IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-21

Filed 19 December 2023

Guilford County, No. 20 JB 697

IN THE MATTER OF:

M.E.W.

Appeal by juvenile from orders entered 21 June 2021 by Judge Angela Fox and 9 July 2021 by Judge Susan R. Burch in Guilford County District Court. Heard in the Court of Appeals 10 May 2023.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katy Dickinson-Schultz, for juvenile-appellant.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Vanessa N. Totten, for the State.

STADING, Judge.

Juvenile appeals from the trial court's order denying his motion to suppress and adjudication of delinquency. For purposes of judicial economy, we now review the trial court's denial of the motion to dismiss at the adjudicatory hearing and find no error. Also, we remand this matter to the trial court to make the necessary conclusions of law in ruling on the motion to suppress. Absent proper conclusions of law, we are presently unable to reach the substantive merits of the suppression

motion.

I. Background

The State filed a juvenile petition alleging M.E.W. committed misdemeanor assault and felony possession of a stolen firearm.[1] At the time of the offense, M.E.W. was sixteen years old and lived with his mother, sister, and stepfather.

A. Evidence from the Suppression Hearing

M.E.W. filed a motion to suppress, and a hearing was held in Guilford County District Court before Judge Angela Fox on 4 June 2021. On this occasion, evidence was admitted in the form of testimony from three law enforcement witnesses, and two physical exhibits: (1) a rifle and (2) a magazine containing twenty-one rounds of 7.62 caliber ammunition. M.E.W. played footage from a police officer's body worn camera for the trial court during cross-examination of a witness but did not move for its admission. The record from this hearing contains evidence establishing that on the morning of 9 August 2020, the stepfather contacted Officer Aaron Griffiths, a Greensboro Police Department ("GPD") school resource officer, claiming M.E.W. pointed a rifle at him in their home. In response, Officer Griffiths called 911 to relay this information. Thereafter, Lieutenant Steven Flowers of the GPD, was sent to the house. While enroute, Lieutenant Flowers called the stepfather, who confirmed the information, but admitted that, although M.E.W. pointed the rifle at him in the living

[1] Initials are used to refer to juveniles pursuant to N.C. R. App. P. 42(b).

room, he no longer knew of its exact location. Additionally, the stepfather gave law enforcement permission to enter the home.

Once near the scene, Lieutenant Flowers briefed the other responding police officers. The group then proceeded toward the house, knocked on the front door, and announced "police." M.E.W. answered the door and Lieutenant Flowers asked questions about the rifle. Upon providing information that the rifle was in his room, M.E.W. was placed in handcuffs while the police officers conducted a protective sweep of the residence. At this time, M.E.W.'s sister was nearby on the front porch. When asked on cross-examination about the purpose of the protective sweep, Lieutenant Flowers stated that it was "[m]ostly to protect . . . . That neighborhood is . . . fairly congested . . . . Houses are very close together. And that kind of weapon . . . is . . . devastating. . . ." As the cross-examination continued, M.E.W. presented video footage from another officer's body worn camera to the trial court and paused it periodically as questions were posed to Lieutenant Flowers. Subsequent testimony clarified that M.E.W. did not initially provide the exact location of the firearm and the rifle could not be located. When asked a "second clarifying question," the rifle was found "fairly quickly." While these events took place, Lieutenant Flowers did not read *Miranda* rights to M.E.W.

M.E.W. argued that police officers elicited his statements in violation of the rights provided by the Fifth Amendment of the United States Constitution, *Miranda v. Arizona,* 384 U.S. 436, 86 S. Ct. 1602 (1966), and N.C. Gen. Stat. § 7B-2101(a)

(2021). At the conclusion of the hearing, the trial court announced that the motion is denied "[a]fter considering the evidence, as well as the written motion and arguments of counsel. . . ." The corresponding order, filed on 21 June 2021, states: "Evidence was heard and State's exhibit 1 and 2 are admitted. After hearing the evidence, the written motion and arguments by both counsel, the Motion to Suppress is hereby denied." Then, the trial court continued the matter so M.E.W.'s mother could attend a medical appointment and scheduled the adjudicatory hearing for 2 July 2021.

