2018 IL App (1st) 151421-U

No. 1-15-1421

Order filed on August 1, 2018.

Modified upon denial of rehearing on September 18, 2018.

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 8475
	)	
MARKESE KEEFER,	)	The Honorable
	)	Nicholas Ford,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly denied defendant's motion to suppress evidence and quash his arrest, where the police had a reasonable articulable suspicion that defendant committed the armed robbery to justify the *Terry* stop. Additionally, the inevitable discovery doctrine applies to evidence of the robbery proceeds recovered from defendant's pockets during the stop. Finally, the stop was not transformed into a custodial arrest when defendant was seized and transported to the show-up.

¶ 2 Following a jury trial, defendant, Markese Keefer, was found guilty of armed robbery and sentenced to 28 years in prison. On appeal, defendant contends that the trial court erred in denying his motion to suppress evidence and quash his arrest because the police lacked a reasonable articulable suspicion to justify a *Terry* stop. Alternatively, defendant contends that, even if the stop was proper, evidence of the robbery proceeds and the subsequent identifications of him must be suppressed, nonetheless, because the police exceeded the scope of *Terry* when they searched his pockets and the State failed to show that the inevitable discovery exception applied. Last, defendant argues that, because his seizure developed into a custodial arrest before the police acquired probable cause, evidence of the robbery proceeds and the subsequent identifications of him must be suppressed. For the reasons that follow, we affirm the trial court's judgment denying defendant's suppression motion and affirm defendant's conviction.

¶ 3 BACKGROUND

¶ 4 On April 6, 2013, defendant was arrested and then charged with armed robbery of the victim, Titus Woodring. In July 2013, defendant filed a "motion to suppress evidence illegally seized and to quash arrest." In his motion, defendant argued that he was unlawfully detained by the police because the police "could not have articulated any reasonable suspicion that [he] had committed a crime" and that "his detention and subsequent search were, in essence, a fishing expedition." Additionally, defendant argued that, because the *Terry* stop was unlawful, any evidence recovered as a result of the stop, namely the robbery proceeds, as well as Woodring and Byrd's identifications of defendant, must be suppressed, because that evidence was obtained as a result of an illegal search.

¶ 5 This cause came before the trial court for a hearing on defendant's suppression motion on April 1, 2014. At the hearing, Officer Luera testified that he was on duty as a patrol officer with

his partner, Officer Vela, on April 6, 2013, at approximately 11 p.m. At that time, Officer Luera testified that they received a radio flash message to the effect that an armed robbery with a handgun had just occurred at 11137 South Union Avenue, involving multiple subjects. Additionally, with respect to the radio dispatch, Officer Luera testified that the message described the subjects of the armed robbery as two black males with dreadlocks. Officer Luera further testified that upon receiving the radio dispatch, he drove eastbound towards the address of the armed robbery and observed defendant and another man, both black males with dreadlocks, at 110th and Union. Officer Luera testified that the men were walking westbound on 110th street, in the opposite direction of the reported robbery. Officer Luera then testified that he detained defendant and the other man and performed a safety pat-down to search for weapons. While Officer Luera admitted that he did not find any weapons on defendant, as part of his safety pat-down, Officer Luera searched defendant's front pockets and found the victim's state identification card (ID), a Boost mobile cellular phone, six dollars and a Chicago Transit Authority (CTA) bus pass. Subsequently, Officer Luera testified that he placed the men "into custody" and "detained them" in order to transport them to the show-up. Defendant and the other man were handcuffed, placed in the back of the police car and transported some three blocks away to 110th and Parnell, where Woodring was waiting with Officer Robert. There, Woodring positively identified defendant and the other man as the offenders who robbed him. Consequently, Officer Luera placed both men under arrest. After placing defendant under arrest, Officer Luera testified that he inventoried the items belonging to Woodring that were found in defendant's front pockets.

¶ 6 With the testimony of Officer Luera, defendant rested and the State presented no additional evidence. The trial court denied defendant's motion to suppress evidence and quash

his arrest, finding that the *Terry* stop was proper because there was a reasonable articulable suspicion that defendant committed the armed robbery. In addition, the court found that, pursuant to *Terry*, Officer Luera was justified in detaining defendant and placing him into temporary custody for purposes of transporting him to the show-up, and that once Woodring positively identified defendant, there was probable cause for his arrest. Finally, the court found that, even if Officer Luera's search of defendant's pockets during the safety pat-down was unlawful, the evidence inevitably would have been discovered pursuant to his arrest.

