2012 IL App (2d) 111124
No. 2-11-1124
Order filed November 26, 2012

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
Plaintiff-Appellee,	)	
v.	)	No. 10-CF-2799
CARLOS A. DE LEON,	)	Honorable John J. Kinsella,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices McLaren and Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly denied the motion to quash and suppress evidence and the motion to suppress statements; the evidence was sufficient to prove defendant guilty beyond a reasonable doubt of possession of a weapon by a felon; affirmed.

¶ 2 After being charged with one count of unlawful possession of a weapon by a felon, defendant, Carlos A. De Leon, filed motions to quash the arrest and suppress evidence claiming that the police did not have the authority to enter and search his home without a warrant. Defendant asked that a handgun seized as a result of the entry be suppressed. Defendant also filed a separate motion to suppress statements, alleging that he made statements while in custody, but he was not

given *Miranda* warnings. After the suppression hearing, the court denied the motions. Following a stipulated bench trial, the trial court found defendant guilty, and thereafter sentenced defendant to two years' probation and 180 days in the county jail. In the motion for reconsideration, defendant reiterated that he was preserving the motions to quash and suppress and the question regarding the sufficiency of the evidence.

¶ 3 On appeal, defendant contends that (1) the trial court erred in denying the motion to quash arrest and suppress the evidence and the motion to suppress statements; and (2) the State failed to prove beyond a reasonable doubt that defendant committed the offense of unlawful possession of a weapon by a felon. We affirm.

¶ 4 FACTS

¶ 5 On December 26, 2010, the State indicted defendant on one count of unlawful use of a weapons by a felon, pursuant to section 24-1.1(a) of the Criminal Code of 1961 (720 ILCS 5/24-1.1(a) (West 2010)), and one count of possession of a firearm without the requisite firearm owner's identification (FOID) card, pursuant to sections 2(a)(1) and 14(c)(3) of the Firearm Owners Identification Card Act (430 ILCS 65/2(a)(1); 14(c)(3) (West 2010)).[1] Defendant subsequently filed motions to quash arrest and suppress evidence on January 31, 2011, arguing that his right to protection from unlawful searches and seizures, pursuant to the fourth amendment of the United States Constitution and article I, section 6, of the Illinois Constitution, had been violated. U.S. Const., amend. IV; Ill. Const. 1970, art. I, §6. Defendant also filed a motion to suppress illegally obtained oral statements made while he was in custody in violation of *Miranda v. Arizona*, 384 U.S.

[1]The State subsequently *nolle prossed* the second count.

436, 444, 475-77 (1968). The trial court held a suppression hearing, at which the following evidence was presented.

¶ 6 On November 24, 2010, Officer Brandon Oliver of the Glendale Heights police department was dispatched, along with Officer David Garazin, to a domestic dispute between a husband and wife at apartment 201, at 208 Gladstone, in Glendale Heights. He was told that the call came from a third party, and that the party reported that there was a handgun in a secured location in the apartment. The officer did not have any further information related to the identity of the person making the call or the individuals involved, and he did not know if there had already been physical violence or if the handgun had been pointed at anyone.

¶ 7 When Oliver arrived, Sergeant Mike Skopek also had responded to the call. All were in uniform, and wore badges and handguns. They did not have a search warrant. There was no warrant issued for defendant's arrest.

¶ 8 Sergeant Skopek knocked on the door, and defendant opened it. Oliver stood off to the side and could not see into the unit, but the door was opened more than a crack. Oliver could not remember if it was opened all of the way. Oliver was unaware of whether defendant invited them in, but he did not hear Skopek ask if they could enter. Oliver testified that Skopek was the one who conversed with defendant at the door of the apartment. He heard Skopek tell defendant that the call to the police department had reported that there was a gun in the apartment, and Oliver also heard Skopek tell defendant the officers would like to come in to speak with defendant. Oliver stated that he did not see defendant resist the officers' entry in any way.

