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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-968

Filed 01 August 2023

McDowell County, Nos. 20 CRS 353-55, 21 CRS 123

STATE OF NORTH CAROLINA

v.

WILLIAM KYLE LYTLE, Defendant.

Appeal by Defendant from judgments entered 21 April 2022 by Judge Bradley B. Letts in McDowell County Superior Court. Heard in the Court of Appeals 25 April 2022.

Attorney General Joshua H. Stein, by Assistant Attorney General Wendy J. Lindberg, for the State.

Christopher J. Heaney for Defendant.

GRIFFIN, Judge.

Defendant William Kyle Lytle appeals from an order denying his motion to suppress evidence of controlled substances found when officers searched a small black zipper case discovered during their pursuit of Defendant. Defendant asserts the trial court erred in concluding the officer did not need a warrant to search the case because the drugs were in plain view. We affirm.

I. Factual and Procedural History

This case arises from an officer's discovery of controlled substances in Defendant's possession. Defendant moved to suppress the controlled substances prior to trial. Evidence presented during the hearing on Defendant's motion tended to show as follows:

Detective Paul Alkire observed Defendant driving a motorcycle without a registration plate on 12 August 2020 in violation of N.C. Gen. Stat. §20-111 (1). In addition to the missing license plate, Alkire noticed that Defendant was wearing a black backpack. Alkire and another officer, who was patrolling in a separate car, initiated a traffic stop by activating their blue lights and sirens. Defendant, after glancing over his shoulder, made a few more turns before accelerating away from the officers, who followed in pursuit. Eventually, Defendant crashed into a ditch after attempting to avoid a collision with an oncoming car. His personal belongings, including a backpack and a black zipper case, were found scattered on the road and in the ditch.

Alkire documented the scene by taking photographs of Defendant's belongings. The case appeared to be fully closed in the photographs. When Alkire picked up the case to move it out of the road, he discovered that the crash damaged the case and that there was a slight, one-inch gap. Alkire's notes did not mention the condition of the case. During trial, Alkire demonstrated that the case could not be completely closed. He further testified that he was able to see through the one-inch gap without

opening the case. Alkire explained that, through the gap in the case, he was able to see pinkish-purple bags that contained a crystal-like substance, which he believed to be methamphetamine based on his training and expertise.¹

Alkire believed the crystal substance provided him with the probable cause needed to search the case and backpack. Alkire found three plastic bags containing methamphetamine and two plastic bags containing heroin inside the case. During cross-examination, Alkire stated that he searched the backpack and case as an incident to Defendant's arrest. On redirect examination, he clarified that he searched the case because he had observed the crystal substance through the one-inch gap.

The trial court denied Defendant's motion to suppress, ruling that Alkire did not need a warrant to search Defendant's case because the controlled substances within were in plain view. The case and the controlled substances were admitted into evidence.

On 21 April 2022, Defendant agreed to a plea deal in which the state dismissed certain other charges against him. Defendant pled guilty while preserving his right to appeal the denial of the motion to suppress.

II. Analysis

Defendant argues the trial court erred in denying his motion to suppress

¹ At the time of the hearing, Detective Alkire had been with the McDowell County Sheriff's Office for roughly fourteen years. He had four years' experience as a narcotics detective where he conducted various narcotics investigations and made several arrests for possession of methamphetamine. Alkire had extensive training in visual identification of controlled substances.

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because: (1) there was no competent evidence to support Findings of Fact 30, 31, and 34; and (2) there were not sufficient Findings of Fact to support Conclusions of Law 2-4. We disagree.

This Court, in evaluating the trial court’s decision to deny a motion to suppress, will determine whether competent evidence supports the trial court’s findings of fact and whether the findings of fact support the conclusions of law. *State v. Brooks*, 337 N.C. 132, 141, 446 S.E.2d 579, 585 (1994). Findings of fact “are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.” *State v. Heath* 281 N.C. App. 465, 468, 868 S.E.2d 165, 167 (2022) (citation omitted). However, “[c]onclusions of law are reviewed de novo and are subject to full review.” *State v. Biber*, 365 N.C. 162, 168, 712 S.E.2d 874, 878 (2011) (citation omitted). Conclusions of law are binding on this Court if they are supported by the trial court’s findings. *State v. Wynne*, 329 N.C. 507, 522, 406 S.E.2d 812, 820 (1991). “In reviewing the denial of a motion to suppress, we examine the evidence introduced at trial in the light most favorable to the State[.]” *State v. Moore*, 152 N.C. App. 156, 159, 566 S.E.2d 713, 715 (2002) (citations omitted).

Article I of the Constitution of the State of North Carolina and the Fourth Amendment of the United States Constitution protect individuals against unreasonable searches and seizures. U.S. Const. amend. IV; N.C. Const. art. I, § 20. “[A] governmental search and seizure of private property unaccompanied by prior judicial approval in the form of a warrant is *per se* unreasonable unless the

search falls within a well-delineated exception to the warrant requirement[.]” *State v. Cooke*, 306 N.C. 132, 135, 291 S.E.2d 618, 620 (1982). The plain view exception to the warrant requirement applies when:

the officer was in a place where he had a right to be when the evidence was discovered and when it is immediately apparent to the police that the items observed constitute evidence of a crime, are contraband, or are subject to seizure based upon probable cause.

State v. Mickey, 347 N.C. 508, 516, 495 S.E.2d 669, 674 (1998).

