IN THE COURT OF APPEALS OF IOWA

No. 2-1071 / 12-0405
Filed February 13, 2013

STATE OF IOWA,
Plaintiff-Appellant,

vs.

KEITH RAYMOND YORK,
Defendant-Appellee.

Appeal from the Iowa District Court for Scott County, John D. Telleen, Judge.

The State appeals from a district court decision suppressing evidence of a marijuana growing operation discovered while police were investigating the whereabouts of a reportedly intoxicated and suicidal juvenile runaway. **REVERSED AND REMANDED.**

Thomas J. Miller, Attorney General, Benjamin M. Parrott, Assistant Attorney General, Michael J. Walton, County Attorney, and Kelly Cunningham, Assistant County Attorney, for appellant.

Donovan Robertson of Coyle, Stengel, Bailey & Robertson, Rock Island, Illinois, for appellee.

Heard by Vaitheswaran, P.J., and Tabor and Mullins, JJ.

MULLINS, J.

The State appeals from a district court decision suppressing evidence of a marijuana growing operation seized during a warrantless search of a residence while police were investigating the whereabouts of a reportedly intoxicated and suicidal juvenile runaway. The State argues the search was legitimate under law enforcement's community caretaking function, and probable cause coupled with exigent circumstances justified the search. For the reasons contained herein, we reverse and remand for further proceedings.

I. Background Facts

In the fleeting hours of October 29, 2010, police officers caught a juvenile male drinking alcohol in a park with a friend. At the time, both the juvenile and the friend were seventeen years old. Officers cited the juvenile for possession of alcohol under the legal age and released him to parental custody.

Early the next morning, the juvenile's parents called police to report an altercation at their home in LeClaire, Iowa. According to his mother, the juvenile became physically and verbally out of control. The juvenile threatened to kill himself with a knife and his mother believed he may follow through with the suicidal threats. The juvenile's parents were "confident that he was under the influence of alcohol and because of his history they thought it was very possible that [he] was [under the influence of] other substances as well, controlled substances." The juvenile fled home on foot. Despite near-freezing temperatures, the juvenile's mother thought he ran from home wearing only a pair of jeans, with no shirt and possibly no shoes.

Initial attempts to locate the juvenile were unsuccessful. A local police officer picked the mother up in a squad car to assist in the search. The officer listed the boy as a juvenile runaway, and contacted neighboring law enforcement agencies for assistance. Meanwhile, the juvenile's father utilized a GPS tracking feature on the juvenile's cell phone to track his location. The GPS indicated the juvenile was within a thirty yard radius of the Pleasant Valley High School parking lot in Bettendorf—approximately eight miles from his home in LeClaire. A Bettendorf police officer used a canine unit to search the Pleasant Valley parking lot and football field. The officer found no trace of the juvenile near the parking lot or the football field.

Upon her arrival to the parking lot, the juvenile's mother realized that her son's friend lived across the street from the juvenile's last known GPS location. The mother indicated to police that the juvenile's friend's last name was York. Police responded to the residence. There were two cars in the driveway. Using license plate numbers, police officers were able to confirm at least one of the cars was registered to a person with the last name York. Police then searched the outside of the home and were unable to find the juvenile. Police noticed a television turned on in an upstairs room and decided to contact the residents.

As police approached the home's double doors, they could hear the television playing from a second-floor room. Officers rang the doorbell. Although officers could hear the doorbell ring within the home, no one responded. Officers rang the doorbell several more times. Again, no one responded. Officers then decided to knock on the door. As soon as the officer's hand made contact with

the door, it swung open freely. At that point, officers discovered a door handle had been broken off the door and was lying on the ground outside. An officer later testified the condition of the door appeared to be the result of "a forced entry or burglary situation." Officers requested dispatch call the residence. Officers heard the phone ring, but no one answered.