¶ 9 The officers entered into the living room of the two-bedroom apartment. Only defendant was present in the living room. Defendant was polite, and nothing in the room was in disarray or looked

as if an altercation had occurred. Oliver remembered Skopek telling defendant that the officers were responding to a report of a domestic disturbance and that they needed to know what had happened. Skopek asked defendant if there were any weapons in the apartment, to which defendant replied no. Defendant did, however, state that he and his wife were having marital problems, but he did not want to get into it. Defendant told the officers that it was a verbal confrontation only. To the best of Oliver's knowledge, the police did not give defendant *Miranda* warnings.

¶ 10 Oliver searched a chair for weapons and contraband before he asked defendant to sit down. Defendant was cooperative and sat down. Oliver did not know if someone's life or safety was in danger, but he did not feel that he was in danger.

¶ 11 Skopek testified that the 911 call to the police station on November 24, 2011, had been placed by a third party about a text message reporting a domestic dispute. The message was from the daughter of two people who were engaged in an argument, and she reported in her text message to her friend that there was a gun in the apartment, although she thought it was secured. Skopek did not know if the occupant of the apartment had a FOID card. He also did not know if a gun had been pointed at anyone during the domestic dispute. He did not have information about the reliability of the report of a dispute. He did not know how long the dispute had taken place before the officers had arrived at the scene.

¶ 12 Skopek responded to the scene almost immediately after the call. Skopek parked in a lot near defendant's apartment. Skopek knew where the apartment at issue was located, and he saw defendant standing at his second-floor apartment's glass patio door, looking out at the parking lot. The drapes were open. Defendant stood at the window while Skopek stood in the shadows and looked up at him until the first squad car pulled into the nearby parking lot. At that point, defendant

left the window and closed the blinds. That concerned Skopek because, with a gun present, he worried about the possibility of defendant doing something before the police could get to his door.

¶ 13 Once officers Oliver and Garazin responded, all three officers entered the building and knocked on defendant's apartment door. They entered the building through a door that was not locked. Defendant answered, and when Skopek asked if there was a problem because they had received word of a domestic dispute, defendant said there was no problem. Skopek asked defendant if there was anyone else in the apartment, and defendant responded that his common-law wife, Consuela Medina, and her two children, Diana and Carla Medina, were in the back bedroom. Skopek said he was going to have to speak with them to make sure they were okay, and defendant stepped back to allow the officers entry into the apartment. Skopek said that, if defendant had resisted their entry, they eventually would have had to force their way into the apartment. Skopek stated that he could not safely have had defendant get his family members and bring them to the door because that could have allowed defendant access to a gun.

¶ 14 As soon as the officers were inside the apartment, Skopek asked if any firearms were present in the apartment. Defendant said there were none. Defendant had no marks on his face or hands. Skopek said he was going to pat defendant down for weapons, and defendant was cooperative. There were no weapons on defendant's person. After Oliver checked a chair, the officers asked that defendant take a seat there, and he sat down. Defendant was not free to leave. Skopek asked defendant if he was a felon and if he had a FOID card. Defendant responded that he had a fraud conviction. Skopek did not verify defendant's criminal history. No *Miranda* warnings were given. While the questioning could have elicited an incriminating response, the questioning was for officer safety and the safety of those in the apartment.

¶ 15 Defendant told Skopek that his wife and daughters were home, but Skopek, who could see into the living room, dining room, and hallway, did not see them. Skopek was concerned because the other party in the domestic dispute was not visible. Skopek instructed Garazin to talk with defendant's wife to make sure everything was fine. Skopek later joined Garazin in the bedroom and learned that defendant's wife had said that she and defendant had an argument about defendant's having a relationship with a woman who lived on the third floor of the apartment building. Defendant's wife confronted the woman, and defendant became angry. During the argument, defendant said that he was going to shoot her in the head and shoot the boyfriend of the woman who lived upstairs.

