

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-15-00730-CR
NO. 03-15-00731-CR
NO. 03-15-00732-CR**

The State of Texas, Appellant

v.

Meagan Work, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT
NOS. D-1-DC-14-301864, D-1-DC-14-302145, & D-1-DC-14-302146
THE HONORABLE P. DAVID WAHLBERG, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellee Meagan Work has been charged by indictment with two counts of tampering with physical evidence, one count of injury to a child, and one count of injury to a child by omission. *See* Tex. Penal Code §§ 22.04, 37.09. Work filed a pretrial motion to suppress the statements she made to law enforcement officers during the police investigation concerning her missing child. After conducting a hearing on the motion, the trial court granted the motion in part—suppressing statements Work made during a specific time period, but not those made before or after that time frame—after concluding that Work had been unlawfully arrested. The State appeals, contending that the trial court abused its discretion in granting the motion to suppress in part. For the reasons that follow, we reverse the trial court’s order suppressing the statements and remand for further proceedings.

BACKGROUND

Factual Background¹

On the evening of September 10, 2014, a patrol officer with the Cedar Park Police Department met with a concerned citizen who had come to the police station to make “an outcry about the welfare of a young child” because she believed the young boy, three-year-old C.T., was missing and had been abused. The citizen showed the officer photographs depicting the child with significant injuries that appeared, to the officer, to be inflicted rather than naturally occurring. The officer conferred with his supervisor, and they determined that the police needed to do a welfare check on the child.

The officer eventually found the child’s mother, Meagan Work, at a residence on Cypress Lane, but C.T. was not with her. When the officers tried to ascertain the boy’s location,² Work indicated that her son was with her friend in Sachse, which she said was a city outside of Houston.³ Sachse Police were contacted to follow up on Work’s information—to go to the friend’s home, find C.T., and conduct a welfare check on him. The Sachse Police went to the friend’s house and discovered that C.T. was not there. They conveyed that information to the Cedar Park Police,

¹ This is an interlocutory appeal and certain portions of the record have been ordered sealed by both the trial court and this Court. The parties are familiar with the facts of the case and the evidence adduced at the suppression hearing. Accordingly, we provide only a general overview of the facts of the case here. We provide additional facts in the opinion as necessary to advise the parties of the Court’s decision and the basic reasons for it. *See* Tex. R. App. P. 47.1, 47.4.

² The initial patrol officer was assisted by his supervisor and another patrol officer, who met him at the residence.

³ The record reflects that Sachse, Texas, is a city in the Garland/Plano area, not a suburb of Houston. The Cedar Park officers were aware of this fact.

along with information that Work had texted her friend, while the Sachse Police were there, instructing her to tell the police that C.T. was there. The Cedar Park officers confronted Work with the fact that her son was not at her friend's in Sachse, but she insisted that she had taken C.T. to her friend's house outside of Houston. The police remained unable to ascertain the child's location or condition. After contacting the on-call detective, a decision was made to transport Work to the Cedar Park police station, "a more controlled area," to further the investigation. Over the course of the next four days, as the investigation evolved, Work was held in multiple locations and interviewed by officers from several different law enforcement agencies. During the course of the investigation, which involved continuous attempts to find C.T., Work's explanation about what happened to her son changed numerous times.

Work was initially taken to the "soft interview" room at the Cedar Park police station, which is a room with a "laid back environment" used for interviewing witnesses and victims, particularly children, that has a couch and toys. A Cedar Park detective began interviewing Work around midnight. Work first repeated the Sachse story—that she had dropped C.T. off with her friend in Sachse. About 45 minutes into the interview, Work admitted that she lied about Sachse and said that C.T. had been kidnapped from her truck outside a truck stop in Austin. Approximately five hours later⁴ (in the early morning hours of September 11th), Work told the investigators that she had given C.T. away to some people at Chick-Fil-A. At approximately 4:20 p.m. on September 11th, Work was taken to the "hard interview" room (the normal suspect interrogation room) where she

⁴ During this time, the police efforts to find C.T. were ongoing. The detective, his fellow detectives, and other officers were following up on the information Work provided as well as investigating other sources for information.

repeated the Chick-Fil-A story to an FBI agent. She remained there until she was transported to the Williamson County Jail, where she was booked in at approximately 10:30 p.m. that night (the night of September 11th), nearly 24 hours after police first made contact with her at the Cypress Lane residence.