¶ 7 In response, defendant orally moved the trial court to reconsider its ruling, arguing, *inter alia*, that the State failed to raise inevitable discovery, thus forfeiting the issue. Defendant's motion to reconsider was denied.

¶ 8 The case was tried in front of a jury beginning on October 21, 2014. Briefly stated, the evidence at trial generally showed that around 11 p.m., on April 6, 2013, Woodring was with his friend, Kareem Byrd, at 11137 South Union, where he was meeting a woman for a date. Woodring rang the doorbell, but after no answer, began walking back towards the car. Raquel Betton, who lived at 11137 South Union, testified that she heard the doorbell ring, and further testified that she heard someone outside her window say, "[G]et down. Get down."

¶ 9 Byrd testified that he was standing outside of his car when defendant approached Woodring. Byrd further testified that he saw defendant point a gun at Woodring, at which time he ran to his car and drove to a nearby gas station, where he called 911. While he was on the phone, Byrd saw a group of people running down the street and heard police sirens, and he relayed these facts to the 911 dispatcher. Byrd also testified that on the night of the incident, he told the police what defendant was wearing, stating, "I told them that it was a funny looking jacket, like it had yellow in it."

¶ 10 When defendant approached Woodring, he was with two other men, who were also carrying guns. Woodring testified that defendant took him to the backyard, had him kneel down, and pointed a gun at his head, while instructing him to "call [his] friend back." Woodring then testified that he called Byrd six times before he finally answered, and after telling him to come back, Byrd replied, "hell no, I'm not coming back" and hung up the phone. During that time, Woodring testified that the two other men took six dollars, his CTA bus pass and his ID from his pockets, and then handed the items to defendant.

¶ 11 Woodring testified that the police arrived in the front yard "[n]o later than ten seconds" after Byrd hung up the phone. Woodring further testified about the police arrival, stating, "I guess Kareem called the police before he picked up the phone for me." When the police arrived, Woodring testified that he screamed that he had just been robbed, got into the squad car and relayed the events of the robbery to the police, including a description of the offenders. Subsequently, Officer Luera testified that he detained defendant and transported him to 110th and Parnell for a show-up, where Woodring positively identified defendant. At the show-up, Woodring testified that the police recovered his six dollars, CTA bus pass and ID from defendant's pockets.

¶ 12 Chicago Police Sergeant Szarzynski testified that while he was working on April 6, 2013, between 10:30 and 11 p.m., he received a call with respect to an incident that had just occurred on the 111th block of South Union. Sergeant Szarzynski testified that after he "received information to start searching [the suspects'] avenue of escape," he went to 110th and Union and began "a systematic search" looking for "[t]hree" weapons." Sergeant Szarzynski then testified that his search revealed three loaded guns, namely, a silver 9-millimeter handgun with an extended magazine, a .380-caliber semiautomatic handgun and a Glock .40-caliber handgun.

Woodring's trial testimony revealed that those were the guns used in the robbery, and that Woodring recognized the gun as the one used by defendant because it had "an extra long clip."

¶ 13 The following day, Byrd identified defendant in a line-up at the police station as the man he saw point the gun at Woodring the previous night.

¶ 14 The jury found defendant guilty of armed robbery. Subsequently, defendant's motion for a new trial was denied and the trial court sentenced defendant to 28 years in prison, including 13 years for the armed robbery offense and 15 years for the added gun enhancement. Defendant's motion to reconsider his sentence was also denied. Defendant now appeals.

¶ 15 ANALYSIS

¶ 16 I. Whether the *Terry* stop was justified

¶ 17 Defendant now challenges the trial court's judgment denying his motion to suppress evidence and quash his arrest. When reviewing a trial court's ruling on a motion to suppress, where mixed questions of fact and law are presented, we apply a two-part standard of review. *People v. Payne*, 393 Ill. App. 3d 175, 179-80 (2009). The trial court's findings of fact will be reversed only if such findings are against the manifest weight of the evidence. *Id.* In contrast, we review the trial court's legal ruling as to whether suppression was warranted *de novo*. *Id.* Furthermore, in reviewing the denial of a motion to suppress, we may consider trial evidence in addition to the evidence presented at the hearing on the motion to suppress. *People v. DeLuna*, 334 Ill. App. 3d 1, 11 (2002).

