2019 IL App (1st) 153458-U

No. 1-15-3458

Order filed June 6, 2019

Fourth 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 23444
	)	
CORNELL BRYANT,	)	Honorable
	)	Charles P. Burns,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Gordon and Reyes concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction for armed robbery affirmed where the trial court's denial of his motion to quash arrest and suppress evidence was not against the manifest weight of the evidence where police had reasonable suspicion to stop the vehicle in which he was a passenger based on descriptions of the vehicle and of the offenders provided in a flash message.

¶ 2 Following a bench trial, defendant Cornell Bryant was convicted of armed robbery with a firearm (720 ILCS 5/18-2(a)(2) (West 2012)) and sentenced to 22 years' imprisonment. On appeal, defendant contends that the trial court erred when it denied his motion to quash arrest and

suppress evidence because the police lacked reasonable suspicion to stop the vehicle in which he was a passenger, and thus, the seizure violated the fourth amendment. We affirm.[1]

¶ 3 Defendant was charged with one count each of armed robbery and aggravated unlawful restraint for his participation in the armed robbery of 14-year-old Willie Hardaway on November 29, 2013. Prior to trial, defendant filed a motion to quash arrest and suppress evidence arguing, *inter alia*, that the police lacked reasonable articulable suspicion to stop the vehicle in which he was a passenger based on the "generic" description that the offenders were two black men who fled the scene in a gray Pontiac.

¶ 4 At a hearing on the motion, Chicago police officer Walter Bucki testified that on the night of November 29, he and his partners, Officers Thomas Paholke and Dave Madia, were on patrol when they became involved in the investigation of the armed robbery of Hardaway. Bucki testified that while driving in their vehicle, he and his partners heard several calls over the radio regarding the offense. At 9:55 p.m., the officers heard the initial radio call from a dispatcher that relayed information regarding the call made to 911 reporting the armed robbery. Bucki testified that from this call he learned that the offense had occurred at 9:46 p.m. in the 600 block of East 85th Street. Bucki testified that the call further indicated that the robbery involved two black men who fled in a gray Pontiac heading eastbound. Bucki acknowledged that the call did not indicate the model or license plate number for the Pontiac. About 30 seconds later, the officers received a "flash message" over their radio from a tactical officer who had interviewed Hardaway. The message stated that approximately 10 minutes earlier, the offenders had robbed Hardaway at

[1] In a simultaneous, but severed bench trial, codefendant Darius Redd was also convicted of armed robbery and sentenced to 25 years' imprisonment. On appeal, this court affirmed the circuit court's judgment, finding that the court's denial of Redd's motion to quash arrest and suppress evidence was proper where the police had reasonable suspicion to stop his vehicle. *People v. Redd*, 2018 IL App (1st) 153459-U. Redd is not a party to this appeal.

gunpoint, taking his cell phone and backpack, and fled the scene in a silver Pontiac. The flash message further indicated that the first offender was 19 to 20 years old, six feet tall, weighed 150 to 180 pounds, had a dark complexion, and appeared to be wearing a black jacket. The second offender was 17 to 18 years old and wore a blue jacket.

¶ 5 Shortly after 10 p.m., Bucki and his partners stopped a gray 2004 Pontiac in the 1400 block of West 81st Street, about three and a half miles northwest from where the armed robbery occurred. Bucki testified that "[i]t was an investigatory stop" to investigate the possibility that the occupants in the vehicle were involved in the armed robbery. Bucki did not observe the vehicle or any of its occupants violate any laws, and the police did not have a search or arrest warrant for any of the occupants. They stopped the Pontiac because it matched the description of the vehicle they received in the flash message. Bucki testified that it would take about 10 minutes to travel from the location of the robbery to the location where he observed the Pontiac.

¶ 6 Bucki approached the driver's side of the Pontiac to conduct a field interview while his partners approached the passenger's side of the vehicle. Bucki observed four men inside the Pontiac, two of whom matched the descriptions of the offenders regarding age, height and weight. One of those men, whom Bucki identified in court as defendant, was wearing a blue hoodie and was seated in the backseat. The other man, whom Bucki identified in court as codefendant Redd, wore a brown jacket and was seated in the front passenger's seat.