At approximately 4:40 a.m. on September 12th, after police found a child's body they believed to be C.T., Work was interviewed by a detective from the Austin Police Department along with a Cedar Park officer. Work initially repeated the Chick-Fil-A story—that she had given C.T. to some strangers at Chick-Fil-A—until the officers confronted her with the fact that they knew C.T. was dead and they had found his body in Southeast Austin. Work then told them that C.T. had died after having a seizure. She explained that C.T. had a seizure, and she and her boyfriend had taken him to the hospital but did not go inside because they feared authorities would take C.T. because of injuries on his body, which she said were inflicted by her father weeks before the seizure. Work said that they sat outside the hospital for about an hour while C.T. was seizing, but that he started looking better so they returned to their motel room and went to bed. She said that when she woke up, C.T. was dead. Work then described how she helped her boyfriend bury C.T.'s body.

Later that evening (the evening of September 12th), Work was transported from the Williamson County Jail to the Travis County Jail by officers from the Austin Police Department. During the transport, in response to questions from the transporting officers, Work provided information about C.T.'s medical records, which was then given to the medical examiner to assist in identifying the body recovered from the burial site. Work was booked into the Travis County Jail at approximately 8:30 p.m. that evening, and after a medical intake upon her arrival, she was taken

to Brackenridge Hospital where she was treated for nausea and vomiting.⁵ Work was discharged from the hospital several hours later, at around 1:15 a.m. (on September 13th), and was returned to the Travis County Jail.

Later that day, the afternoon of September 13th, Work was transported from the Travis County Jail to the Austin Police Department by APD detectives for another interview. Work repeated the seizure story except that this time she blamed her boyfriend for C.T.'s head injury, claiming he had hit C.T.'s head on the air-conditioning unit inside the motel room the day before the seizure. This interview concluded around 6:00 p.m., and Work was returned to the Travis County Jail.

At 1:45 a.m. on September 14, 2014—approximately 75 hours after Work was removed from the Cypress Lane residence—an arrest warrant was issued for Work, charging her with tampering with evidence for her role in concealing C.T.'s body by burying it.

Procedural Background

Work was subsequently indicted for two counts of tampering with physical evidence (for her role in burying C.T.'s body), one count of injury to a child (for inflicting C.T.'s head injury), and one count of injury to a child by omission (for failing to obtain medical treatment for C.T.). Work filed a pretrial motion to suppress all of the statements she made to law enforcement officers.⁶

⁵ The record reflects that Work was four months pregnant at the time of her detention and interviews. During the course of the interviews, she suffered several bouts of nausea and vomiting and had difficulty eating. However, she did not request medical assistance when asked if she needed anything and, on one occasion, declined medical assistance when it was offered.

⁶ Work filed a generic suppression motion entitled *Motion to Suppress Evidence* in which she sought the suppression of, among other things, “All statements, oral or written, and any actions

The trial court conducted a hearing on the motion, which lasted four days and included the testimony of 14 witnesses (12 for the State, two for the defense) and the admission of 46 exhibits (37 by the State, nine by the defense). At the conclusion of the hearing, the trial court asked the parties to submit written briefs in lieu of argument. After reviewing the briefs, the trial court issued an oral ruling on Work's motion to suppress. Several weeks later, the court issued its written order granting the motion in part and denying it in part. Specifically, the trial court ruled:

1. Statements made by Meagan Work to law enforcement personnel during the initial contact were made as part of a consensual encounter therefore the motion is DENIED as to statements made to law enforcement personnel prior to their receipt of information from Sachse, Texas, law enforcement revealing the untruthfulness of Work's statements and her apparent attempt to impede the investigation.
2. Statements made by Meagan Work to law enforcement personnel after it became apparent that she was untruthful about the whereabouts of the child were the result of a lawful investigative detention and therefore the motion is DENIED as to statements made to law enforcement personnel from the time of the receipt of the information from Sachse until her arrest at approximately 11:11 PM on September 10, 2014.

made by Defendant at the time of and after his [sic] apprehension by law enforcement officers or their agents" claiming,

Any statements or actions allegedly made by Defendant were the result of an illegal stop, arrest, and detention, all occurring without reasonable suspicion, probable cause and/or a valid warrant. Further, all statements or actions allegedly made by the Defendant were the result of undue duress and coercion. Further, at the time of the statements or actions, Defendant did not have the mental capacity to knowingly and voluntarily waive his [sic] rights. All of the above were in violation of the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution; Article I, Section 9 of the Constitution of the State of Texas; and Articles 1.06, 14.01 through 14.06, 15.01 through 15.26, 38.21, 38.22 and 38.23 of the Texas Code of Criminal Procedure.

3. Statements made by Meagan Work to law enforcement personnel from approximately 11:11 PM on September 10, 2014 until approximately 1:30 AM on September 13, 2014 were the result of an unlawful warrantless arrest and therefore the motion is GRANTED as to all statements made to law enforcement personnel during that time period.
4. Statements made by Meagan Work to law enforcement personnel after her release from Brackenridge Hospital were made after the taint of the unlawful warrantless arrest was sufficiently attenuated and therefore the motion is DENIED as to all statements made to law enforcement personnel after approximately 1:30 AM on September 13, 2014.

In sum, the trial court suppressed all of the statements Work made to law enforcement officials from the time she was placed in the “soft interview” room at the Cedar Park police station until she was released from the hospital because, the trial court concluded, they were the result of an unlawful arrest. The State appeals the trial court’s suppression order.

STANDARD OF REVIEW

We review a trial court’s ruling on a motion to suppress evidence for an abuse of discretion and overturn the ruling only if it is arbitrary, unreasonable, or “outside the zone of reasonable disagreement.” *State v. Story*, 445 S.W.3d 729, 732 (Tex. Crim. App. 2014); *State v. Dixon*, 206 S.W.3d 587, 590 (Tex. Crim. App. 2006). We apply a bifurcated standard of review, *Weems v. State*, 493 S.W.3d 574, 577 (Tex. Crim. App. 2016); *see State v. Saenz*, 411 S.W.3d 488, 494 (Tex. Crim. App. 2013) (citing *Guzman v. State*, 955 S.W.2d 85, 87–89 (Tex. Crim. App. 1997)) (reviewing court applies bifurcated standard of review to trial court’s findings of fact and conclusions of law regarding motion to suppress), giving almost total deference to the court’s determination of historical facts if supported by the record, but reviewing the trial court’s application

of the law to those facts de novo. *Weems*, 493 S.W.3d at 577; *Story*, 445 S.W.3d at 732; *Valtierra v. State*, 310 S.W.3d 442, 447 (Tex. Crim. App. 2010). We view the evidence in the light most favorable to the ruling, *State v. Robinson*, 334 S.W.3d 776, 778 (Tex. Crim. App. 2011), and uphold the court's ruling if the record reasonably supports it and it is correct on any theory of law applicable to the case, *Weems*, 493 S.W.3d at 577; *Valtierra*, 310 S.W.3d at 447–48.

DISCUSSION

The issue before the trial court at the suppression hearing was whether Work had been subjected to an unlawful arrest that required the suppression of the statements she made to law enforcement officers during the course of their investigation. Resolution of this issue necessitated first determining when Work was arrested and then ascertaining whether, under the circumstances existing at the time of the arrest, the arrest was unlawful.

Arrest or Investigative Detention?