¶ 16 Skopek stated that defendant's older daughter, Diana, spoke fluent English and translated for her mother. He believed that Diana was a pre-teen. Garazin related to Skopek that Diana had seen a gun in the apartment. She thought it was a real gun and directed the two officers to a drawer in a dresser, which was located in the other bedroom. According to Skopek, Garazin got permission from Consuela Medina, through her daughter, to get the gun. It was Consuela Medina who took them to the other bedroom. Skopek did not know if the dresser drawer was used by defendant, his wife, or both. Garazin opened the drawer that Diana had pointed to, but the gun was not there. The missing gun heightened Skopek's concern. Diana told the officer that the gun had been in the drawer and so Skopek returned to the living room and told defendant that he knew there was a gun in the apartment and that it was not in the drawer where it had been. Using a normal tone of voice, he asked defendant where the gun was located. The time between when the officer entered the apartment and when Skopek asked defendant again to show them where the gun was located was 5 to 10 minutes. Defendant pointed toward the couch, which had some clothes on it and also at the

bedroom. Oliver asked if it was in the dirty clothes, and defendant said "yes." Oliver asked if it was in the clothes hamper and again defendant responded "yes."

¶ 17 At that point, Skopek received consent from Consuela Medina and went to a bedroom and looked inside the hamper. Underneath a shirt was a loaded pistol. That gun was recovered as evidence. Skopek did not get a search warrant at any point.

¶ 18 Skopek clarified that he had been talking about Consuela Medina, who was defendant's common-law wife, when he spoke of defendant's wife or the children's mother.

¶ 19 When Diana and her mother told the officers about the handgun, Diana also said there was a rifle in a storage locker in the hallway of the apartment building. Skopek testified that he asked Consuela Medina for consent because the officers were looking in a common area where the two of them were living. After defendant was arrested, Consuela Medina gave written consent to open the locker, and the police found that the rifle was an air rifle. It could only fire pellets.

¶ 20 The trial court denied the motions. The court found that, once the police officers received the call telling them of the domestic dispute involving a gun at a particular address, the officers had a duty to investigate the call. Their knowledge of the facts justified their entry into the house, as did defendant's consent to their entry. The emergency also justified the officers' actions in talking with Consuela Medina and the children. The officers acted reasonably in looking for the gun once they were told of defendant's threat to shoot his wife and the boyfriend of the woman who lived in the apartment upstairs. When the gun was not in the location described by Diana, then the officers still needed to find the gun to ensure the safety of everyone at the apartment, and they were justified in asking defendant more questions. The trial court found that, at that point, defendant was not in custody. The questioning was reasonable due to the exigencies of the situation. The court further

noted that the exigencies, as well as Consuela Medina's consent, made the officers' search of the dresser and the hamper reasonable.

¶ 21 The cause proceeded to a stipulated bench trial. The parties stipulated that, if called, the witnesses who testified at the hearing on the motions to suppress, would testify as they had previously. The parties stipulated that, if called, the police officers would testify in conformity with the police reports. The parties stipulated that defendant had previously been convicted of a Class 4 felony for the illegal use of a credit or debit card under $300. The parties stipulated that the item seized from the apartment was a semi-automatic handgun. They also stipulated that, if called, Consuela Medina would testify that defendant owned the handgun seized from the apartment. Neither party offered additional evidence.

¶ 22 On September 7, 2011, the trial court found defendant guilty of unlawful possession of a weapon by a felon. On October 13, 2011, the trial court sentenced defendant to 2 years' probation and 180 days in the county jail. On November 4, 2011, the court heard a motion for reconsideration of the sentence, which it denied. In that motion, defendant reiterated that he was preserving the suppression issues and a question regarding the sufficiency of the evidence. Defendant filed a timely notice of appeal on November 9, 2011.

¶ 23 ANALYSIS

¶ 24 Motion to Quash and Suppress

¶ 25 On appeal, defendant first contends that the trial court erred in denying his motion to quash arrest and suppress evidence.

