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FILED
Oct 23 2009, 10:04 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

STEVEN SANDRIDGE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0903-CR-270
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Rubick, Commissioner
Cause No. 49F19-0811-CM-254848

October 23, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary and Issue

Steven Sandridge appeals his conviction for class A misdemeanor resisting law enforcement. The sole restated issue presented on appeal is whether the warrantless entry into Sandridge's residence was lawful. We affirm.

Facts and Procedural History

On November 6, 2008, Officers Joshua Barker and Gregory Taylor of the Indianapolis Metropolitan Police Department responded to an incomplete 911 call from a female caller at a residence in Marion County. The officers were informed by emergency dispatch that a female caller stated that she needed police and then the call disconnected. Appellant's App. at 11. The officers were also informed of the address from which the 911 call was placed and they responded to that address. When Officer Barker, who was first on the scene, approached the residence, he heard loud arguing, stomping, and commotion coming from within. He heard yelling from both a male voice and a female voice. Once Officer Taylor also arrived at the scene, the officers began knocking on the front door of the residence identifying themselves as police officers and ordering that someone answer the door. When they received no response, the officers continued to knock several times. The officers advised the occupants inside that, if the door was not answered, the officers would kick the door open.

Sandridge opened the door slightly so that the officers could only see part of his body. When ordered by the officers to exit the residence and get onto the ground, Sandridge refused and informed the officers that he would not comply with any of their requests. Concerned

that a female was somewhere in the residence and unaware of her physical well-being, and also concerned that Sandridge could be harboring a weapon, the officers began to enter the residence. Sandridge ignored the officers' requests to put his hands behind his back and, instead, began to retreat further into the residence. A physical struggle between Sandridge and the officers ensued. After pinning Sandridge on the couch and using chemical spray to his face, Officer Barker was able to handcuff Sandridge. Officer Barker conducted a sweep of the residence and located a female named Jerri Parker in a middle bedroom of the residence. Parker was so intoxicated that Officer Barker had a hard time communicating with her. Officer Barker observed no visible physical injuries to Parker.

The State charged Sandridge with class A misdemeanor resisting law enforcement. During a bench trial held on February 23, 2008, Sandridge moved to suppress all evidence obtained as a result of the officers' warrantless entry into his residence. The trial court denied Sandridge's motion. The trial court found Sandridge guilty as charged. This appeal followed.

Discussion and Decision

Sandridge asserts that the officers' warrantless entry into his residence violated the unreasonable search and seizure provisions of both the Fourth Amendment to the United

States Constitution and Article 1, Section 11 of the Indiana Constitution.[1] Despite the similarity of structure of the federal and state constitutional provisions, interpretations and applications vary between them. *Holder v. State*, 847 N.E.2d 930, 935 (Ind. 2006). Indeed, the Indiana Constitution has been said to have "unique vitality" even where its words parallel federal language. *State v. Gerschoffer*, 763 N.E.2d 960, 965 (Ind. 2002). Thus, when we interpret substantially identical language in both provisions, "we may part company with the interpretation of the Supreme Court of the United States or any other court based on the text, history, and decisional law elaborating the Indiana constitutional right." *Ajabu v. State*, 693 N.E.2d 921, 929 (Ind. 1998). We will address Sandridge's assertion pursuant to each provision in turn.

Fourth Amendment

The Fourth Amendment to the United States Constitution reads in part: "The right of people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated[.]" The fundamental purpose of the Fourth Amendment is to protect the legitimate expectations of privacy that citizens possess in their persons, their homes, and their belongings. *Taylor v. State*, 842 N.E.2d 327, 330 (Ind. 2006) (citing *Ybarra v. Illinois*, 444 U.S. 85, 91(1979)). For a search to be reasonable under the

[1] Sandridge contends that the trial court abused its discretion when it admitted evidence obtained during the warrantless entry into his residence. While he frames the issue as one of admissibility of evidence, no evidence was obtained as a result of the entry. The essence of his argument is that the warrantless entry into his residence was unlawful and, thus, he had the right to resist the entry and cannot be guilty of resisting law enforcement. Indeed, while as a general rule a citizen is not permitted to resist arrest regardless of whether the arrest is lawful or unlawful, we have recognized an exception with regard to private premises and determined that a citizen has the right to resist an unlawful entry into private premises. *See Alspach v. State*, 755 N.E.2d 209, 211 (Ind. Ct. App. 2001), *trans. denied*. Therefore, we have reframed the issue.