¶ 7 The officers directed the four men to exit the Pontiac and detained them. Paholke told Bucki that he observed Redd making some kind of movement as the officers approached the vehicle. Bucki then walked around to the passenger's side of the Pontiac and observed a firearm

laying in plain view on the floorboard in the front passenger's area of the vehicle. Bucki recovered the firearm and found that it was loaded with three live rounds.

¶ 8 Bucki called Officer Nestor Perez, who was taking a report from Hardaway, and asked him to bring Hardaway to the location of the vehicle stop for a show-up. As the investigation at the vehicle stop continued, Paholke told Bucki that when he approached the vehicle, he observed Redd holding a cell phone in his hand. Perez and Hardaway arrived at the scene about 15 to 20 minutes after the Pontiac had been stopped. The police had the four occupants of the Pontiac standing side-by-side, handcuffed together, next to Bucki's police vehicle. Hardaway remained in the backseat of Perez's vehicle during the show-up. Hardaway identified Redd as the offender who held the gun during the armed robbery, and defendant as the man who went through his pockets. Hardaway could not identify the other two men. Hardaway also identified the Pontiac as the vehicle that the defendants exited and reentered during the robbery. After Hardaway arrived at the scene, Bucki recovered a cell phone that was lying in plain view on top of the center console inside the Pontiac. He showed it to Hardaway, who identified it as his cell phone that was taken from him during the robbery. At the scene of the stop, the officer who took the case report from Hardaway told Bucki that Hardaway stated that there were two additional people inside the gray Pontiac along with the two men who robbed him. Defendant and Redd were placed under arrest at 10:35 p.m.

¶ 9 Perez testified that about 10 p.m. on November 29, he and his partner, Officer McClentie,[2] interviewed Hardaway at his residence. Hardaway told Perez that the two offenders involved in the armed robbery fled the scene in a silver or gray Pontiac with two other

[2] Officer McClentie's first name does not appear in the record.

individuals. Hardaway described the gunman as a black man wearing a brown jacket with a hoodie. The second offender wore a blue jacket with a hoodie. Hardaway also described the offenders' height and weight. After receiving a call from other officers, Perez drove Hardaway to 81st Street where the Pontiac had been stopped. When they arrived, Bucki told Perez that he had stopped a vehicle based on a flash message issued for the armed robbery, and that the officers detained four possible offenders who matched the descriptions in the flash message. During a show-up, Hardaway identified Redd as the man who pointed a gun at him, and defendant as the second offender. Hardaway also identified the Pontiac.

¶ 10 In closing, the State argued that the vehicle stop conducted three and a half miles from the scene of the robbery was consistent with the fact that the robbery had occurred 10 minutes earlier. The State further argued that in addition to the flash message, through the doctrine of imputed knowledge, the police were allowed to rely on the information Hardaway told other officers that there were two other people in the silver Pontiac with the offenders. The State argued that the information contained in the flash message gave the police reasonable articulable suspicion to conduct the investigatory stop of the Pontiac. The State asserted that the officers' suspicion rose when they approached the vehicle and observed that two of the occupants matched the physical and clothing descriptions of the two offenders.

¶ 11 Defense counsel argued that the police did not have reasonable suspicion to stop the vehicle based solely on a vague description of a gray Pontiac. Counsel further argued that the "generic, vague description of two black males riding with two other black males" with one wearing a brown coat and one wearing a blue hoodie did not give police reasonable articulable suspicion to stop the vehicle.

¶ 12 The trial court stated that through imputed knowledge, officers may act upon information they have received themselves, as well as information received by other officers that may not be known by the officer making the stop. The court stated that originally two offenders were reported to be in the vehicle, but it was subsequently imputed that four people were inside the vehicle. The court found that while the description of the offenders was not very detailed, the officers had to rely on the information they received, which indicated that a silver or gray vehicle containing four people was involved in a robbery. The court noted that the information further indicated that one offender wore a blue jacket and the other wore either a black or brown jacket, along with general height and weight descriptions of both offenders. In addition, the court found that the defendants were stopped within a short period of time after the offense, and that three and a half miles from the crime scene was not "from one side of the city to the other." The court found that based on the totality of the circumstances, the officers had reasonable suspicion to stop the vehicle and conduct a limited investigative detention. The court made additional findings that the search of the vehicle and recovery of the weapon were proper, that the police had probable cause to arrest the defendants, and that the show-up was not unduly suggestive. The court then stated that it could be argued "if you tip one fact one way or another my decision may be different." Based on its findings, the trial court denied defendant's motion to quash his arrest and suppress evidence.