Officers later explained that given the cars in the driveway and television playing upstairs, they were confident someone was inside the home. With each attempt to contact the residents, officers became more and more concerned "about the welfare of the residents in the home." As one officer explained, "We were concerned that they may be injured or being held against their will inside the residence."

After receiving no response from repeated attempts to contact the residents, officers decided to enter the home to check on the residents' welfare and attempt to locate the juvenile. One officer secured the back entrance to the home, while two officers waited at the front door. Officers then yelled through the front door, "Police department, is anybody there, identify yourself!" Officers repeated, "Police department, is anybody here, is everybody okay" several times. No one responded to the announcements. An officer later explained, "The longer that we continued to announce ourselves and make our presence known without any response our concern for their safety becomes more and more heightened." At that point, officers entered the residence.

A sweep of the main floor revealed that the door leading into the garage was ajar. Officers entered the garage, continually announcing their presence

and commanding anyone present to come out. Officers then noticed a pair of feet sticking out behind a small wall in the garage. The subject did not respond to initial commands to come out. After officers informed the subject that they knew he was there and drew their guns, the subject came out from behind the wall. The officers placed the subject in handcuffs and continued to sweep the residence.[1]

In the basement, officers found Keith York, the defendant and the juvenile's friend's father, sleeping on a couch. Police officers noticed a marijuana pipe and several marijuana "roaches" near the couch. In a bedroom upstairs, officers found Judy York, the defendant's elderly mother, asleep with the television on at a loud volume. The officers then identified the subject in handcuffs as the runaway juvenile.

Officers informed Judy York that the juvenile had broken into her home and that her front door handle had been broken off in the process. Judy indicated the damage to the front door had occurred prior to that night. Officers later learned that the door handle was essentially non-functional and used on a typically stationary side of the double-door entrance. Judy had not given the juvenile permission to be in her home and was unaware of his presence. However, she did not want to press charges. Officers released the juvenile into his mother's custody.

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[1] The juvenile denies this account of the events. He later testified he ran seven to eight miles to the defendant's home and fell asleep outside on a jungle-gym. He asserts police woke him up outside and brought him through the garage and into the home. Police officers on the scene adamantly deny this claim, which was not addressed in the district court's decision.

Officers then requested to speak with Keith York. Officers confronted Keith about the marijuana paraphernalia and the smell of raw marijuana coming from the basement. Keith admitted to smoking marijuana and consented to a search of the basement. The search revealed drug paraphernalia and a large quantity of raw marijuana. Police then found evidence of a marijuana growing operation, including several large marijuana plants growing in pots under ultraviolet lights.

II. Prior Proceedings

The State charged Keith York with possession with intent to deliver a controlled substance within 1000 feet of a school, manufacturing a controlled substance within 1000 feet of a school, two counts of failing to affix a drug tax stamp, and possession of drug paraphernalia. He pleaded not guilty and moved to suppress the evidence. He argued the police entry into his home was illegal, but did not contest the subsequent search and seizure. The district court granted the motion to suppress. The Iowa Supreme Court granted the State's application for discretionary review.

III. Standard of Review

Our review of Fourth Amendment search and seizure claims is de novo. *State v. Allensworth*, 748 N.W.2d 789, 792 (Iowa 2008). We review the entire record and make an independent evaluation based on the totality of the circumstances. *State v. Lewis*, 675 N.W.2d 516, 521 (Iowa 2004). We give non-binding deference to the district court's findings of fact and recognize its unique position to assess witness credibility. *Id.*

IV. Analysis

The State contends the district court erred in suppressing evidence of a marijuana growing operation seized during a warrantless search of a residence while police were investigating the whereabouts of a reportedly intoxicated and suicidal juvenile runaway. The Fourth Amendment ensures protection against "unreasonable searches and seizures." U.S. Const. amend. IV. It is well established that article 1, section 8 of the Iowa Constitution guarantees protections against unreasonable searches and seizures with the same general purpose as the Fourth Amendment.[2] *State v. Showalter*, 427 N.W.2d 166, 168 (Iowa 1988). The quintessential purpose of the Fourth Amendment "is to impose a standard of reasonableness upon the exercise of discretion by government officials, including law enforcement agents in order to safeguard the privacy and security of individuals against arbitrary invasion." *State v. Naujoks*, 637 N.W.2d 101, 107 (Iowa 2001) (internal citations and quotation marks omitted).