In her trial brief in support of her motion to suppress, Work maintained that she was arrested when she was removed from the Cypress Lane residence and taken to the Cedar Park police station. She claimed that this arrest was illegal because it was without a warrant, and the illegal arrest rendered the statements she made after that point inadmissible. The State asserted that Work was not arrested but only detained pursuant to an investigative detention until she was lawfully arrested without a warrant after admitting that she committed the felony offense of abandoning or endangering a child (when she told police the kidnapping story).

The record clearly demonstrates that Work was not formally arrested pursuant to an arrest warrant until four days after police initiated contact with Work at her temporary home at the Cypress Lane residence. The question is whether, during the interaction between the police officers and Work during those four days, she was informally arrested at some point before her formal arrest on the warrant and, if so, when.

Three distinct types of police-citizen interactions exist: (1) consensual encounters that do not implicate the Fourth Amendment; (2) investigative detentions that are Fourth Amendment seizures of limited scope and duration, which must be supported by a reasonable suspicion of criminal activity; and (3) arrests, the most intrusive of Fourth Amendment seizures, which are only constitutional if supported by probable cause. *Wade v. State*, 422 S.W.3d 661, 667 (Tex. Crim. App. 2013). Both investigative detentions and arrests are restraints on a person's freedom, but an arrest involves a greater degree of restraint. *State v. Sheppard*, 271 S.W.3d 281, 290 (Tex. Crim. App. 2008). Whether an encounter amounts to an arrest is a question of law that we review de novo. *Id.* at 291; *State v. Garcia-Cantu*, 253 S.W.3d 236, 241 (Tex. Crim. App. 2008).

A person is arrested when he or she “has been actually placed under restraint or taken into custody.” Tex. Code Crim. Proc. art. 15.22. A person is in “custody” if, under the circumstances, a reasonable person would believe that his or her freedom of movement was restrained to the degree associated with a formal arrest. *Saenz*, 411 S.W.3d at 496 (citing *Stansbury v. California*, 511 U.S. 318 (1994)); *Dowthitt v. State*, 931 S.W.2d 244, 254 (Tex. Crim. App. 1996). At least four general situations may constitute custody: (1) the suspect is physically deprived of his or her freedom of action in any significant way, (2) a law enforcement officer tells the suspect that

he or she cannot leave, (3) law enforcement officers create a situation that would lead a reasonable person to believe that his or her freedom of movement has been significantly restricted, and (4) there is probable cause to arrest and law enforcement officers do not tell the suspect that he or she is free to leave. *Saenz*, 411 S.W.3d at 496 (citing *Dowthitt*, 931 S.W.2d at 255). “We evaluate whether a person has been detained to the degree associated with arrest on an *ad hoc*, or case-by-case, basis.” *State v. Ortiz*, 382 S.W.3d 367, 372 (Tex. Crim. App. 2012) (citing *Dowthitt*, 931 S.W.2d at 255). In making this determination, the primary question is whether a reasonable person would perceive the detention to be a restraint on his or her movement comparable to formal arrest, given all the objective circumstances. *Id.* (citing *Berkemer v. McCarty*, 468 U.S. 420, 441 (1984); *Stansbury*, 511 U.S. at 323). We look only to the objective factors surrounding the detention; the subjective beliefs of the detaining officer are not included in the calculation of whether a person is in custody. *Id.* at 372–73 (citing *Dowthitt*, 931 S.W.2d at 255).

No “bright-line rule” exists to distinguish between an investigative detention and an arrest; Texas courts categorize police actions as an arrest or a detention depending on several factors, including the amount of force displayed, the duration of detainment, the efficiency of the investigative process, whether the investigation is conducted at the original location or the person is transported to another location, the officer’s expressed intent, and any other relevant factors. *Sheppard*, 271 S.W.3d at 291. In general, “[i]f the degree of incapacitation appears more than necessary to simply safeguard the officers and assure the suspect’s presence during a period of investigation, this suggests the detention is an arrest.” *Id.*

As relevant to the trial court's resolution of the issue of investigative detention versus arrest, the trial court made the following fact findings about the interaction between law enforcement officers and Work:

On September 10, 2014, Cedar Park Police Department ("CPPD"), received a complaint of a possible injury to a child identified as [C.T.], the three year old son of Defendant. CPPD promptly began an investigation to locate the child and ascertain his welfare. Shortly thereafter, the Defendant was located at a residence in Cedar Park, Texas, where she was staying overnight (i[.]e[.], her temporary residence).