¶ 18 Under the fourth amendment and the Illinois Constitution of 1970, an individual has the right to be free from unreasonable searches and seizures. *People v. Almond*, 2015 IL 113817, ¶ 56 (citing U.S. Const., amend. IV, and Ill. Const. 1970, art. I, § 6). The supreme court in *Terry v. Ohio*, 392 U.S. 1, 21 (1968), established that a limited investigatory stop, however, is

permissible if there is a reasonable suspicion, based upon specific and articulable facts, that the person has committed or is about to commit a crime.

¶ 19 As such, pursuant to *Terry*, a police officer may stop and detain an individual, without having probable cause, in order to investigate possible criminal activity. *People v. Bennett*, 376 Ill. App. 3d 554, 563-64 (2007); *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 46; *Terry*, 392 U.S. at 21-22. While the evidence required to justify a *Terry* stop under the "reasonable suspicion" standard does not rise to the level required for probable cause, the officer must be able to point to specific and articulable facts that, when taken together with reasonable inferences from those facts, form a reasonable suspicion warranting the intrusion. *Payne*, 393 Ill. App. 3d at 183; see 725 ILCS 5/107-14 (West 2012) (section 107-14(a) codified the holding in *Terry*, stating that "[a] peace officer *** may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense").

¶ 20 Furthermore, a *Terry* stop must be justified at its inception. *Payne*, 393 Ill. App. 3d at 180. In determining whether an officer's suspicion was reasonable, we apply an objective standard, taking into consideration commonsense judgments and inferences about human behavior. *Id*. When determining whether there was a reasonable suspicion to justify the stop, however, we consider the totality of the circumstances. See *id*. (stating that the question for the court ultimately turns on whether the degree of suspicion that attached to the circumstances surrounding the defendant's actions was reasonable).

¶ 21 Defendant raises a number of arguments regarding his claim that the trial court erred in denying his suppression motion. Defendant first notes that Officer Luera conducted the *Terry* stop pursuant to a radio dispatch regarding criminal activity. Defendant asserts, however, that

the State was required to present testimony from the officer who issued that dispatch, showing that he possessed articulable facts supporting a reasonable suspicion to justify the stop. While a defendant, as the moving party in a suppression hearing, bears the initial burden to prove his seizure was unlawful, that is, that the police lacked a reasonable articulable suspicion justifying the *Terry* stop, once that has been established, the burden then shifts to the State. *People v. Matous*, 381 Ill. App. 3d 918, 923 (2008). Defendant now argues that absent testimony from the dispatcher, the State failed to show that Officer Luera had any basis to conduct the *Terry* stop, and it was therefore improper.

¶ 22 At the outset, we observe that while defendant failed to raise this issue below, thus forfeiting the matter, the State has waived forfeiture by failing to raise the argument on appeal. *People v. Bridgeforth*, 2017 IL App (1st) 143637, ¶ 46. Still, it is noteworthy that defendant's failure to raise the issue at the suppression hearing has left this court with a significantly underdeveloped record. See *People v. Hughes*, 2015 IL 117242, ¶ 46. Had defendant flagged the issue, the State could have called the dispatcher or Byrd or Woodring to testify as to the underlying basis for issuing the dispatch. To the extent defendant left the record underdeveloped in that regard, we must construe it against him. See *People v. Majka*, 365 Ill. App. 3d 362, 370 (2006). We also reemphasize that because defendant has asked that we review the trial court's decision on his motion to suppress, we may consider not only the evidence presented at the suppression hearing, but *also* any evidence introduced at trial. See *DeLuna*, 334 Ill. App. 3d at 11 (stating that it is irrelevant as to whether there was sufficient evidence supporting the trial court's pre-trial ruling denying a motion to suppress if its decision is supported by evidence introduced at trial because the pre-trial ruling is not final and may be changed or reversed at any time prior to final judgment). As the reviewing court, we may also affirm the trial court's ruling

on any basis supported by the record, regardless of whether such basis was expressly articulated by the court in reaching its conclusion. *People v. Sims*, 167 Ill. 2d 483, 500-01 (1995).

¶ 23 Having reviewed the record in totality, we conclude that there was sufficient evidence to support an underlying basis for issuing the radio dispatch under *Terry*. If a radio bulletin or message has been issued on the basis of articulable facts supporting a reasonable suspicion that the suspect has committed an offense, an officer's reliance on that dispatch justifies a *Terry* stop. *People v. Lawson*, 298 Ill. App. 3d 997, 1004 (1998); see *United States v. Hensley*, 469 U.S. 221, 232 (1985) (stating that where a radio bulletin has been issued on the basis of articulable facts supporting a reasonable suspicion, an officer's reliance on that bulletin, despite not having personal evidence creating a reasonable suspicion, justifies the *Terry* stop). Contrarily, reliance on a radio dispatch which has been issued absent such facts renders the stop unlawful as it violates the fourth amendment. *Lawson*, 298 Ill. App. 3d at 1004; *Hensley*, 469 U.S. at 232.