¶ 26 Standard of Review

¶ 27 In reviewing a trial court's ruling on a motion to suppress evidence and quash arrest, a reviewing court must consider questions of both law and fact. *People v. Jones*, 215 Ill. 2d 261, 267 (2005). Findings of historical fact may only be overturned if such findings run counter to the "manifest weight of the evidence." *Jones*, 215 Ill. 2d at 268. "A judgment is against the manifest weight of the evidence only when an opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on evidence." *Bazydlo v. Volant*, 164 Ill. 2d 207, 215 (1995). This deferential standard of review exists because the trial court is in a superior position to determine and weigh the credibility of the witnesses, observe witnesses' demeanor, and resolve conflicts in their testimony. *Jones*, 215 Ill. 2d at 268. The reviewing court is free to make its own assessment of the facts when drawing legal conclusions on the issues presented. *Id.* Therefore, this court reviews *de novo* the ultimate question of whether or not the motions to quash arrest and suppress evidence should have been granted. *Id*. *De novo* consideration means we perform the same analysis that a trial judge would perform. *Khan v. BDO Seidman, LLP*, 408 Ill. App. 3d 564, 578 (2011).

¶ 28 The Emergency Aid Exception

¶ 29 The fourth amendment to the United States Constitution secures the right of citizens to be "secure in their persons, houses, papers, and effects against *unreasonable* searches and seizures." (Emphasis added.) U.S. Const., amend. IV; see also *Elkins v. United States*, 364 U.S. 206, 213 (1960) (holding that the fourth amendment applies to state officials through the fourteenth amendment). The central requirement of fourth amendment analysis is reasonableness. *Illinois v. McArthur*, 531 U.S. 326, 330 (2001). Specifically, courts must examine whether the totality of the circumstances surrounding the particular invasion of the citizen's person or property was reasonable. *Jones*, 215 Ill. 2d at 268. The United States Supreme Court has held that the fourth amendment

establishes "rules and presumptions designed to control conduct of law enforcement officers" which may violate citizens' rights against improper search and seizure. *Jones*, 215 Ill. 2d at 269 (quoting *McArthur,* 531 U.S. at 330).

¶ 30 Generally, a search is unreasonable if it is not done pursuant to a warrant supported by probable cause. *Jones*, 215 Ill. 2d at 269. However, exceptions to the warrant requirement exist, and the totality of circumstances can render a warrantless search reasonable under the fourth amendment. *McArthur*, 531 U.S. at 330. When determining whether a warrantless search is reasonable, courts must balance the legitimate promotion of government interests against the intrusion of fourth amendment principles. *Jones*, 215 Ill. 2d at 269; *People v. Ramos*, 353 Ill. App.3d 133, 148 (2004). See also *United States v. Knights*, 534 U.S. 112, 121 (2001) (holding that lower standards than those normally required by the fourth amendment are allowed when balancing of government and private interests makes such lessened standards reasonable).

¶ 31 One example of a search for which a warrant is not required is a search made pursuant to the emergency aid exception, which allows police to enter and search a home without a warrant in emergency situations. See, *e.g.*, *People v. Lomax*, 2012 IL App (1st) 103016, ¶ 29. Under the emergency aid exception, no warrant is necessary for the police to enter and search the premises when they have a reasonable belief that they need to take immediate action to provide aid to persons or property.

¶ 32 Defendant argues that there were no exigent circumstances for the police to enter the apartment and that their continued presence in the apartment and their continued investigation were unreasonable. The State points out, and we agree, that the officers' actions in entering the apartment

and that their continued presence and investigation without a warrant was justified by the emergency aid exception to the warrant requirement. See *People v. Ferral*, 397 Ill. App. 3d 697, 704 (2009).[2]