CPPD began to question Defendant at the residence. Defendant informed CPPD that her son was with a friend in Saschse[,] Texas.⁷ CPPD contacted Sasche Police and confirmed that the child was not at the location in Sasche. CPPD was informed that Defendant had made contact with the friend in Sasche in an apparent attempt to impede the inquiry. CPPD officers quickly began to view Defendant as a suspect but were uncertain of the child's location or condition. CPPD began an intensive investigation to locate the child.

...

Defendant was placed in a squad car and transported to CPPD headquarters. She was not handcuffed. Her phone, purse, car keys and truck were seized.

Defendant was placed in the 'soft interview' room inside the police station. Defendant was informed she "was not under arrest" but was further informed "she was not free to leave." She was promptly Mirandized. For the next 18 hours she was confined in that room with an armed officer either in the room with her or guarding the door. She was never free to leave the room, and when she did need to use the restroom, a female officer escorted her to the facilities and back.

...

⁷ The record reflects that the city at issue was Sachse, Texas. The trial court referred to it as "Saschse" throughout its findings of fact and conclusions of law, though it correctly referred to it as "Sachse" in its suppression order. We note this discrepancy here and do not further address it each time "Sasche" appears in this opinion when we cite to the court's findings and conclusions.

All statements made by Defendant were made prior to the issuance of a warrant for her arrest on any charge. During the 75 plus hours Defendant was held without an arrest warrant, law enforcement purposefully chose not to pursue the issuance of an arrest warrant.

These historical fact findings are supported by the record, and thus we defer to these findings by the trial court.

The trial court made the following conclusions of law concerning the interaction between the police and Work during the investigation and the statements Work made to police during that interaction:

From the time the Defendant was initially contacted by CPPD and questioned at her temporary residence until the Saschse information was received, the Defendant was not detained or arrested. This period was a consensual encounter. All statements made by Defendant during this period are therefore admissible.

The investigation became an investigative detention when CPPD received the Saschse information. All statements made by Defendant in response to questions by law enforcement officers from that point until the time the Defendant was confined in the soft interview room are therefore admissible.⁸

To determine the warrantless arrest issue, the Court has reviewed the relevant objective factors (including transport to CPPD headquarters; seizure of personal property; confinement in the soft interview room; presence of an armed officer stationed for the purpose of preventing her from leaving the room; admonishment that she was not free to leave) and concludes that the Defendant was arrested at the time she was informed she was not free to leave. See *Dowthitt v. State*,

⁸ The trial court's conclusion that the encounter between the police and Work during this time frame was an investigative detention, and the facts supporting that determination, are not challenged by either party. Further, the statements Work made during that time period are not included in the court's suppression order. Therefore, this conclusion and the related fact findings are not, in and of themselves, subject to review by this Court. However, we examine these fact findings and the conclusion in conducting our review of the issue before this Court: whether Work was subjected to an unlawful arrest.

931 S.W.2d 244 (Tex. Crim. App. 1996). This arrest was without probable cause or a warrant. No exigent circumstances existed.

...

All statements made by the Defendant in response to questions by law enforcement subsequent to her being informed she was not free to leave are the fruit of that illegal arrest and therefore inadmissible until the taint of that illegal arrest is sufficiently attenuated.

The court ultimately concluded that

all statements made by the Defendant in response to law enforcement questions from the time she was advised she was not free to leave until the time of her release from the hospital are not admissible and are suppressed. All statements made by the Defendant to law enforcement after that time are admissible.