¶ 24 It is well-settled that reasonable suspicion can be established from third-party information collectively received by officers working in concert, even if that information is not specifically known to the officer conducting the *Terry* stop. *Maxey*, 2011 IL App (1st) 100011, ¶ 54. To justify the stop, however, the State must demonstrate that the third-party information the officer relied on bears some indicia of reliability sufficient to establish the requisite quantum of suspicion. *Id*. Furthermore, the third-party source of that information may be identified or unidentified, a victim, an eyewitness or other witness. *Id*. ¶ 55. "[I]t matters not by what name the informant is labeled; we look rather to the informant's reliability as only one of the factors to be considered in the totality of the circumstances approach." (Internal quotation marks omitted.) *Id*. The fact that the information came from either the victim or an eyewitness to the crime, however, is afforded great weight in evaluating its reliability. *Id*.

¶ 25 We find *Matous* instructive.[1] 381 Ill. App. 3d at 918. In *Matous*, a patrol officer conducted a *Terry* stop based on a radio dispatch that reported possible criminal activity involving methamphetamines with a description of the offenders. *Matous*, 381 Ill. App. 3d at 919. At the suppression hearing, the patrol officer testified that the dispatch reported that a pharmacist called advising that two white men, one in his twenties and one in his forties, each purchased a box of pseudoephedrine pills and then got into the same vehicle, for which a license plate number was provided. *Id*. The *Matous* court noted that, evidently, the patrol officer conducted the *Terry* stop based on the information provided by the pharmacist, as relayed by the dispatcher. *Id*. at 924. Neither the pharmacist nor the dispatcher, however, testified at the suppression hearing. *Id*. at 922. The trial court granted the defendants' motion to suppress, holding that the State failed to present articulable facts sporting a reasonable suspicion warranting the stop because neither the dispatcher nor the pharmacist testified. *Id*. at 923-24.

¶ 26 This court in *Matous* reversed the trial court's judgment, finding that the patrol officer's testimony provided sufficient evidence demonstrating the articulable facts which formed the basis for the dispatch. *Id*. at 925-26. In addition, this court determined that there was a reasonable suspicion justifying the stop based on the circumstances. *Id*.

¶ 27 Similar to the facts in *Matous*, here, Officer Luera conducted the *Terry* stop based on the radio dispatch he received at approximately 11 p.m., reporting a crime that had just occurred. At the suppression hearing, Officer Luera testified that the dispatch reported that an armed robbery with a handgun had just occurred at 11137 South Union and described the offenders as two black males with dreadlocks. Officer Luera further testified that he conducted the *Terry* stop based on

[1]We note that the effect of *Matous*, while not binding, is not reduced by the fact that it was decided by this court's third district, contrary to defendant's argument. See *Renshaw v. General Telephone Co. of Illinois*, 112 Ill. App. 3d 58, 62 (1983) (holding that Illinois has but one appellate court divided into five districts).

the information he received from the radio dispatch. While neither the dispatcher, nor Byrd or Woodring, who spoke with the police, testified at the suppression hearing in this case, that is of no moment given that Byrd and Woodring testified at trial regarding their communications with the police. *Cf. Lawson*, 298 Ill. App. 3d at 1004 (where the State failed to justify a *Terry* stop because it failed to present any facts from which it might be *inferred* that the dispatching officer possessed facts which would have justified the stop). From those communications, and taking all the inferences together, the record provides sufficient evidence indicating the dispatcher issued the radio bulletin based on information provided by Byrd and Woodring, and this established an underlying basis for the dispatch to be issued in accordance with *Terry*. See *Maxey*, 2011 IL App (1st) 100011, ¶ 58; see also *Payne*, 393 Ill. App. 3d at 183.