¶ 13 At trial, Hardaway testified that about 9:46 p.m. on November 29, he was walking home in the 600 block of East 85th Street when he observed a silver Pontiac slowly coming towards him. The Pontiac made a right turn and parked. A black man wearing a brown coat jumped out of the vehicle, put his hand inside his pocket, and "skipped" towards Hardaway. In court, Hardaway

identified that man as codefendant Redd. Redd yelled at Hardaway to stop and approached him. Redd pulled out a gun with a silver barrel and wooden "bottom." He held the gun pointed down next to his own leg and asked Hardaway what was inside his pockets. Hardaway then noticed a second black man wearing a blue jacket and black skull cap standing on the sidewalk to the side of them. In court, Hardaway identified that man as defendant.

¶ 14 Redd reached inside Hardaway's left pocket and pulled out his Chapstick. Redd returned the Chapstick and said to defendant "what are you doing? Come on, I got the joint." Defendant approached Hardaway, reached inside his right pocket, and removed a black Kyocera phone. Redd raised his gun and said "I want the book bag, too." Redd took Hardaway's book bag, which contained white shoes, a piece to his tuba, and his state identification card. Defendant and Redd returned to the silver Pontiac. Redd sat in the front passenger's seat and defendant sat behind him in the rear passenger's seat. The Pontiac drove away heading north. Hardaway ran home and told his grandfather what had happened. His grandfather called the police, who arrived at his house and made a report.

¶ 15 Hardaway agreed to go with the officers to determine if he could identify the people the police had in custody. When they arrived at the location, Hardaway remained inside the police vehicle alone. He observed four men lined up standing behind the Pontiac. An officer came to the police vehicle, showed Hardaway a phone, and asked if it was his. He stated that it was. During a show-up, Hardaway identified defendant as the man who took his phone, and Redd as the gunman who wore the brown coat. Hardaway knew that the driver of the Pontiac was wearing glasses, but he could not identify him or the other man. Hardaway testified that he told the officer who came to his house that there were three people inside the Pontiac, not four.

¶ 16 Officer Paholke testified that on the night of November 29, he was in a police vehicle with his partners, Bucki and Madia, when he heard a flash message over their radio that an armed robbery had occurred. The message described a gray Pontiac with one offender wearing a brown jacket and another offender wearing a blue jacket. About 10:17 p.m, while in the vicinity of Loomis and 81st Streets, Paholke observed a gray Pontiac, which was consistent with the information in the flash message. The Pontiac was occupied by four black men. The officers performed an investigative stop of the Pontiac. After exiting their vehicle, Bucki approached the driver's side of the Pontiac while Paholke and Madia approached the passenger's side.

¶ 17 Paholke observed Redd sitting in the front passenger's seat making hand and shoulder movements towards the bottom of his seat. Paholke immediately told Redd to show his hands, at which time he observed Redd holding a cell phone in his left hand. Paholke told Redd to put the phone down, and Redd placed it on the center console. Paholke directed Redd to exit the vehicle. Paholke then performed a protective pat-down of Redd and walked him to the rear of the Pontiac. Defendant was sitting in the rear seat on the driver's side of the Pontiac. Defendant and the other two men were also removed from the vehicle and detained at the rear of the Pontiac. Paholke identified defendant and Redd in court.

¶ 18 Paholke told Bucki that Redd had been making movements while he was inside the Pontiac. Bucki went to the front passenger's side of the vehicle and recovered from the floor a .22-caliber silver revolver loaded with three live rounds. Bucki later recovered the cell phone from the Pontiac. The officers called for Hardaway to be brought to the scene to identify the men. During a show-up, Hardaway identified defendant and Redd.