B. Evidence from the Adjudicatory Hearing

Adjudicatory and dispositional hearings were held in Guilford County District Court before Judge Susan R. Burch on 2 July 2021. At the adjudicatory hearing, evidence was admitted in the form of testimony from the lawful owner of the rifle, two of the law enforcement witnesses who testified at the suppression hearing, as well as the footage from a police officer's body worn camera. The record from this hearing contains evidence that police responded to the residence of M.E.W. and the stepfather upon receiving a call through the 911 system. On account of the information underlying the call——the use of a firearm with minors present——Lieutenant Flowers briefed other responding officers before arriving at the residence. Upon arrival, Lieutenant Flowers announced his presence at the door and encountered M.E.W. and his sister (who was a minor).

The video presented at the hearing shows subsequent events, including police officers speaking with M.E.W., who was hesitant to disclose the location of the rifle.

In response to Lieutenant Flowers's question about the rifle's location, M.E.W. refused to specify which room he left it in—only stating that the rifle was in the house. After persistent questioning from Lieutenant Flowers, M.E.W. stated the rifle was in his room but did not disclose which room was his. Lieutenant Flowers then handcuffed M.E.W. while officers began searching the home. With this information, a protective sweep was conducted, and the weapon was "not obviously and immediately findable." Hence, Lieutenant Flowers asked M.E.W. for clarification of the rifle's location and was informed that it was in his room near a clothes basket on the floor.

Thereafter, the rifle was located, "underneath some clothing or . . . covered in some manner." The video played for the trial court showed a police officer emerge from the residence holding a large black rifle and a long magazine containing bullets. Without objection, testimony was presented that the rifle was reported stolen on 24 July 2020, just a couple of weeks earlier. The lawful owner of the rifle testified that he loaned it, unloaded, to a friend for the purpose of a photoshoot. Upon receiving a call from this friend, the owner reported to law enforcement that his rifle was stolen. Furthermore, the owner of the rifle did not recognize M.E.W., nor did he give M.E.W. permission to possess it.

At the close of the State's evidence, M.E.W. moved to dismiss the petition for possession of a stolen firearm, arguing the State failed to present sufficient evidence to show he knew or had reason to know the firearm was stolen. After hearing

arguments, the trial court denied M.E.W.'s motion to dismiss. At the conclusion of the hearing, the trial court adjudicated M.E.W. delinquent and entered a disposition order which was filed on 17 August 2021. M.E.W. entered a written notice of appeal on 9 July 2021.

II. Jurisdiction

On 15 September 2022, this Court allowed M.E.W.'s petition for certiorari to review the adjudication and disposition orders entered 17 August 2021. Additionally, since the dispositional order is a final judgment, this Court has jurisdiction to hear this appeal pursuant to N.C. Gen. Stat. §§ 7B-2602 and 7B-2604 (2021).

III. Analysis

M.E.W. raises the following issues on appeal: (1) whether the trial court erred in denying his motion to dismiss at the adjudicatory hearing; (2) whether the trial court failed to provide adequate rationale for the denial of his motion to suppress; and (3) whether the trial court erred by denying his motion to suppress because (a) there was a material conflict in the evidence as to when M.E.W. made certain inculpatory statements or, in the alternative, (b) officers failed to comply with the requirements of *Miranda*. 384 U.S. 436, 86 S. Ct. 1602.

A. Motion to Dismiss

M.E.W. first argues that the trial court erred in denying his motion to dismiss the petition at the close of the State's evidence during the adjudicatory hearing. Specifically, M.E.W. contends that there was insufficient evidence showing that he

knew or should have known the firearm was stolen. This Court reviews a trial court's denial of a motion to dismiss *de novo*. *State v. Smith*, 186 N.C. App. 57, 62, 650 S.E.2d 29, 33 (2007). "In doing so, we must determine whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant's being the perpetrator of such offense." *State v. Summey*, 228 N.C. App. 730, 733, 746 S.E.2d 403, 406 (2013) (internal quotation marks and citations omitted). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id.* (internal quotation marks and citation omitted). When considering a motion to dismiss, the trial court "must consider all evidence admitted, whether competent or incompetent, in the light most favorable to the State, giving the State the benefit of every reasonable inference and resolving any contradictions in its favor." *Id.* (internal quotation marks and citation omitted).