The record reflects that Work was compelled to accompany the police to the station. She was not invited to go, but was instead told that she was going.⁹ Work was transported to the station—a separate facility located at least three or four miles away—in the back of a patrol car. Although she was not handcuffed, her personal property was seized, including her purse and even her truck. She was placed in the “soft interview” room in a secured area of the police station, where her presence was continuously monitored by a patrol officer guarding the door. When she left the room to go to the bathroom, she was escorted by a female officer. Thus, Work was “physically deprived of her freedom of action in [a] significant way.” Further, although the detective told her she was not under arrest, he explicitly told her that she “was not free to leave.” With the conditions

⁹ As one of the officers indicated during his testimony on cross examination, “It (her trip to the station) wasn’t optional.”

under which the police detained Work—compelling her to come to the police station, transporting her to another location in a patrol car, seizing her personal property, and placing her in a continuously monitored interview room in a secured area of the police station—law enforcement officers created a situation that would lead a reasonable person to believe that her freedom of movement had been significantly restricted. Work was, for all practical purposes, in custody and therefore under arrest.

In light of the above, we conclude that the seizure of Work when she was transported to the police station and placed in the “soft interview” room was an arrest not a temporary investigative detention. Thus, given the appropriate standard of review, we agree with the trial court’s legal conclusion that Work “was arrested at the time she was informed she was not free to leave.”

Unlawful Arrest?

The next question before the trial court, and this Court, is whether that arrest was unlawful. Following its conclusion that Work was arrested at this particular point in her detention, the trial court further concluded, “This arrest was without probable cause or a warrant.” The trial court did not, however, make findings tailored to its conclusion about the absence of probable cause. And indeed, the parties’ arguments before the trial court concerning probable cause were not particularly well articulated (presumably because the primary dispute was about whether Work was arrested or merely detained when she was brought to the police station). However, the evidence at the hearing was sufficiently developed with respect to the probable-cause issue. The evidence in the

record does not, in our view, support the trial court’s application of the law to the facts with regard to its conclusion that the arrest was without probable cause.

An arrest is valid under Texas law if the arresting officer had probable cause with respect to the person being arrested as well as statutory authority to make the arrest. *Neal v. State*, 256 S.W.3d 264, 280 (Tex. Crim. App. 2008); *Parker v. State*, 206 S.W.3d 593, 596 (Tex. Crim. App. 2006). Probable cause for a warrantless arrest exists if, at the time the arrest is made, the facts and circumstances within the arresting officer’s knowledge and of which he has reasonably trustworthy information are sufficient to warrant a prudent person to believe that the arrested person had committed or was committing an offense. *Amador v. State*, 275 S.W.3d 872, 878 (Tex. Crim. App. 2009) (citing *Beck v. Ohio*, 379 U.S. 89, 91 (1964)); see *Parker*, 206 S.W.3d at 599 (“[P]robable cause is the accumulation of facts which, when viewed in their totality, would lead a reasonable officer to conclude, with a fair probability, that a crime has been committed or is being committed by someone.”). The test for probable cause is an objective one, unrelated to the subjective beliefs of the arresting officer, and it requires a consideration of the totality of the circumstances facing the arresting officer. *Amador*, 275 S.W.3d at 878; *State v. Steelman*, 93 S.W.3d 102, 107 (Tex. Crim. App. 2002). Further, “probable cause is evaluated based on the collective information known to the police[.]” *Campbell v. State*, 325 S.W.3d 223, 231 (Tex. App.—Fort Worth 2010, no pet.); see *Taylor v. State*, 82 S.W.3d 134, 138 (Tex. App.—San Antonio 2002, no pet.) (quoting *Woodward v. State*, 668 S.W.2d 337, 344 (Tex. Crim. App. 1982) (“[W]hen there has been some cooperation between law enforcement agencies or between members of the

same agency, the sum of the information known to the cooperating agencies or officers at the time of an arrest is to be considered in determining whether there was sufficient probable cause therefor.”)).