¶ 28 In particular, and as previously stated, Byrd testified that he called 911 at a nearby gas station after witnessing defendant point a gun at Woodring. While he was on the phone, Byrd saw a group of people running down the street and heard police sirens, and he relayed these facts to the 911 dispatcher. Byrd further testified that he told the police on the night of the incident that defendant was wearing "a funny looking jacket" that "had yellow in it." Woodring also testified that he believed "Kareem called the police before he picked up the phone for [him]." Woodring testified that when the police arrived at the scene of the robbery "[n]o later than ten seconds" after Byrd answered his call, he gave them a description of defendant and the two other offenders. Immediately thereafter, Woodring got into their squad car and drove around the nearby area with the police searching for defendant and the other offenders. Ultimately, Officer Luera stopped defendant and transported him nearby to the show-up, where Woodring positively identified him. Accordingly, the officers acted in concert to identify defendant based on Byrd and Woodring's reports.

¶ 29 Applying *Matous*, the evidence indicates that the radio dispatch was issued on the basis of articulable facts supporting a reasonable suspicion that defendant committed the crime. There is no question that based on that dispatch and Officer Luera's observation of the offenders matching the dispatch description, that he then had a reasonable suspicion, himself, to justify conducting the *Terry* stop. Therefore, Officer Luera's reliance on that dispatch justified the *Terry* stop.

¶ 30 With that in mind, we observe that defendant primarily relies on *Lawson*, which he claims, "[t]his case is controlled by," to support his argument that the State was required to present testimony from the dispatching officer. In *Lawson*, a police officer arrested the defendant based on a radio dispatch that reported an armed robbery with a description of the offender. 298 Ill. App. 3d at 999. At the suppression hearing, the officer was the sole witness to testify and the State rested without presenting any evidence. *Id*. at 999-1000. The circuit court stated that it was " 'bothered' " by the absence of any evidence establishing the basis for the radio dispatch that the officer relied upon, and requested that the State supply this additional evidence, which it failed to do. *Id*. at 1000-01. Consequently, the court sustained the defendant's motion " 'with reluctance.' " *Id*. at 1001. This court affirmed that ruling, finding that the evidence was insufficient to establish probable cause for the arrest or to justify the *Terry* stop. *Id*. at 1003-04.

¶ 31 Defendant is misguided, however, because *Lawson* is factually distinguishable from this case for various reasons. Specifically, at the outset in *Lawson*, the State appealed the circuit court's ruling granting the defendant's suppression motion. *Id*. at 1000. In this case, defendant has appealed the trial court's ruling denying his suppression motion. Next and perhaps most notably, the evidence in *Lawson* did not include the basis upon which the radio dispatch was

issued. *Id*. at 1003. Here, as established, the evidence included the basis upon which the dispatch was issued. In *Lawson*, because the defendant's suppression motion was granted, there was no further evidence adduced at trial for the court to consider in addition to the officer's lone testimony. *Id.* at 999-1000. Contrarily, here, Byrd and Woodring's trial testimony supplemented Officer Luera's testimony to establish the basis upon which the dispatch was issued. Finally, the primary issue in *Lawson* concerned the validity of the defendant's arrest, specifically, whether a warrantless arrest on the basis of a radio dispatch was justified where the State failed to establish that the dispatching officer had *probable cause* to make the arrest. *Id*. at 1003. As we have previously determined, the issue in this case concerns the validity of the initial *Terry* stop based on the radio dispatch, specifically, whether Officer Luera had a *reasonable suspicion* that defendant committed the armed robbery to justify the stop. Accordingly, *Lawson* is inapposite.

¶ 32 II. Whether the inevitable discovery doctrine applies

¶ 33 Next, defendant alternatively contends that because the police exceeded the scope of *Terry* when they searched his pockets, evidence of the robbery proceeds and the subsequent identifications of him must be suppressed. In addition, defendant asserts that because the State failed to raise inevitable discovery before the trial court, it forfeited the issue on appeal.

¶ 34 As stated, in denying defendant's suppression motion, the trial court raised the issue of inevitable discovery, holding that evidence of the robbery proceeds inevitably would have been discovered when defendant was arrested after Woodring positively identified him. While forfeiture is a limitation on a party's ability to raise an issue on appeal, it does not likewise operate as a limitation on the court's right to entertain such an issue. *Bennett*, 376 Ill. App. 3d at 563. Therefore, despite the State's failure to raise inevitable discovery before the trial court, the issue is not forfeited on appeal because it was raised by the trial court at the suppression hearing.

Cf. People v. Nesbitt, 405 Ill. App. 3d 823, 834 (2010) (where inevitable discovery was forfeited on appeal because the issue was not raised by the State *or* the trial court); *People v. Holveck*, 141 Ill. 2d 84, 98-99 (1990) (same). Accordingly, we proceed in our review.