¶ 33 The test for whether the emergency aid exception to the fourth amendment warrant applies requires a two-step process. *Ferral*, 397 Ill. App. 3d at 705 (citing *People v. Griffin*, 158 Ill. App. 3d 46, 50-51 (1987)). First, the police must have "reasonable grounds" to believe there is an emergency at hand; and second, the police must have some reasonable basis, "approximating probable cause," associating the emergency with the area to be searched or entered. *Ferral* , 397 Ill. App. 3d at 705 (citing *Griffin*, 158 Ill. App. 3d at 50-51). A determination of the reasonableness of the police officers' beliefs is to be judged objectively in terms of the totality of the circumstances known to the officers at the time of entry. *Ferral*, 397 Ill. App. 3d at 705 (citing *Griffin*, 158 Ill. App. 3d at 51). The United States Supreme Court has held that emergency situations include instances when someone may be injured or threatened with injury. See *Michigan v. Fisher,* 558 U.S. 45, __ (2009) (*per curium*) (citing *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006)).

¶ 34 Here, the police certainly met the "reasonable grounds to believe an emergency exists" prong of the test. The police were alerted to a domestic dispute by a phone call made by a third party, who identified herself as a friend of the daughter of the two people who were involved in the domestic dispute, and she told police the couple's address. She said she had received a text message from the daughter, which stated that the daughter's parents were engaged in an argument and there was a gun in their apartment, although the friend thought that the gun was secured.

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[2]We note that this court in *People v. Koester*, 341 Ill. App. 3d 870, 874 (2003), has treated an emergency aid exception as a form of an exigent circumstance.

¶ 35 "A 911 call is one of the most common–and universally recognized–means through which the police and other emergency personnel learn that there is someone in a dangerous situation who urgently needs help." *United States v. Richardson,* 208 F.3d 626, 630 (7th Cir. 2000). Generally, a phone tip which comes through an emergency number to the police is considered reliable. Tips made over an emergency line to the police are not truly anonymous, even if the caller does not identify himself or herself, because the number is recorded by the emergency system. Thus, there is an additional reliability to these "anonymous" calls. *People v. Bryant*, 389 Ill. App. 3d 500, 519 (2009). Tips coming into the police emergency line are similar to those made by an identified citizen informant rather than by a confidential informant. *Bryant*, 389 Ill. App. 3d at 519-20. In this case, the caller was not truly anonymous. Moreover, she identified the nature of the emergency, the address and the apartment number where the emergency was occurring, and gave details, such as there being a secured gun in the apartment, her connection to the people in the apartment, and how she came to know of the emergency.

¶ 36 Officer Skopek responded immediately. When Skopek arrived at the address given, he saw defendant standing at his second-floor apartment's glass patio door, looking out at the parking lot. The drapes were open. Defendant stood at the window while Skopek stopped in the shadows and looked up at him. When the next officers arrived in a squad car and parked next to defendant's building, Skopek saw defendant leave the window and close the blinds. This concerned Skopek because, with a gun present in the apartment, he thought there was a possibility of violence before the police could get to the apartment.

¶ 37 The amount of facts available to the police is important; however, each case is decided by the totality of its own unique facts. *Lomax*, 2012 IL App (1st) 103016, ¶ 37. The reasonableness

prong of the test is determined by the totality of the circumstances known to the officers at the time of entry. *Ferral*, 397 Ill. App. 3d at 705. (Citing *Griffin*, 158 Ill. App. 3d at 51). The United States Supreme Court has cautioned courts against second-guessing the police's assessment of the situation. *Ryburn v. Huff*, __ U.S. __, __, 132 S.Ct. 987, 992 (2012) (*per curium*). Police officers often must make split-second decisions, without the benefit of immediate hindsight, in situations that are often uncertain and rapidly evolving.