For a defendant to be found guilty of possession of stolen property, the State has the burden of proving: "(1) possession of personal property; (2) which has been stolen; (3) the possessor knowing or having reasonable grounds to believe the property to have been stolen; and (4) the possessor acting with a dishonest purpose." *State v. Webb*, 192 N.C. App. 719, 722, 666 S.E.2d 212, 214 (2008) (internal quotation marks and citation omitted). **"**Whether the defendant knew or had reasonable grounds to believe that the [property was] stolen must necessarily be proved through inferences drawn from the evidence." *State v. Brown*, 85 N.C. App. 583, 589, 355

S.E.2d 225, 229 (1987). And, a defendant's "guilty knowledge may be inferred from incriminating circumstances. . . ." *State v. St. Clair*, 17 N.C. App. 22, 24, 193 S.E.2d 404, 406 (1972) (citation omitted). Moreover, "[i]n a juvenile adjudication hearing, the court is empowered to assign weight to the evidence presented at the trial as it deems appropriate. . . . [T]he trial judge acts as both judge and jury, thus resolving any conflicts in the evidence." *In re M.J.G.,* 234 N.C. App. 350, 358, 759 S.E.2d 361, 366 (2014) (internal quotation marks and citation omitted).

M.E.W. maintains that the trial court erred in denying his motion to dismiss due to finding "that [he] had knowledge that the gun was stolen based on incorrect assumptions, misstatements of the evidence, and evidence of possession." In making this argument, M.E.W. correctly points out that "[t]he State offered no evidence that [he] had actual knowledge that the gun was stolen." Additionally, M.E.W. proffers a number of reasons why the trial court could have concluded differently, including: (1) the covering of the rifle with clothing was not "definitive proof" it was "hidden"; (2) he could have purchased the rifle from a private seller or legally possessed it; (3) the length of time between the incident and the theft of the rifle; and (4) no evidence was presented of (a) how he obtained possession of the rifle, (b) cosmetic alteration to the rifle, or (c) inconsistent stories of how he obtained the rifle. However, this position fails to account for our standard of review upon considering the incriminating evidence contained in the record showing that M.E.W. should have known the rifle was stolen.

Citing *State v. Bizzell,* in which this Court reversed the defendant's conviction—reasoning there was insufficient evidence of knowledge that property was stolen, M.E.W. urges us to deem the present matter more tenuous upon comparison. 53 N.C. App. 450, 281 S.E.2d 57 (1981) (Whichard, J., dissenting). In *Bizzell*, the key evidence relied upon by the State to show the requisite knowledge of the defendant was that:

> (1) he had established a part-time residence . . . where the goods were found; (2) he visited the robbery victim's home several days prior to the robbery and had an opportunity to know what valuable goods were there; (3) he told [the owner of his part-time residence] that he was helping a friend move and asked if he could store some of his friend's possessions in their mobile home; (4) he never identified the friend or made an effort to return the goods to the friend; (5) he told [the owner of his part-time residence] not to box the clothes for storage but rather to hang them in the closet; and (6) he was wearing an article of the stolen clothing at the time of his arrest.

Id. at 454–55, 281 S.E.2d at 60. When confronted by the victim, defendant maintained his innocence and denied that the clothes belonged to the victim. *Id.* at 456, 281 S.E.2d at 60–61. Ultimately, our Court concluded that "the only evidence of defendant's knowledge about the ownership of the property is exculpatory in nature," and, although "the State's evidence . . . may beget suspicion in imaginative minds," it was insufficient "to support a conviction." *Id.* at 455–56, 281 S.E.2d at 60–61 (internal quotation marks and citation omitted).

We find M.E.W.'s explanations and comparison to *Bizzell* unavailing. Here,

evidence shows the use of the rifle that morning was the impetus for the dispatch of law enforcement. The rifle and magazine—visible in the video footage—were quite large. Yet just a short time later, the rifle was somehow covered by clothing in M.E.W.'s bedroom such that it was not visible to police officers. *See State v. Taylor*, 64 N.C. App. 165, 169, 307 S.E.2d 173, 176 (1983), *aff'd in part*, *rev'd in part on other grounds*, 311 N.C. 380, 317 S.E.2d 369 (1984) (wherein "defendant removed [a stolen pistol] from his coat, stooped near a car and attempted to surreptitiously hide or dispose of it by throwing it into nearby bushes" and our Court held that "[t]hese circumstances . . . are sufficiently incriminating to permit a reasonable inference that defendant knew or must have known that the firearm was stolen, and thus sufficient to support a finding to that effect by the jury."). As the trier of fact, it is the function of the trial court "to determine the facts in the case from the evidence and to determine what the evidence proves or fails to prove." *Id.* at 169, 307 S.E.2d at 176. Considering the incriminating circumstances, we find there is substantial evidence supporting the trial court's determination that M.E.W. had reasonable grounds to believe the property to have been stolen. *See St. Clair*, 17 N.C. App. at 24, 193 S.E.2d at 406; *Summey*, 228 N.C. App. at 733, 746 S.E.2d at 406; *Webb*, 192 N.C. App. at 722, 666 S.E.2d at 214.