For evidence of a crime or contraband to be immediately apparent, “police must have probable cause to believe that items seized without a warrant are evidence of criminal conduct at the time of the seizure.” *State v. White*, 322 N.C. 770, 774, 370 S.E.2d 390, 393 (1988) (citation omitted). The State must show that probable cause exists by establishing that, “given the facts and circumstances of the case, and viewed through the eyes of a policeman with the experience and training of [the officer], the nature of the contents of the [case] was immediately apparent.” *State v. Graves*, 135 N.C. App. 216, 219–20, 519 S.E.2d 770, 772–73 (1999).

A. Findings of Fact

Defendant challenges Findings of Fact 30, 31, and 34, contending they lacked sufficient evidentiary support. Defendant contends each of these Findings is more appropriately considered a conclusion of law. We hold that Findings of Fact 30, 31, and 34 are appropriately deemed findings of fact, as the trial court properly derived them through logical reasoning from competent evidence at trial.

“[A]ny determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law.” *Williams v. Allen*, 383 N.C. 664, 672, 881 S.E.2d 117, 122 (2022) (citations omitted). “Any determination reached through ‘logical reasoning from the evidentiary facts’ is more properly classified a finding of fact.” *Id.* (citations omitted).

Defendant’s challenged Findings of Fact state:

30. Without manipulating the object, Detective Alkire could clearly see a transparent plastic bag containing a clear crystal substance through the opening in the zipper case.

31. The plastic bag containing the clear crystal substance was in plain view as it could be seen through the opening in the case.

...

34. The incriminating nature of the item was immediately apparent to Detective Alkire. Based on his training and experience, Detective Alkire immediately recognized the plastic bag as an item commonly used to package illegal narcotics and immediately recognized the clear crystal substance to be methamphetamine, a controlled substance that is illegal to possess.

Alkire testified at trial that he did not have to manipulate the case for the plastic bag containing the crystal substance to be immediately apparent to him. The contents became apparent to Alkire after the case was picked up and removed from the road. While Alkire did not see the case’s contents prior to picking it up, he lawfully picked the case up from the road.

Defendant contends that Alkire manipulated the case by picking it up from the road, causing the contents of the case to become immediately apparent. According to Webster's Dictionary, the definition of manipulation is, *inter alia*: (1) "to treat or operate with or as if with the hands or by mechanical means especially in a skillful manner;" or (2) "to change by artful or unfair means so as to serve one's purpose." *Manipulate*, WEBSTER'S DICTIONARY (11th ed. 2003). Applying these definitions to the facts before us, we do not agree with Defendant's contentions that: (1) there was no competent evidence to support a finding that the contents of the case were immediately apparent to Alkire without manipulating it, or (2) there was no competent evidence to support a finding that by picking up the case, Alkire did not manipulate it.

The case was scattered onto the roadway after Defendant attempted to flee from the police and, in the process, crashed his motorcycle. Alkire picked up the case to avoid safety concerns from leaving it in the road, and also because he had probable cause to seize the evidence after Defendant attempted to flee from the officers. *See Graves*, 135 N.C. App. at 219–20, 519 S.E.2d at 772–73 (explaining that probable cause exists when, under the facts and circumstances, the officer believes that contraband was immediately apparent). It would not be reasonable, and we do not expect an officer, to leave the personal belongings of suspected criminals, or any other individuals, scattered across a public roadway.

Once Alkire lawfully removed the case from the road, he testified that he was able to determine that the plastic bags containing crystal substances were methamphetamine. At trial, the court admitted Alkire's testimony that he was able to identify the plastic bag containing crystal substance through a one-inch hole in the case, and used his experience and training to determine that the crystal substance was methamphetamine. We find no reason the trial court should not have allowed it. Having determined that the trial court relied on admissible and competent evidence, we hold that Findings of Fact 30, 31, and 34, are appropriately labeled as findings of fact and the trial court did not err in making these findings of fact.

B. Conclusions of Law

In reviewing the trial court's Conclusions of Law 2-4, we must determine whether they were supported by the findings of fact. *Wynne*, 329 N.C. at 522, 406 S.E.2d at 820.

Conclusion of Law 2 states that:

Though the search of [] Defendant's black zipper case would normally require a search warrant, in this case the plain view exception (*Horton v. California*, 496 U.S 128 (1990)) to the search warrant requirement applies, thus a search warrant was not necessary for Detective Alkire [to] search the container.

Per Defendant's argument, we must determine whether there are factual findings supported by competent evidence that the contents of the case were immediately apparent to Alkire. Findings of Fact 30, 31, and 34, amongst others, support this

conclusion.

Conclusion of Law 3 states:

Detective Alkire's warrantless seizure and search of the black zipper case was proper and lawful under the circumstances performed in accordance with state and federal constitutional and statutory law.

Alkire's warrantless search and seizure was lawful because it was excepted under the plain view doctrine. Findings of Fact 30, 31, and 34 also support this conclusion.

Conclusion of Law 4 states:

[] Defendant's rights protected by the United States and North Carolina Constitutions as well as North Carolina statutory law were not violated by Detective Alkire's seizure and search of the black zipper case.

Defendant's rights were not violated because the contents of the case were in plain view to Alkire, thereby removing any expectation of privacy Defendant may have had. Findings of Fact 30, 31, and 34 support this conclusion. Conclusions of Law 2-4 were supported by the findings of fact, and therefore the trial court did not err in making these conclusions.

III. Conclusion

For the aforementioned reasons, we hold that the trial court did not err in denying Defendant's motion to suppress.

AFFIRMED.

Judges ZACHARY and GORE concur.

Report per Rule 30(e).