In this case, the facts leading up to Work’s transport to the station were not in dispute, and the parties do not challenge the trial court’s findings about the events that took place at the Cypress Lane residence. So the relevant inquiry is whether, from an objective perspective, the circumstances, as demonstrated by the evidence, suffice to illustrate probable cause. This inquiry depends on whether a reasonable officer encountering those circumstances could reasonably infer that there is a fair probability that Work was or had engaged in criminal activity at the time the decision was made to take her to the station. *See Williams v. State*, 440 S.W.3d 717, 719–20 (Tex. App.—Amarillo 2013, pet. ref’d).

At the time of her removal from the Cypress Lane residence, the facts and circumstances within the officers’ knowledge and of which they had reasonably trustworthy information included: a concerned citizen reported a missing and possibly abused child; police were investigating C.T.’s whereabouts and welfare; in response to inquiries attempting to ascertain C.T.’s location, Work told police officers that C.T. was with her friend in Sachse; C.T. was not with the friend in Sachse; Work’s statement was not true; C.T. was missing; Work lied to police officers about her son’s location knowing they were looking for him and believed him to be injured; and Work encouraged her friend to lie to police about C.T.’s whereabouts. These facts and circumstances were sufficient to warrant a prudent person to believe that Work had committed the offense of false report regarding a missing child. *See Tex. Penal Code* § 37.081(a)(2) (“A person commits an offense if, with intent to deceive, the person knowingly makes a false statement to a law

enforcement officer . . . relating to a missing child[.]”). Thus, the undisputed evidence demonstrates that the Cedar Park police officers had probable cause to arrest Work when it became apparent that she lied to the officers about C.T.’s location when they were investigating the report that he was missing and injured.¹⁰

Indeed, the trial court noted the factual circumstances demonstrating probable cause in its suppression order:

1. Statements made by Meagan Work to law enforcement personnel during the initial contact were made as part of a consensual encounter therefore the motion is DENIED as to statements made to law enforcement personnel prior to their receipt of information from Sachse, Texas, law enforcement *revealing the untruthfulness of Work’s statements and her apparent attempt to impede the investigation.*
2. Statements made by Meagan Work to law enforcement personnel *after it became apparent that she was untruthful about the whereabouts of the child* were the result of a lawful investigative detention and therefore the motion is DENIED as to statements made to law enforcement personnel from the time of the receipt of the information from Sachse until her arrest at approximately 11:11 PM on September 10, 2014.

(Emphases added). Because the Cedar Park police officers had probable cause to arrest Work before they transported her to the police station, the trial court did not correctly apply the law to the facts of this case when it determined that Work’s arrest (at the point she was detained at the station in the “soft interview” room) was without probable cause. The trial court here was mistaken about the legal significance of the facts that the court found. We conclude that the trial court’s fact findings

¹⁰ We also note that at oral argument, both parties conceded that there was probable cause to arrest Work for the offense of false report regarding a missing child because she lied to the police officers about C.T.’s location when she told them he was in Sachse.

support only one conclusion: the police officers had probable cause to arrest Work for the offense of false report regarding a missing child at the time she was arrested.¹¹ *See Sheppard*, 271 S.W.3d at 291 (probable cause is legal conclusion subject to de novo review, not deference).

To the extent that the trial court concluded that the arrest was unlawful because it was without a warrant, this conclusion is not supported by the record. Neither the Fourth Amendment nor Article I, Section 9, of the Texas Constitution requires a warrant to justify an arrest based upon probable cause. *Buchanan v. State*, 207 S.W.3d 772, 775 (Tex. Crim. App. 2006); *see United States v. Watson*, 423 U.S. 411, 423–24 (1976) (Fourth Amendment does not prohibit public arrests upon probable cause); *Hulit v. State*, 982 S.W.2d 431, 436 (Tex. Crim. App. 1998) (Article I, § 9 of Texas Constitution does not require warrant to effect arrest that is otherwise “reasonable”). The requirement of an arrest warrant is purely statutory in Texas, governed by Chapter 14 of the Code of Criminal Procedure. *Buchanan*, 207 S.W.3d at 775; *see generally* Tex. Code Crim. Proc. arts. 14.01–.04 (listing situations under which police officer may arrest person without arrest warrant). Thus, a police officer who lacks a warrant to arrest must have statutory authority to make a