B. Motion to Suppress

Next, M.E.W. argues that the trial court's order "offered no legal basis nor legal conclusion as to why it was denying [M.E.W.'s] motion . . . , simply stating that the

motion was denied." In determining whether to suppress evidence, the trial court "shall make findings of fact and conclusions of law which shall be included in the record, pursuant to G.S. 15A-977(f)" which requires the trial court to "set forth in the record his findings of facts and conclusions of law." N.C. Gen. Stat. § 15A-974 (2021); *see also id.* § 15A-977(f) (2021). In *State v. Bartlett*, the North Carolina Supreme Court provided substantial guidance on this requirement:

> A written determination setting forth the findings and conclusions is not necessary, but it is the better practice. Although the statute's directive is in the imperative form, only a material conflict in the evidence—one that potentially affects the outcome of the suppression motion—must be resolved by explicit factual findings that show the basis for the trial court's ruling. When there is no conflict in the evidence, the trial court's findings can be inferred from its decision. Thus, our cases require findings of fact only when there is a material conflict in the evidence and allow the trial court to make these findings either orally or in writing. To the extent that cases . . . suggest otherwise, they are disavowed.

368 N.C. 309, 312, 776 S.E.2d 672, 674 (2015) (internal citations omitted). In any event, it remains the trial court's responsibility to make the conclusions of law. *See State v. Williams*, 267 N.C. App. 485, 489, 833 S.E.2d 223, 226 (2019); *see also State v. Faulk*, 256 N.C. App. 255, 263, 807 S.E.2d 623, 629 (2017); *see also State v. McFarland*, 234 N.C. App. 274, 284, 758 S.E.2d 457, 465 (2014). "Generally, a conclusion of law requires the exercise of judgment in making a determination, or the application of legal principles to the facts found." *McFarland*, 234 N.C. App. at 284, 758 S.E.2d at 465 (quotation marks and citation omitted).

We find the holdings of prior cases from our Court instructive. In *McFarland*, a factually similar case, the defendant moved to suppress his statement and maintained that officers failed to properly give *Miranda* warnings. 234 N.C. App. 281, 758 S.E.2d at 463. There, the trial court made findings of fact, but "never made a conclusion about whether defendant was in custody at the relevant time, nor did it ever apply the law it cited to the facts of th[e] case." *Id.* at 283, 758 S.E.2d at 464. Instead, "[a]t the hearing, the trial court announced that it was going to deny the motion, but . . . did not give any explanation for denying defendant's motion from the bench and did not include any conclusions of law in its written order." *Id.* Therefore, our Court remanded the matter to allow the trial court to make appropriate conclusions of law. *Id.* at 285, 758 S.E.2d at 465.

In *Williams,* a procedurally similar case, the defendant moved to suppress evidence and cited several reasons underlying the challenge. 267 N.C. App. at 489–91, 833 S.E.2d at 226–27. At the conclusion of the motion, the trial court announced, "after reviewing the motion to suppress, after reviewing the search warrant and the affidavit, after reviewing applicable case law, the statute law, and hearing testimony from the witness and hearing arguments of counsel, the Court denies the motion to suppress." *Id.* at 487, 833 S.E.2d at 225. Additionally, the trial court did not make further findings of fact or conclusions of law and did not subsequently enter a written order. *Id.* at 488, 833 S.E.2d at 226. Ultimately, our Court declined to "find the trial court's 'conclusion' [was] sufficient" as the ruling from the bench did not address all

of the issues raised in the motion to suppress, and the mere denial of such motion is not the logical equivalent of a conclusion of law. *Id.* at 490, 833 S.E.2d at 227.