Unreasonable searches and seizures violate the Fourth Amendment. *Id.* The reasonableness of a search depends upon the unique facts and

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[2] However, our supreme court recently provided the following guidance:

> A Fourth Amendment opinion of the United States Supreme Court, the Eighth Circuit Court of Appeals, or any other federal court is no more binding upon our interpretation of article I, section 8 of the Iowa Constitution than is a case decided by another state supreme court under a search and seizure provision of that state's constitution. The degree to which we follow United States Supreme Court precedent, or any other precedent, depends solely upon its ability to persuade us with the reasoning of the decision. When both federal and state constitutional claims are raised, we may, in our discretion, choose to consider either claim first in order to dispose of the case, or we may consider both claims simultaneously.

State v. Ochoa, 792 N.W.2d 260, 267 (Iowa 2010). As the district court addressed the motion to suppress under both article I, section 8 and the Fourth Amendment, we consider both claims simultaneously.

circumstances of a particular case. *Id.* A warrantless search of a residence is per se unreasonable unless it falls within one of the carefully carved exceptions to the warrant requirement. *Lewis*, 675 N.W.2d at 522. Iowa law recognizes exceptions to the warrant requirement for searches based on "consent, plain view, probable cause coupled with exigent circumstances, searches incident to arrest, and those based on the emergency aid exception." *Id.* When law enforcement agents conduct a warrantless search, the State has the burden to prove by a preponderance of the evidence that such an exception applies. *State v. Carlson*, 548 N.W.2d 138, 140 (Iowa 1996). If the State fails to meet its burden, evidence obtained in violation of the warrant requirement is inadmissible. *State v. Crawford*, 659 N.W.2d 537, 541 (Iowa 2003). The State argues (A) the search was a legitimate use of the police officers' community care taking function and (B) probable cause and exigent circumstances justified the search. We consider each argument in turn.

A. Community Caretaking

The State contends the warrantless entry was legitimate under the community caretaking exception to the warrant requirement. The United States Supreme Court first articulated the community caretaking function in *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973) ("Local police officers . . . engage in what, for a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute."). In dissecting thirty years of community caretaking jurisprudence following *Cady*, the Iowa Supreme Court

identified three separate doctrines contained within the exception: "the emergency aid doctrine," "the automobile impoundment/inventory search doctrine," "and the 'public servant' exception noted in *Cady*."[3] *Crawford*, 659 N.W.2d at 541. To determine whether the community caretaking exception applies, our courts apply a three-step analysis. *Id.* at 543. We must consider (1) whether "there [was] a [search or] seizure within the meaning of the Fourth Amendment; (2) if so, was the police conduct bona fide community caretaker activity?; and (3) if so, did the public need and interest outweigh the intrusion upon the privacy of the citizen?" *Id.; see also State v. Kurth*, 813 N.W.2d 270, 279 (Iowa 2012) (reaffirming the three-step analysis).

First, a warrantless, "physical entry into a home is the chief evil against which the wording of the Fourth Amendment is directed." *Payton v. New York*, 445 U.S. 573, 585 (1980). The officers' warrantless entry into the York residence clearly triggered Fourth Amendment protections. *See id.*

Second, under the community caretaking function, courts recognize the right of a police officer to act without a warrant in order to protect the public or rescue those in distress. *Carlson*, 548 N.W.2d at 140–41. In *Carlson*, the court considered the constitutionality of police officers' warrantless entry into the defendant's home to investigate a missing person's report where the defendant had an abusive relationship with his live-in girlfriend and gave inconsistent stories about her disappearance. *Id.* at 139–140. When police arrived at the defendant's home to investigate, they rang the doorbell, knocked on the door,