¶ 38 The second prong requires that police have a reasonable basis, akin to probable cause, associating the emergency with the area to be searched or entered. *Ferral*, 397 Ill. App. 3d at 705. Probable cause exists when "the totality of the facts and circumstances known to the officers is such that a reasonably prudent person would believe that the suspect is committing or has committed a crime." *People v. Montgomery*, 112 Ill. 2d 517, 525 (1986). When determining whether probable cause exists, courts look to whether there was a probability of criminal behavior, rather than proof beyond a reasonable doubt. *People v. Garvin*, 219 Ill. 2d 104, 115 (2006). Courts need not use rigid metrics for determining whether probability of criminal behavior existed, but instead must examine " 'factual and practical considerations of everyday life on which reasonable prudent men, not legal technicians, act.' " (Internal quotation marks omitted.) *People v. Wear*, 229 Ill. 2d 545, 564 (2008) (quoting *People v. Love*, 199 Ill. 2d 269, 279 (2002)).

¶ 39 Probable cause in an emergency situation is based upon a desire to locate potential victims and ensure their safety, rather than a reasonable belief that a search will disclose evidence of criminal activities. *United States v. Holloway*, 290 F.3d 1331, 1337-38 (11th Cir. 2002). Probable cause may be satisfied when officers reasonably believe that someone is in danger. *Holloway*, 290 F.3d at 1338.

¶ 40 The facts in this case established probable cause for the officers to search defendant's home. The officers went to the door where defendant answered and admitted there was an argument. The police could not see any other occupants. Defendant said they were in the bedroom. Once in the apartment, the officers knew additional facts which corroborated the tip they had received and which justified the continued investigation of an emergency situation. Defendant's common-law wife and children were present in the apartment but could not be seen and defendant had admitted to the officers that there had been a domestic dispute. At that point, the officers still were actively involved in investigating the initial 911 call to determine if aid was necessary, as they needed to see and talk with the other people present. The police had reasonable grounds to believe that an emergency was at hand and they needed to ensure that the other occupants were safe. Responding to the call, the police entered the apartment for the express purpose of performing a safety check to ensure that no one had been injured or was in need of medical assistance. See *Lomax*, 2012 IL App (1st) 103016, ¶ 53.

¶ 41 Once the police entered and checked on the other occupants, Consuela Medina told the police about the domestic dispute, that defendant threatened to shoot her and another man, and where a gun was located in the apartment. The police had permission to check the dresser drawer and when the police found no gun, the police questioned defendant, who said it was in a clothes hamper. Consuela Medina then gave the police permission to search the hamper for the gun.

¶ 42 The trial court found that Consuela Medina consented to the search of both the dresser drawer and the hamper. The facts support the trial court's findings. Her consent was effective because she had joint access and control of the premises and so had the authority to consent to a search of the drawer, even if the dresser was used exclusively by defendant. See *People v. Burton*, 409 Ill. App.

3d 321, 328, 332 (2011). Defendant had told the police at the door that he had a prior felony conviction and, once the gun was found he was arrested.

¶ 43 In *People v. Hand*, 408 Ill. App. 3d 695, 703 (2011), the appellate court rejected the defendant's argument that a police officer who has a reasonable basis for inquiring about someone's welfare is required to retreat and seek other methods of gaining information if the person from whom he is seeking information refuses to cooperate. The court noted that such a mandate would thwart the intent of the community caretaking exception to a warrant. Likewise, in the present case, such a mandate would have frustrated the intent of the emergency aid exception.

¶ 44 In short, defendant admitted that a domestic dispute had occurred inside his apartment, a gun was secured there, and the people inside the apartment could not be seen and could have been in danger of being harmed in the near future or may have already been harmed. Because of the exigency inherent in this emergency situation, the officers acted reasonably based on the totality of the circumstances known to them at the time. Accordingly, we find the trial court properly denied the motion to quash arrest and suppress evidence because the police officers reasonably made entry into defendant's apartment and searched and located his gun pursuant to the emergency aid exception to the requirement for a warrant. The police had reasonable grounds to believe that an emergency was at hand and their immediate help was necessary to assist in the protection of life or property, and the police had a reasonable basis for associating the emergency with the area they entered and searched. See *Ferral*, 397 Ill. App. 3d at 705.