¶ 19 Bucki testified consistently with his testimony from the suppression hearing regarding the events of November 29. He reiterated that after stopping the silver Pontiac, he observed four black men inside the vehicle. Consistent with the descriptions in a flash message, the front-seat passenger, Redd, was wearing a brown jacket, and one of the passengers in the rear seat, defendant, was wearing a blue hoodie. Bucki identified defendant and Redd in court. Bucki recovered a loaded .22-caliber nickel-plated revolver from the floor of the front passenger area of the Pontiac. He later recovered a cell phone from atop the center console inside the Pontiac. Hardaway identified it as his cell phone. During a show-up, Hardaway identified Redd as the man who pointed a gun at him and took his backpack, and defendant as the man who took his phone from his pocket. Hardaway also identified the Pontiac as the vehicle used by the offenders during the armed robbery.

¶ 20 After the State rested, defense counsel asked the court to reconsider its ruling on defendant's motion to quash arrest and suppress evidence. Counsel argued that Hardaway testified that there were three people inside the Pontiac, not four, which contradicted the testimony from the police officers at the suppression hearing. Counsel argued that based on the generic description of the vehicle and the additional person inside the vehicle, the police did not have reasonable articulable suspicion to stop the Pontiac.

¶ 21 The trial court found that the police officers had sufficient justification that gave them the right to stop the Pontiac based on the recent occurrence of the crime. The court found that as prudent police officers, they had the opportunity and responsibility to investigate whether or not the individuals inside the Pontiac were involved in the offense and, if not, the men could go on

their way and the police could continue searching for the actual suspects. Consequently, the court denied the motion to reconsider its ruling on the motion to suppress.

¶ 22 Defendant's 13-year-old cousin, Delilah Bryant, testified for the defense that on November 29, defendant lived with her family on South Carpenter Street. About 9:30 p.m., defendant came upstairs from his room in the basement and went to the kitchen. Delilah entered the kitchen and saw that defendant was baking cookies and her mother was making Kool-aid. Delilah went to the living room and turned on the television. She then went to her bedroom and saw defendant return to the basement. The 10 p.m. news was on the television at that time. Delilah's mother went to the living room and watched the news. About 10 minutes later, Delilah returned to the living room. As the news was about to end, between 10:25 and 10:30 p.m., defendant came upstairs from the basement and left the house. Defendant was wearing black jogging pants, black boots, and a navy blue hoodie with stripes inside the hood. The following day, Delilah learned that defendant had been arrested.

¶ 23 Defendant's aunt, Tinuola Bryant, testified that about 9:30 p.m. she was in the living room watching television with her daughter. About 9:45 p.m., defendant came upstairs from his room in the basement to make cookies. Tinuola entered the kitchen with him. While they were talking, the 10 p.m. news came on the television. Defendant returned downstairs. Defendant came upstairs between 10:15 and 10:20 p.m. He said "I'll be right back," and left the house.

¶ 24 Defendant testified that about 9:30 p.m. he came upstairs from his room in the basement and went to the kitchen to bake cookies. Tinuola and Delilah entered the kitchen. About 15 minutes later, defendant went back downstairs, called his friend Aaron Scott, and got ready to go out to get something to eat. When he left the house, Tinuola and Delilah were in the living room.

Scott was standing in front of defendant's house. Two minutes later, Early Ware arrived in his vehicle and picked up defendant and Scott. Redd was already inside Ware's vehicle. About two minutes later, as the men headed to a Wendy's restaurant, the police stopped their vehicle. An officer came to the driver's window and asked to see a driver's license and registration. The officer told all four men to exit the vehicle. About 10 minutes later, the police stated that the men fit the description of robbery suspects. The police handcuffed the four men to each other. Another police car arrived at the scene with the robbery victim. The police had the four men line up for a show-up. Defendant was wearing light jogging pants, light Timberland boots, a gray t-shirt, and a blue sweater hoodie. Defendant denied seeing a gun or cell phone inside Ware's vehicle. He denied committing a robbery, and did not see anyone else commit a robbery.

¶ 25 The State presented a stipulation that Hardaway told Detective Ivory[3] that the vehicle the offenders exited was gray in color. Hardaway did not state that the gunman who approached him told him to stop. Hardaway stated that the second offender wore a blue jacket with a gray hoodie.

¶ 26 The trial court found defendant guilty of armed robbery and aggravated unlawful restraint. It merged the unlawful restraint offense into the armed robbery conviction. Defendant filed a motion for a new trial arguing, *inter alia*, that the court erred when it denied his motion to quash arrest and suppress evidence because the police did not have reasonable suspicion to stop the vehicle. The trial court found that the police had sufficient justification to conduct a *Terry* stop and denied the posttrial motion. The court sentenced defendant to 22 years' imprisonment.