¹¹ We note that whether an arrest has occurred and whether an arrest is supported by probable cause are distinct issues. We are not saying that an arrest occurred at the Cypress Lane residence. The arrest did not occur until Work was informed that she was not free to leave when she was at the police station, just as the trial court determined. However, the facts regarding the interaction between the police and Work at the Cypress Lane residence are relevant to whether the warrantless arrest at the station was lawful. Because the officers had probable cause to arrest Work at the Cypress Lane residence when she committed the offense of false report regarding a missing child in the officers’ presence, the officers could have arrested her, though they did not. Accordingly, the subsequent arrest at the station, immediately after her removal from the Cypress Lane residence, was supported by probable cause.

warrantless arrest. *Parker*, 206 S.W.3d at 597; *see Torres v. State*, 182 S.W.3d 899, 901 (Tex. Crim. App. 2005); *Steelman*, 93 S.W.3d at 107.

Article 14.01(b) of the Code of Criminal Procedure authorizes a peace officer to “arrest an offender without a warrant for any offense committed in his presence or within his view.” Tex. Code Crim. Proc. art. 14.01(b). “An offense is deemed to have occurred within the presence or view of an officer when any of his senses afford him an awareness of its occurrence.” *Steelman*, 93 S.W.3d at 107.

In this case, three Cedar Park officers heard Work state, in response to specific inquiries about C.T.’s location, that C.T. was with her friend in Sachse. They were all privy to the information reported back from the Sachse Police—that C.T. was not with the friend and that Work had texted her friend telling her to lie to police about where C.T. was. The officers were present when Work was confronted with the fact that C.T. was not with her friend in Sachse, and the officers all shared concern about the situation because “[they had] a missing child” who might be injured. The officers were also present when Work continued to falsely claim that C.T. was with her friend in Sachse even after they confronted her with the falsity of her statement. Thus, these officers were eye witnesses to Work’s commission of the offense of false report regarding a missing child. The undisputed evidence demonstrates that Work was in the presence of the Cedar Park police officers when she committed the crime of false report regarding a missing child. Thus, the officers had the statutory authority to arrest her without a warrant.

CONCLUSION

As noted previously, the trial court's historical fact findings regarding the interaction between law enforcement officers and Work are supported by the record. These facts support the trial court's conclusion that Work was arrested when she was detained in the "soft interview" room at the police station and told she was not free to leave. However, nothing in the record supports the trial court's conclusion that the arrest was unlawful. The conclusion about the illegality of the warrantless arrest does not flow from the court's fact findings. The undisputed facts and circumstances—that Work lied to the police officers about C.T.'s location when they were investigating his status as a missing, and possibly injured, child—gave the officers probable cause to believe that Work had committed the offense of false report regarding a missing child. Furthermore, Work's commission of that offense in the presence of the officers gave them the authority to arrest her without a warrant. Probable cause to arrest and the statutory authority to make that arrest rendered Work's arrest lawful. Therefore, the trial court's conclusion that Work's arrest was unlawful is not supported by the record.

Because it was error for the trial to conclude that Work's arrest was unlawful, it was also error for the trial court to conclude that any statements made subsequent to that arrest were inadmissible. Accordingly, the trial court abused its discretion in granting Work's motion to suppress in part and suppressing the statements made during the specified time frame. The record demonstrates a lawful arrest, which merited the denial of Work's motion.

We reverse the order of the trial court granting Work's motion to suppress in part, order the motion to suppress be denied, and remand the cause to the trial court for further proceedings consistent with this opinion.

Melissa Goodwin, Justice

Before Chief Justice Rose, Justices Goodwin and Bourland

Reversed and Remanded

Filed: December 16, 2016

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