¶ 45 Motion to Suppress Statements

¶ 46 Defendant next contends that the trial court improperly denied his motion to suppress his statements to police about the location of the gun. The fifth amendment to the United States

Constitution (U.S. Const., amend. V) guarantees that "[n]o person *** shall be compelled in any criminal case to be a witness against himself." The United States Supreme Court extended the fifth amendment privilege against self-incrimination to custodial interrogations, requiring that a defendant be warned that he has the right to remain silent, he has a right to an attorney, and any statement he gives may be used against him in a court of law. *Miranda*, 384 U.S. at 444, 475-77. Defendant argues that he was in custody and that the statement should have been suppressed because the officers failed to *Mirandize* him before questioning, as he believed he was not free to leave. The trial court found that defendant was not in custody without offering any analysis for its holding.

¶ 47 While defendant sets forth a rational argument that he was in custody, we need not reach that issue. A limited exception to the requirement of *Miranda* warnings applies when the police face an immediate threat to public safety. Under those circumstances, the police may ask questions which are necessary to securing the safety of the public without first giving *Miranda* warnings. See *New York v. Quarles*, 467 U.S. 649, 655-57 (1984).

¶ 48 In *People v. Williams*, 173 Ill. 2d 48, 78 (1996), our supreme court applied the public safety exception to a factual situation similar to the present case. The defendant was arrested on a warrant for a shooting that occurred earlier in the evening. After his arrest, the police asked him if he had any weapons on him. The defendant responded that he had a gun in the attic. In affirming the denial of his motion to suppress statements, the court cited the exception set forth in *Quarles*, where the Supreme Court held that "the need for answers to questions in a situation posing a threat to the public safety outweighs the need for the prophylactic rule protecting the Fifth Amendment's privilege against self-incrimination." *Williams*, 173 Ill. 2d at 77 (quoting *Quarles*, 467 U.S. at 657). Assuming defendant here was in custody, the same public safety threat was present where the

officers had information that there was a gun in the house that was not in its usual place and defendant had threatened to shoot two people earlier that day. The trial court's findings reflect its application of this exception.

¶ 49 Sufficiency of the Evidence

¶ 50 Defendant last contends that the State failed to prove him guilty beyond a reasonable doubt of possession of a weapon by a felon. When questioning the sufficiency of the evidence, the proper standard of review is whether, when viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 51 Section 24-1.1(a) provides, in relevant part, as follows:

> "It is unlawful for a person to knowingly possess * * * in his own abode * * * any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction." 720 ILCS 5/24-1.1(a) (West 2010).

Defendant does not challenge his status as a felon. Rather, he claims that there was insufficient proof that the gun belonged to him. Possession may be actual or constructive. Constructive possession is shown where the defendant had knowledge of the presence of the weapon, and the defendant had immediate and exclusive control over the area where the weapon was found. *People v. Grant*, 339 Ill. App. 3d 792, 798 (2003). " 'Where [contraband is] found on premises under defendant's control, it may be inferred that [the defendant] had the requisite knowledge and possession, absent other facts and circumstances which might leave a reasonable doubt as to guilt in the minds of the jury.' " *People v. Hill*, 2012 IL App (1st) 102028, ¶ 40, (quoting *People v. Frieberg*, 147 Ill. 2d 326, 361 (1992)). As stated in *Hill*, the mere fact that others had access to the

premises does not defeat constructive possession because the law recognizes the possibility of joint possession. *Hill*, 2012 IL App (1st) 102028, ¶ 40.

¶ 52 The evidence adduced at the stipulated bench trial showed that the daughter had seen a gun in defendant's dresser drawer and defendant clearly knew where the gun was located when he directed the police to its location. These facts would be enough evidence to support our deferential standard of review. Additionally, the parties stipulated that, if called, Consuela Medina would testify that defendant owned the handgun. This is overwhelming evidence of defendant's ownership or possession of the gun. Viewed in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

¶ 53 III. CONCLUSION

¶ 54 Based on the preceding, we affirm the judgment of the circuit court of Du Page County.

¶ 55 Affirmed.