Here, in essence, we are charged with determining whether the trial court's pronouncement in open court or statements in the written order can be construed as conclusions of law. In finding they cannot be characterized as such; we note that the motion to suppress presented the trial court with a couple of issues—a constitutional and statutory challenge. Conducting meaningful appellate review requires the trial court's rationale underlying its decision to deny the motion to suppress. Moreover, the ruling of the trial court here is very similar to the insufficient ruling in *Williams*. Given precedent, we cannot say that the trial court's statement "[a]fter hearing the evidence, the written motion and arguments by both counsel, the Motion to Suppress is hereby denied" is sufficient to comply with existing standards. The trial court's words merely note that a hearing took place involving the presentation of evidence and arguments by counsel, and the trial court denied the motion. Therefore, as to the motion to suppress, we remand to the trial court to enter appropriate conclusions of law. *See State v. Neal,* 210 N.C. App. 645, 656, 709 S.E.2d 463, 470 (2011) ("Where there is prejudicial error in the trial court involving an issue or matter not fully determined by that court, the reviewing court may remand the cause to the trial court for appropriate proceedings to determine the issue or matter without ordering a new trial." (citation and quotation marks omitted)).

C. *Miranda* and the Public Safety Doctrine

Lastly, M.E.W. argues the trial court erred by denying his motion to suppress because there was a material conflict in the evidence as to when he made certain inculpatory statements or, in the alternative, officers failed to read his *Miranda* rights. Our review of M.E.W.'s challenge to the trial court's order with respect to the above-stated bases is premature. Currently, we are unable to reach the merits of the parties' contentions until the trial court enters appropriate conclusions of law in its order denying the motion to suppress.

IV. Conclusion

We hold that the trial court did not err in denying the motion to dismiss at the adjudicatory hearing. However, the conclusions of law to support the trial court's denial of the suppression motion are not sufficient for appellate review. Thus, we remand to the trial court for entry of appropriate conclusions of law in accordance with the precedents cited above. *See Williams*, 267 N.C. App. at 489, 833 S.E.2d at 227; *see also Faulk*, 256 N.C. App. at 263, 807 S.E.2d at 629; *see also McFarland*, 234 N.C. App. at 284, 758 S.E.2d at 465.

AFFIRMED IN PART; REMANDED IN PART.

Judge COLLINS concurs.

Judge DILLON concurs in part and dissents in part in a separate opinion.

Report per Rule 30(e).

No. COA23-21 – *In re M.E.W.*

DILLON, Judge, concurring in part, dissenting in part.

My vote is simply to affirm. My sole disagreement with the majority opinion concerns their mandate remanding the order denying Respondent's suppression motion to require Judge Burch to explain her legal reasoning by entering conclusions of law. My vote would be simply to affirm that order.

It is true, as pointed out in the majority opinion, that Judge Burch's order does not contain any written findings or conclusions regarding Respondent's motion to suppress the gun and ammunition found in his bedroom. And I agree with the majority that the trial court's failure to make written findings is not fatal, as there were no conflicts in the evidence: In such case, it is appropriate for our Court to infer that the trial court found in conformity with the uncontradicted evidence. *State v. Bartlett*, 368 N.C. 309, 312, 776 S.E.2d 672, 674 (2015).

Assuming it was not obvious from the context of the hearing that Judge Burch was denying Respondent's motion based on the community caretaking exception to *Miranda*, I conclude that it is not fatal that Judge Burch did not provide her legal reasoning. We review conclusions of law *de novo*. Our Court has affirmed the denial of a suppression order based on the community caretaking exception where the trial court relied on other legal grounds. *See, e.g., State v. Smathers*, 232 N.C. App. 120, 122, 753 S.E.2d 380, 382 (2014).

This evidence before Judge Burch showed that Respondent's stepfather reported that Respondent had pointed a large gun at him in their home and gave the officers permission to enter the home when they arrived. When officers arrived, they discovered Respondent, a minor, home with his younger sister. The stepfather was not present. Officers immediately asked Respondent the location of the gun, whereupon Respondent responded that the gun was in his bedroom. I conclude that this evidence leads to the conclusion that the caretaking exception applies to Respondent's statements as to the gun's location prior to being read his *Miranda* rights. It was reasonable for officers to locate the gun for their safety and the safety of others. *See State v. Harris*, 95 N.C. App. 691, 698, 384 S.E.2d 50, 54 (1989), *affirmed per curiam*, 326 N.C. 588, 391 S.E.2d 187 (1990) (holding defendant's answer to police inquiry upon arrest as to the location of a gun in the room fell within the community caretaking exception where the inquiry was reasonable to secure the room for the officer's safety and the safety of others); *State v. Hewson*, 182 N.C. App. 196, 202, 205, 642 S.E.2d 459, 464, 466 (2007) (holding defendant's response to arresting officer's question about the existence of a gun in the vicinity fell within the community caretaking exception).