coleman back to his building and "froze" the scene—informing Coleman, Green, and Bennett that they could not leave until they gave a statement to the detective assigned to the case. Coleman asserts that he overheard

conversations between the officers suggesting that they did not completely believe his story. Later, at the officers' request, Coleman agreed to go to the police station to be interviewed by the detective. Coleman was handcuffed in the squad car, but he was not told that he was under arrest, and the district court found that he was handcuffed pursuant to standard transportation procedure. When Coleman arrived at the police station, he was led to an interview room, and the handcuffs were removed.

The investigation of the scene revealed several 9-millimeter shell casings outside of Coleman's building. The police also recovered Coleman's car and observed that two windows had been shattered and that there were three bullet holes in the back body of the car consistent with 9-millimeter bullets.

During Coleman's interview, the detective requested permission for the officers at the scene to search Coleman's apartment—explaining his desire to rule out the possibility that Coleman had any involvement in the shooting. The detective testified that Coleman was not, at that time, considered a suspect, and that he sought the search because he believed "something . . . was still missing"—pointing to the fact that there were bullet holes on the outside of the vehicle which could not have been made by the driver. After Coleman initially provided an ambiguous answer, the detective asked for clarification, whereupon Coleman consented to the search. The search of Coleman's apartment revealed a 9-millimeter handgun hidden in the laundry room of Coleman's building. The parties would eventually stipulate that after Coleman's retreat to the building following the gunshots, he handed Bennett the gun that police discovered and told her to hide it.

The state charged Coleman with unlawful possession of a firearm in violation of Minn. Stat. § 609.165, subd. 1b(a) (2016). Later, the state amended the complaint to add three additional charges, including attempted murder and assault. The state dropped the later-added charges after Coleman assented to a stipulation agreement with the state and agreed to waive his right to jury trial pursuant to rule 26, subdivision 3. Before trial, Coleman filed a motion to suppress the handgun found in his apartment, which the district court denied following a contested omnibus hearing. After argument, the district court issued a judgment of conviction against Coleman. Coleman appeals.

D E C I S I O N

I. Consent

Coleman first argues that the consent to search his residence he ostensibly gave to the detective was involuntary and therefore invalid. The search, he argues, violated his Fourth Amendment right against unreasonable search and seizure, and accordingly, the handgun should have been suppressed.

Police searches conducted in the absence of a warrant are usually per se unreasonable, but an exception is made where the owner of the property to be searched voluntarily consents. *State v. Hanley*, 363 N.W.2d 735, 738 (Minn. 1985). This court reviews a district court's finding on the voluntariness of consent for clear error. *State v. Alayon*, 459 N.W.2d 325, 330 (Minn. 1990). The issue is one of fact and requires an analysis of the totality of the circumstances which seeks to ascertain whether, in obtaining consent, the conduct of the police was coercive. *Id.* (citing *Schneckloth v. Bustamonte*, 412 U.S. 218, 227-28, 93 S. Ct. 2041, 2047-48 (1973)). "Whether consent was voluntary is

determined by examining the totality of the circumstances, including the nature of the encounter, the kind of person the defendant is, and what was said and how it was said." *State v. Harris*, 590 N.W.2d 90, 102 (Minn. 1999) (quotation omitted).

In arguing that the totality of the circumstances in this case reveal that his consent was involuntary, Coleman cites the following: (1) the fact that he and the others were told that they could not leave the scene until the detective assigned to the case got a statement from them; (2) the fact that he was handcuffed for his transport to the police station; (3) the fact that the detective did not tell him he was free to leave the interview, to not answer the detective's questions, or to refuse to consent to the search; (4) his assertion that the detective's reason for requesting search was untruthful because Coleman was in fact a suspect; and (5) his assertion that the officers at the scene did not believe his story. Ultimately, Coleman argues that these circumstances displayed an exercise of law enforcement's authority, and that "the full weight of law enforcement's authority" suggests that one is not or would not feel free to terminate the encounter.

As the district court noted, the extent to which a defendant feels free to terminate the encounter with law enforcement is pertinent to the issue of voluntariness. *See Florida v. Bostick*, 501 U.S. 429, 436, 111 S. Ct. 2382, 2387 (1991). With respect to Coleman being kept at the scene, we agree with the district court that "the police must have some authority to freeze the situation," and that it was not unreasonable for them to do so in this case. *Appelgate v. Comm'r of Pub. Safety*, 402 N.W.2d 106, 108 (Minn. 1987). "[E]ven if the circumstances are such that no one person can be singled out as the probable offender, the police must sometimes be allowed to take some action intermediate to that of arrest and

nonseizure activity." *Id.* The district court noted (1) that Coleman specifically asked whether he was under arrest and the officers responded that he was not and (2) that Coleman and the others were only kept at the scene for approximately 30 minutes.