[3] For a discussion of the distinction between the emergency aid doctrine and the public servant exception, see *Crawford*, 659 N.W.2d at 541–42.

and had dispatch call the defendant's telephone. *Id.* at 140. The defendant did not answer. *Id.* However, fresh tire marks in the snow and the defendant's car in the garage indicated the defendant was home. *Id.* Confident the defendant was home and concerned something was amiss, police broke a window and forced entry into the defendant's home. *Id.* They found the defendant sleeping in bed. *Id.* A cursory search of the home revealed the victim's dead body beaten and bound behind a furnace in the basement. *Id.* Our supreme court held "the search was valid under the emergency-aid exception to the warrant requirement." *Id.* at 143. The court indicated these facts presented "the perfect model" for the correct application of a warrantless "'health and safety' search." *Id.* at 139.

In the present case, police were investigating the whereabouts of an intoxicated and suicidal teenager who had run away from home in near-freezing temperatures. Units from several law enforcement agencies assisted in the search. A GPS tracking feature on the juvenile's cell phone led police to within yards of the defendant's home. Police were able to confirm that the juvenile's friend—the defendant's son—lived in a home near the GPS trace. Despite two cars parked in the driveway and a television audible from an upstairs room, no one in the home responded when the officers rang the doorbell several times. Officers were surprised to find the door swing open freely upon slight pressure and a broken door handle lying on the ground near the entrance to the home. No one responded to the officer's knock on the door, to dispatch's telephone call, or to the officers' repeated announcement of their presence.

Guiding our Fourth Amendment analysis is the fundamental question of "whether the search and seizure were reasonable in light of the facts and circumstances of the case." *Crawford*, 659 N.W.2d at 542. We must ask whether under the facts known to officers at the time, "a reasonable person would have thought than an emergency existed." *Carlson*, 548 N.W.2d at 143. An intoxicated and suicidal teenager led police to a home where they discovered signs of a forced entry and unresponsive residents. Given the juvenile's suicidal threats following a physical and verbal confrontation with his parents, police officers were justified in fearing for the juvenile's life. Officers on the scene were not privy to the innocent explanation for the broken door handle nor did they have the benefit of hindsight with the time to make a calculated and technical review of the evidence. While a concerned mother watched as police searched for her intoxicated and suicidal son in near-freezing temperatures, a reasonable person under the circumstances would have thought an emergency existed sufficient to require immediate action. We find the police officers exercised their role as community caretakers in entering the home.

Finally, we must consider "reasonableness by balancing the public need and interest furthered by the police conduct against the degree and nature of the intrusion upon the privacy of the citizen." *Crawford*, 659 N.W.2d at 542. As we previously articulated, a person has a fundamental privacy interest against the warrantless intrusion into their home. *Payton*, 445 U.S. at 585. However, as illustrated in *Carlson*, that privacy interest must yield to protection and preservation of life in certain circumstances. 548 N.W.2d at 143. In the present

case, the balance favors the need to check on the health of an intoxicated and suicidal juvenile runaway in a home with signs of forced entry and unresponsive residents over individual privacy concerns. To require police inaction under the facts and circumstances of this case is to require more than either the Iowa Constitution or Fourth Amendment demands.

B. Probable Cause & Exigent Circumstances

The State also contends the police officers had probable cause to believe a crime had been committed and exigent circumstances made it impractical to obtain a search warrant prior to entering the home. "A warrantless search is reasonable when justified by both probable cause and exigent circumstances." *U.S. v. Parris*, 17 F.3d 227, 229 (8th Cir. 1994). As we have already found that the entry was permissible pursuant to the community caretaking exception to the warrant requirement, we need not reach the question of whether probable cause and exigent circumstances also justified the entry. Accordingly, we reverse the district court's order suppressing evidence and remand for further proceedings.

REVERSED AND REMANDED.