¶ 27 On appeal, defendant contends that the trial court erred when it denied his motion to quash arrest and suppress evidence because the police lacked reasonable suspicion to stop the

[3] Detective Ivory's first name does not appear in the record.

vehicle in which he was a passenger. Defendant argues that the content of the dispatch and flash messages did not provide the officers with specific and articulable facts to support the seizure where the messages stated that two men fled heading eastbound, and the police stopped a vehicle occupied by four men, three and a half miles west of the robbery. Defendant also argues that the trial court's reliance on the doctrine of imputed knowledge to find that the arresting officers knew there were four men in the vehicle when they conducted the stop was improper.

¶ 28 The State responds that the police had reasonable suspicion to stop the vehicle based on the facts communicated to them in the dispatch call and flash message. The State argues that the vehicle matched the description of the Pontiac, it was occupied by black men, it was stopped close to the scene of the crime, and the stop occurred only 19 to 29 minutes after the armed robbery. The State further argues that the officers observed that two of the vehicle's occupants matched the descriptions of the offenders. The State asserts that defendant's argument challenging the court's application of imputed knowledge is a "nonissue" because it is irrelevant that the vehicle contained four occupants when it was stopped. The State also argues that defendant forfeited the imputed knowledge issue, and that his claim cannot be considered as plain error because no error occurred.

¶ 29 Our review of the trial court's ruling on defendant's motion to quash arrest and suppress evidence presents questions of both fact and law. *People v. McCarty*, 223 Ill. 2d 109, 148 (2006). The trial court's factual findings are given great deference and will not be disturbed on review unless they are against the manifest weight of the evidence. *People v. Burns*, 2016 IL 118973, ¶ 15. However, the court's ultimate ruling on the motion is a question of law which we review *de novo*. *Id.* ¶ 16. At a hearing on a motion to quash and suppress, the trial court is responsible for

determining the credibility of the witnesses, weighing the evidence, and drawing reasonable inferences therefrom. *People v. Ballard*, 206 Ill. 2d 151, 162 (2002). When reviewing the trial court's ruling on a motion to suppress, we may consider the testimony presented at trial as well as the testimony from the suppression hearing. *People v. Slater*, 228 Ill. 2d 137, 149 (2008).

¶ 30 The fourth amendment of the United States Constitution, which applies to the states through the fourteenth amendment, protects all citizens from unreasonable searches and seizures in their homes, effects and persons. U.S. Const., amend. IV. When a police officer stops a vehicle and detains its occupants, a "seizure" within the meaning of the fourth amendment has occurred. *People v. Timmsen*, 2016 IL 118181, ¶ 9.

¶ 31 Vehicle stops are subject to the reasonableness requirement of the fourth amendment, which is analyzed under the principles set forth by the United States Supreme Court in *Terry v. Ohio*, 392 U.S. 1 (1968). *People v. Close*, 238 Ill. 2d 497, 505 (2010). "Pursuant to *Terry*, a police officer may conduct a brief, investigatory stop of a person where the officer reasonably believes that the person has committed, or is about to, commit a crime." *Timmsen*, 2016 IL 118181, ¶ 9. To justify an investigative stop, a police officer must identify specific and articulable facts which, when taken together with natural inferences, reasonably warrant the intrusion. *Id.*

¶ 32 Under the standard of reasonable, articulable suspicion, the facts known to an officer to justify a *Terry* stop need not rise to the level of probable cause and may be satisfied even where no violation of the law was observed. *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 46. However, the officer's suspicion must amount to more than a mere hunch. *Timmsen*, 2016 IL 118181, ¶ 9. When judging the conduct of a police officer, we apply an objective standard and

consider whether the facts available to the officer at the time of the seizure justify the action taken. *People v. Hackett*, 2012 IL 111781, ¶ 29. In addition, a court must consider the totality of the circumstances when determining whether a stop was proper. *Timmsen*, 2016 IL 118181, ¶ 9.