Coleman contends also that the police officers and detective suspected him of being involved in this crime. He claims to have overheard police officers discussing their suspicion of him and points to the detective's statement that he wanted to "rule out" Coleman. It is true that an officer's suspicions can be relevant to whether the person being questioned would feel free to leave. *Stansbury v. California*, 511 U.S. 318, 324-25, 114 S. Ct. 1526, 1529-30 (1994). However, this is true only to the extent that those suspicions are communicated to the individual being questioned "by word or deed," and "only to the extent they would affect how a reasonable person in the position of the individual . . . would gauge the breadth of his or her freedom of action." *Id.* at 325 (quotation omitted). At most, under the circumstances of this case, the detective's statement would amount to only an ambiguous hint that he suspected Coleman of any wrongdoing. Moreover, "[e]ven a clear statement from an officer that the person under interrogation is a prime suspect is not, in itself, dispositive . . . for some suspects are free to come and go until the police decide to make an arrest." *Id.* This was not only true of Coleman in this case, but also would have been clear to a reasonable person in his situation. While the detective did not explicitly tell Coleman that he was free to leave, Coleman voluntarily agreed to meet with the detective; he was explicitly told that he was not under arrest; the detective testified that the doors out of the interview room and police station were unlocked; and while Coleman was handcuffed for the transportation, he was not handcuffed in the police station. While

Coleman argues that he did not believe the officers, that he did not feel free to refuse to meet with the detective, and that he did not feel free to end the interview, we cannot say that the district court's finding that a reasonable person would have felt free to leave is clearly erroneous.

In sum, Coleman argues not that the district court erred in its interpretation or application of law. Rather, Coleman disagrees only with the court's conclusion that the circumstances of this case would not have caused him to feel as if he was unable to terminate the encounter. While certain circumstances of the totality may weigh in favor of Coleman's position, they are not so strong as to permit us to conclude that the district court clearly erred.

II. Corroboration of accomplice testimony

Because Coleman stipulated to a court trial pursuant to subdivision 3 of rule 26.01, he argues also that Bennett was an accomplice to the crime for which he was convicted, that the district court erred in concluding otherwise, and that the state lacked sufficient corroborating evidence of her testimony to satisfy the requirements of Minn. Stat. § 634.04. (2018) ("A conviction cannot be had upon the testimony of an accomplice, unless it is corroborated by such other evidence as tends to convict the defendant of the commission of the offense."). We disagree.

"If the question of whether a witness is an accomplice is disputed or subject to differing interpretations, then the issue is one of fact . . . ." *State v. Pendleton*, 759 N.W.2d 900, 907 (Minn. 2009). Coleman asserts that Bennett was an accomplice under two different theories, the first of which is that she was charged with and convicted of the same

crime. "The test for determining if a witness is an accomplice is whether the witness could have been indicted and convicted for the crime with which the defendant is charged." *Id.* (quotation omitted). Coleman argues that Bennett was convicted of the same crime, despite the fact Coleman was convicted under Minn. Stat. § 609.165, subd. 1b(a), whereas Bennett was convicted under Minn. Stat. § 624.713, subd. 1(10)(iii) (2016). In its order, the district court, citing *State v. Pendleton*, noted that "[w]here people have acted in ways that constitute separate crimes by statute, those who are guilty of one crime are not accomplices of those who are guilty of a separate crime." *Pendleton*, 759 N.W.2d at 907. Nevertheless, Coleman maintains that these are the "same crimes," seemingly because they are both characterized by prohibited possession of a firearm, but he cites no authority for this interpretation of the law.[1]

Alternatively, Coleman argues that Bennett was an accomplice because she played a knowing role in the commission of the crime and did not attempt to prevent it. He cites *State v. Parker* for the argument that one may be an accomplice if one aided and abetted the crime's commission by failing to object to it, assenting to it, or by lending one's approval to it. 164 N.W.2d 633, 641 (Minn. 1969). He argues that because Bennett did not mention the gun shots to the 911 operator, did not immediately inform police about the whereabouts of the handgun, and generally had a proximate relationship with him, she was an accomplice.

[1] Coleman cites two phrases from different cases which he insists support his contention that the statutory classification of the crime does not matter, but the only relevance of the cited language is that it is somewhat syntactically analogous to Coleman's argument.

Parker was more recently expounded on in *State v. Scruggs*, 822 N.W.2d 631, 640 (Minn. 2012). First, *Scruggs* notes that what made *Parker* unique and led to finding the otherwise uninvolved defendant an accomplice was that "the defendant intended his presence to aid and it did aid the perpetrators of a crime." *Id.* Here, the district court found that Bennett was not aware that Coleman had a handgun until he handed it to her after reentering the building, and Coleman does not challenge that finding. Second, *Scruggs* noted that *Parker* did not hold that the presence of the conditions to which Coleman refers—the ostensible accomplice's failure to object, assenting to the act, and close association—compels finding accomplice liability, but rather that such *could* be sufficient to support such a finding. *Id.* at 641. Therefore, even if Bennett's actions in this case were identical to the accomplice's in *Parker*, the district court would have still been within its discretion—as the fact finder—to not consider her an accomplice.

Because the district court did not err by not considering Bennett an accomplice, Bennett's testimony did not need to be corroborated as that of an accomplice.[2]

Affirmed.

[2] While we need not analyze it, we note that we agree with the district court in that even if Bennett was an accomplice, her testimony would have been sufficiently corroborated by other evidence.