¶ 35 The inevitable discovery doctrine provides for the admission of evidence that would otherwise be inadmissible under the exclusionary rule, where the record shows that the evidence would have been ultimately or inevitably discovered by lawful means. *People v. Shanklin*, 250 Ill. App. 3d 689, 695-96 (1993). Under this doctrine, courts generally find that evidence inevitably would have been discovered where: (1) the condition of the evidence when found by lawful means would have been the same as that when improperly obtained; (2) the evidence would have been discovered through an independent line of investigation untainted by the illegal conduct; and (3) the independent investigation was already in progress when the evidence was discovered illegally. *Id*. at 696.

¶ 36 Here, we agree with the trial court's ruling, finding that evidence of the robbery proceeds inevitably would have been discovered. First, the evidence would have been in the same condition that it was found in during the *Terry* stop because Officer Luera inventoried the robbery proceeds pursuant to defendant's arrest. Second, the robbery proceeds would have been discovered, notwithstanding Officer Luera's search of defendant's pockets, because once Woodring positively identified defendant, defendant was searched pursuant to his arrest. Third, an independent investigation of defendant was already in progress when defendant's pockets were searched because Officer Luera had already detained defendant as a suspect, pursuant to *Terry*, after observing that defendant matched the dispatch description of the armed robbery offender. Based on the above, the robbery proceeds inevitably would have been discovered even

if Officer Luera had not searched defendant's pockets during the *Terry* stop. Accordingly, we conclude that the inevitable discovery doctrine applies.

¶ 37 III. Whether defendant's seizure developed into a custodial arrest

¶ 38 Last, defendant contends that, because his seizure developed into a custodial arrest, evidence of the robbery proceeds and the subsequent identifications of him must be suppressed because the police lacked probable cause to arrest him. Specifically, defendant asserts that when he was handcuffed and placed in the back of the squad car to be transported to the show-up, his seizure turned into a custodial arrest because no reasonable person in his position would have felt free to leave under the circumstances.

¶ 39 As stated, pursuant to *Terry*, a police officer is permitted to briefly detain an individual, without having probable cause to effectuate an arrest, in order to investigate criminal activity. *Bennett*, 376 Ill. App. 3d at 565. Furthermore, under *Terry*, an investigatory stop is distinguished from an arrest based on the length of the detention and the scope of the investigation following the initial stop, not the initial restraint of movement. *Id*. The State has the burden of showing that a seizure, based upon a reasonable suspicion, was sufficiently limited in scope and time. *Id*. This court also has previously held that the transportation of a defendant for purposes of conducting a show-up is permissible where such transportation is minimally intrusive compared to the benefit of the immediate investigation. See *id*. at 566. "Our supreme court has determined that the transportation of a suspect for the purpose of an identification is not necessarily an unreasonable seizure under the fourth amendment." *Id*., citing *People v. Lippert*, 89 Ill. 2d 171, 181-82 (1982).

¶ 40 We also find the court's reasoning in *Bennett* persuasive. Ill. App. 3d at 554. There, following a *Terry* stop based upon suspected criminal activity, the officer placed the defendant in

the back of the squad car and transported the defendant two blocks away to an Auto Zone parking lot to conduct a show-up. *Id*. at 565-66. The *Bennett* court held that, because the defendant was transferred only two blocks away from the site of the *Terry* stop, for an immediate identification to either inculpate or exculpate him, the detention and transportation were part of a legitimate investigatory procedure. See *id*. at 566 (finding no error in the trial court's denial of the defendant's motion to suppress evidence and quash his arrest).

¶ 41 In this case, neither the length of defendant's detention, nor the scope of the investigation, transformed the lawful *Terry* stop into an arrest. Shortly after receiving the radio dispatch describing the armed robbery offender, Officer Luera testified that he stopped defendant, who matched that description, in the area of the crime scene. Officer Luera further testified that he placed defendant in the back of the squad car and transported him to 110th and Parnell, approximately three blocks away from the site of the initial *Terry* stop, to conduct the show-up. When Officer Luera arrived at the show-up with defendant, Woodring positively identified defendant, at which time defendant was arrested. We conclude that, because the length of defendant's detention was brief and limited to making a quick determination as to defendant's identification, the investigatory restraint and transport of defendant was not transformed into an arrest. Thus, defendant's claim fails.

¶ 42 CONCLUSION

¶ 43 For the foregoing reasons, we affirm the trial court's judgment denying defendant's motion to suppress. In addition, we affirm defendant's armed robbery conviction.

¶ 44 Affirmed.