¶ 33 Here, the record shows that based on the totality of the circumstances, the police officers had the required reasonable articulable suspicion necessary to stop the vehicle in which defendant was a passenger. Around 9:55 p.m., Officer Bucki and his partners received a radio call from a dispatcher indicating that an armed robbery had occurred at 9:46 p.m. in the 600 block of East 85th Street. The call further indicated that the robbery involved two black men who fled eastbound in a gray Pontiac. About 30 seconds later, the officers received a "flash message" over their radio from a tactical officer who had interviewed Hardaway. That message indicated that about 10 minutes earlier, the offenders had robbed Hardaway at gunpoint and fled the scene in a silver Pontiac. The flash message further indicated that the first offender was 19 to 20 years old, six feet tall, weighed 150 to 180 pounds, had a dark complexion, and appeared to be wearing a black jacket. The second offender was described as 17 to 18 years old wearing a blue jacket. Paholke testified that the message indicated that the gray Pontiac contained one offender who was wearing a brown jacket and a second offender wearing a blue jacket.

¶ 34 Shortly after 10 p.m., Bucki and his partners observed the gray Pontiac in the 1400 block of West 81st Street, about three and a half miles northwest from where the armed robbery had occurred. Bucki testified that, because the Pontiac matched the description of the vehicle in the flash message, the officers stopped the vehicle for "an investigatory stop" to investigate the possibility that the occupants in the vehicle were involved in the armed robbery. He further testified that it would take about 10 minutes to travel from the scene of the robbery to their

location on 81st Street. As Bucki approached the Pontiac to conduct a field interview, he observed that two of the four occupants matched the descriptions of the offenders regarding age, height and weight. He also observed that defendant was wearing a blue hoodie and Redd was wearing a brown jacket. Paholke testified that they stopped the gray Pontiac about 10:17 p.m.

¶ 35 The record thus shows that the facts known to the officers at the time that they stopped the Pontiac, when taken together with natural inferences from those facts, allowed them to reasonably believe that the occupants in the vehicle were involved in the armed robbery of Hardaway. See *Timmsen*, 2016 IL 118181, ¶ 9. The officers knew the color and make of the vehicle used during the armed robbery. They were aware of the race and approximate ages, heights and weights of the offenders. They also knew that one offender was wearing a blue jacket while the other was wearing a brown jacket. Finally, the officers observed the Pontiac approximately 20 minutes after hearing the radio messages, and about 30 minutes after the robbery occurred. Given these facts, the officers had reasonable suspicion to stop the Pontiac.

¶ 36 Defendant's argument that the officers lacked reasonable suspicion to stop the Pontiac because it was remote in distance from the location of the robbery is unpersuasive. Defendant contends that because the Pontiac was stopped three and a half miles west of the robbery, and the vehicle fleeing the scene was last seen heading east, the general description of the vehicle cannot support reasonable suspicion. We disagree. As stated above, Bucki testified that it would take about 10 minutes to travel from the location of the robbery to the location where they stopped the Pontiac. The Pontiac was stopped about 30 minutes after the robbery. The trial court found that the defendants were stopped within a short period of time after the offense, and that three and a half miles from the crime scene was not "from one side of the city to the other." We find that the

distance and location where the Pontiac was stopped were consistent with the timeline presented by the officers. Given the time that had passed, the officers' observation of a vehicle matching the description three and a half miles from the crime scene, and containing suspects who matched the descriptions of the offenders, supported the trial court's finding of reasonable suspicion.

¶ 37 Finally, defendant contends that the trial court's reliance on the doctrine of imputed knowledge to find that the arresting officers knew that there were four men in the vehicle when they conducted the stop was improper. Defendant argues that there is no evidence that Perez informed Bucki and his partners prior to their stop of the Pontiac that Hardaway said there were four men in the vehicle. Defendant asserts that there must be evidence that the information was communicated to the arresting officers prior to the stop to invoke the doctrine of imputed knowledge.

¶ 38 Defendant acknowledges that he forfeited this issue for appeal because he did not challenge the trial court's ruling at the hearing and did not raise the issue in his posttrial motion. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). Defendant is raising this issue for the first time on appeal. Defendant argues, in one sentence, that this court should review this issue under both prongs of the plain error doctrine because the evidence presented at the motion hearing was close, and the court's erroneous application of the doctrine deprived him of a fair hearing. Defendant string cites to Illinois Supreme Court Rule "651(a)" [*sic*] and two cases, and makes no further plain error argument. The State responds that defendant forfeited the issue and that the plain error doctrine does not apply because no error occurred.