Fourth Amendment, a warrant is required unless an exception to the warrant requirement applies. *Id*. As such, searches and seizures "conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth amendment-subject only to a few specifically established and well delineated exceptions." *Warner v. State*, 773 N.E.2d 239, 245 (Ind. 2002) (quoting *Minnesota v. Dickerson*, 508 U.S. 366, 372 (1993)).

One such exception is when exigent circumstances exist. *Ware v. State*, 782 N.E.2d 478, 481 (Ind. Ct. App. 2003). The burden is on the State to demonstrate exigent circumstances to overcome the presumption of unreasonableness that accompanies all warrantless home entries. *Id*. Under the exigent circumstances exception, police may enter a residence if the situation suggests a reasonable belief that someone inside the residence is in need of aid. *Smock v. State*, 766 N.E.2d 401, 404 (Ind. Ct. App. 2002). While exigent circumstances justify dispensing with a search warrant, they do not eliminate the need for probable cause. *Cudworth v. State*, 818 N.E.2d 133, 137-38 (Ind. Ct. App. 2004), *trans. denied*. Indeed, in an emergency, the probable cause element may be satisfied where the officers reasonably believe that a person is in danger. *Id.* at 140-41. In demonstrating both exigency and probable cause, the relevant inquiry is whether the government has established that the circumstances as they appear at the moment of entry would lead a reasonable, experienced law enforcement officer to believe that someone inside the residence requires immediate assistance. *Id*. at 141-42. The propriety of a warrantless search under the Fourth

Amendment is subject to de novo review. *Engram v. State*, 893 N.E.2d 744, 748 (Ind. Ct. App. 2008), *trans. denied*.

The State argues that the warrantless entry into Sandridge's residence was justified because the officers had an objective and reasonable belief that a female within the residence was either injured or in danger of bodily injury. The facts are clear that the officers were responding to an incomplete 911 call made from Sandridge's residence by a female. The female caller stated that she needed police before her call was prematurely disconnected. Upon arrival at the residence, Officer Barker heard yelling and arguing between a male and a female coming from within the residence.

Then, giving the officers more cause for concern, no individual inside the residence would respond to the officers' repeated knocks and requests for someone to answer the door. We note that a person has a right to refuse to answer the door when someone knocks. *Montgomery v. State*, 904 N.E.2d 374, 379 (Ind. Ct. App. 2009), *trans. denied*. Here, however, the refusal to answer came after a 911 call from the residence summoning emergency assistance. These facts must be coupled with the yelling and arguing Officer Barker previously heard coming from the residence. Under the circumstances, reasonable and experienced officers could have objectively interpreted the lack of response to their knocks as the female's inability to respond. When Sandridge finally opened the door, his refusal to cooperate with the officers made it impossible for them to determine the whereabouts or well-being of the female caller. Based upon this set of facts, there was probable cause to believe that the female 911 caller was in danger and in need of immediate

assistance. Accordingly, the officers' warrantless entry into Sandridge's residence was lawful under the exigent circumstances exception to the Fourth Amendment.

Article 1, Section 11

The purpose of Article 1, Section 11 of the Indiana Constitution is "to protect from unreasonable police activity, those areas of life that Hoosiers regard as private." *Brown v. State*, 653 N.E.2d 77, 79 (Ind. 1995). To determine whether police behavior was reasonable under our state constitution, we must consider each case on its own facts and construe the constitutional provision liberally so as to guarantee the rights of people against unreasonable searches and seizures. *Mitchell v. State*, 745 N.E.2d 775, 786 (Ind. 2001). The reasonableness of a search and seizure turns on a balance of: (1) the degree of concern, suspicion, or knowledge that a violation of law has occurred, (2) the degree of intrusion the method of the search or seizure imposes on the citizen's ordinary activities, and (3) the extent of law enforcement needs. *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005). Again, the burden is on the State to show that under the totality of the circumstances, the police officers' intrusion was reasonable. *Gerschoffer*, 763 N.E.2d at 965.

As with our Fourth Amendment determination, we similarly conclude that the State met its burden to show that under the totality of the circumstances, the warrantless entry into Sandridge's residence was reasonable pursuant to Article 1, Section 11 of the Indiana Constitution. Given the facts known to the officers at the time, exigent circumstances existed to justify the entry in this case. The officers had a high degree of concern that an emergency existed; they minimally intruded into the residence to locate the female 911 caller and

ascertain her safety; and their activities were a reasonable exercise of their law enforcement duties. The entry was lawful and, thus, Sandridge's subsequent conviction for resisting law enforcement stands.

Affirmed.

MAY, J., and BROWN, J., concur.