¶ 39 The plain error doctrine is a limited and narrow exception to the forfeiture rule that exists to protect defendant's rights and the reputation and integrity of the judicial process. *People v. Herron*, 215 Ill. 2d 167, 177 (2005). To obtain plain error relief, defendant must demonstrate that a clear or obvious error occurred, and either (1) that the evidence was so closely balanced that the error alone severely threatened to tip the scales of justice against him, or (2) that the error was so serious that it affected the fairness of his trial and challenged the integrity of the judicial process. *People v. Sebby*, 2017 IL 119445, ¶ 48. It is defendant's burden to establish plain error, and where he fails to meet that burden, his procedural default will be honored. *People v. Hillier*, 237 Ill. 2d 539, 545 (2010).

¶ 40 Our supreme court has repeatedly held that "when a defendant fails to present an argument on how either of the two prongs of the plain-error doctrine is satisfied, he forfeits plain error review." *Hillier*, 237 Ill. 2d at 545-46 (citing *People v. Nieves*, 192 Ill. 2d 487, 502-03 (2000)). The court explained that "[a] defendant who fails to argue for plain-error review obviously cannot meet his burden of persuasion." *Hillier*, 237 Ill. 2d at 545. The court further advised that where the appellate court finds that the defendant forfeited the issue, it "must hold the defendant to his burden of demonstrating plain error." *Id.* at 549.

¶ 41 Here, defendant has presented no argument on how either prong of the plain error doctrine is satisfied. He has not demonstrated that a clear or obvious error occurred. Nor has he attempted to show that the evidence was closely balanced, or that the error affected the fairness of his trial. Defendant's conclusory statement that plain error applies fails to satisfy his burden of persuasion. Accordingly, we honor defendant's default of this issue.

¶ 42 Alternatively, defendant argues, in one sentence, that trial counsel rendered ineffective assistance because there is a reasonable probability that the court would have granted defendant's motion if it had properly considered the competent evidence at the hearing. Defendant cites to the United States and Illinois Constitutions, and *Strickland v. Washington*, 466 U.S. 668 (1984), and makes no further argument, nor does he specify what counsel failed to do that constituted ineffective assistance.

¶ 43 Claims of ineffective assistance of counsel are evaluated under the two-prong test set forth by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Veach*, 2017 IL 120649, ¶ 29. To support a claim of ineffective assistance of counsel, defendant must demonstrate that counsel's representation was deficient, and as a result, he suffered prejudice. *Strickland*, 466 U.S. at 687. Specifically, defendant must show that counsel's performance was objectively unreasonable, and that there is a reasonable probability that the outcome of the proceeding would have been different if not for counsel's error. *Veach*, 2017 IL 120649, ¶ 30. If defendant cannot prove that he suffered prejudice, this court need not determine whether counsel's performance was deficient. *People v. Givens*, 237 Ill. 2d 311, 331 (2010). Moreover, *Strickland* requires defendant to demonstrate actual prejudice, and mere speculation as to prejudice is not sufficient. *People v. Bew*, 228 Ill. 2d 122, 135-36 (2008) (and cases cited therein).

¶ 44 Similar to plain error, our supreme court has held that where a defendant offers no argument to support his contention that trial counsel was ineffective, he has forfeited any such argument. *People v. Page*, 193 Ill. 2d 120, 146 (2000) (citing Ill. S. Ct. R. 341(e)(7)[4] ("an

[4] Now enumerated as Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2017).

appellant's brief must include an argument, 'which shall contain the contentions of the appellant and the reasons therefor' ")).

¶ 45 Here, defendant has not specified what counsel failed to do that constituted ineffective assistance. Defendant has not shown that counsel's performance was objectively unreasonable, nor has he demonstrated that he suffered prejudice. Consequently, we find that defendant has forfeited his alternative contention that trial counsel rendered ineffective assistance.

¶ 46 We therefore conclude that the totality of the circumstances established that the police had reasonable articulable suspicion to stop the gray Pontiac in which defendant was a passenger. Accordingly, we find that the trial court's denial of defendant's motion to quash arrest and suppress evidence was proper.

¶ 47 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 48 Affirmed.