

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERIK LYNN PAWLICKI,

Defendant-Appellant.

UNPUBLISHED

October 08, 2026

1:50 PM

No. 373085

Iron Circuit Court

LC No. 2024-010183-FH

Before: WALLACE, P.J., and CAMERON and KOROBKIN, JJ.

PER CURIAM.

Defendant appeals as of right his bench-trial convictions of possession with intent to deliver methamphetamine, MCL 333.7401(2)(b)(i), possession with intent to deliver fentanyl, MCL 333.7401(2)(b)(ii), possession of buprenorphine, MCL 333.7403(2)(b)(ii), possession of ammunition by a felon, MCL 750.224f(7), possession of a firearm by a felon (felon-in-possession), MCL 750.224f(6), carrying a concealed weapon (CCW), MCL 750.227(2), possession of tramadol, MCL 333.7403(2)(b)(ii), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. He was sentenced, as a second-offense habitual offender, MCL 769.10, to 10 to 30 years' imprisonment for the methamphetamine conviction, 18 months' to 10 years' imprisonment for the fentanyl conviction, 18 months' to 3 years' imprisonment for the buprenorphine and tramadol convictions, 18 months' to 7 years, 6 months' imprisonment for the ammunition, felon-in-possession, and CCW convictions, and two years' imprisonment for the felony-firearm conviction. We reverse the trial court's denial of defendant's motion to suppress, vacate defendant's convictions, and remand.

I. FACTUAL AND PROCEDURAL BACKGROUND

In March 2022, defendant was sentenced to two years' probation for felony delivery of a controlled substance, MCL 333.7401(2)(a)(iv). The conditions of his probation required that he (1) not violate any criminal law, (2) not leave Michigan without permission, (3) not possess any controlled substances without a prescription, and (4) not possess any weapons. Defendant was also required to submit to warrantless searches of his personal property, including his cell phone,

if law enforcement had “reasonable cause to believe” that he possessed items in violation of his probation conditions.

In September 2023, law enforcement obtained a search warrant for defendant’s cell phone records. The affidavit supporting the warrant stated that defendant’s cell phone number had exchanged multiple text messages with a man police had arrested for possessing methamphetamine. According to the affidavit, the messages appeared to pertain to drug distribution. The warrant directed defendant’s cell phone carrier, Verizon Wireless (Verizon), to provide specific information, including real-time GPS location updates “for a period of 30 days from the date of search warrant service.”

On October 25, 2023, law enforcement obtained a second warrant continuing the surveillance authorized by the initial warrant. Like the first warrant, the second warrant authorized the collection of real-time GPS location updates “[f]or a period of 30 days from the date of search warrant service.” After receiving the second warrant, Verizon e-mailed the requesting officer and confirmed that the “location warrant [had] been provisioned until 2023-10-27 11:25 to 2023-11-24 00:00 Eastern.”

Despite the expiration of the authorized tracking period on November 24, 2023, Verizon continued to provide defendant’s real-time GPS information to law enforcement. As a result, law enforcement continued to track defendant’s movements on November 25, 2023. The next day, officers discussed defendant’s movements in a group text message, including potential locations where they might conduct a traffic stop. Officers also notified nearby troopers that defendant was in the area and was suspected of trafficking narcotics.

Nearby troopers subsequently stopped defendant as he entered his driveway. The troopers explained the stop was based on defendant’s lack of insurance and illegal window tints. But testimony indicated that defendant’s license plate was run before the troopers even encountered defendant’s car. Moreover, defendant had been stopped two or three times in the preceding weeks while driving the same vehicle. Yet, the officers conducting those stops did not cite defendant for his window tint and found no controlled substances.

During the stop, a drug-detection canine was deployed around defendant’s car. According to the canine’s handler, the dog indicated the presence of narcotics inside the car. Officers then searched the entire car and discovered various controlled substances in different quantities, a firearm, and ammunition. Defendant was arrested and charged as noted.

Before trial, defendant moved to quash the search warrants and to suppress all the evidence gathered from the stop. Following a hearing, the trial court concluded that the traffic stop was supported by probable cause based on defendant’s illegal window tint and lack of insurance, regardless of whether the canine had indicated drugs were in the car. Accordingly, the trial court denied the motion to suppress. Defendant was subsequently convicted after a bench trial and sentenced as noted. He now appeals.

II. STANDARDS OF REVIEW

“A trial court’s factual findings made when ruling on a motion to suppress are reviewed for clear error.” *People v Woodard*, 321 Mich App 377, 382; 909 NW2d 299 (2017). Clear error

exists when, “although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made.” *People v Lanzo Const Co*, 272 Mich App 470, 473; 726 NW2d 746 (2006). “But the application of constitutional standards regarding searches and seizures to essentially uncontested facts is entitled to less deference.” *Woodard*, 321 Mich App at 382 (quotation marks, brackets, and citation omitted). “We review de novo whether the Fourth Amendment was violated and whether the exclusionary rule applies.” *Id.* “We also review de novo the trial court’s ultimate decision on a motion to suppress.” *Id.* at 383.

III. ANALYSIS

Defendant argues that his Fourth Amendment rights were violated because he had a reasonable expectation of privacy in the real-time location data generated by his cell phone, and because the time period authorized by the search warrant had expired. He further argues that the good-faith exception does not apply. We agree.

“The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures.” *Id.* (quotation marks and citations omitted). “A search for purposes of the Fourth Amendment occurs when the government intrudes on an individual’s reasonable, or justifiable, expectation of privacy.” *Id.* (quotation marks, brackets, and citation omitted). “The touchstone of [the Fourth Amendment’s] protections is reasonableness, which is measured by examining the totality of the circumstances.” *Id.* (quotation marks and citation omitted). “Ordinarily, searches or seizures conducted without a warrant are unreasonable per se, and when evidence has been seized in violation of the constitutional prohibition against unreasonable searches and seizures, it must be excluded from trial.” *Id.* (quotation marks and citation omitted). But the exclusionary rule is subject to the good-faith exception. *People v Goldston*, 470 Mich 523, 542; 682 NW2d 479 (2004). “Under the good-faith exception, evidence obtained through a defective search warrant is admissible when the executing officer relied upon the validity of the warrant in good faith.” *People v DeRousse*, 341 Mich App 447, 465; 991 NW2d 596 (2022). “[T]he primary purpose of the exclusionary rule is to deter official misconduct by removing incentives to engage in unreasonable searches and seizures[,]” and so “suppressing evidence obtained in objectively reasonable reliance on a subsequently invalidated search warrant produces marginal or nonexistent benefits and cannot justify the substantial costs of exclusion.” *Id.* (quotation marks and citations omitted).

With respect to real-time GPS tracking of an individual’s cell phone, the United States Supreme Court has held that “an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through CSLI [cell-site location information].” *Carpenter v United States*, 585 US 296, 310; 138 S Ct 2206; 201 L Ed 2d 507 (2018). Although *Carpenter* concerned historical location data, its reasoning applies equally to real-time location data as well, because “individuals have a reasonable expectation of privacy in the whole of their physical movements.” *Id.* The use of GPS data to track an individual over time “provides an all-encompassing record of the holder’s whereabouts.” *Id.* at 311. Such data, whether collected in real time or recorded for later review, “provides an intimate window into a person’s life, revealing not only his particular movements, but through them his familial, political, professional, religious, and sexual associations.” *Id.* (quotation marks and citations omitted). Defendant had a reasonable expectation of privacy in his physical movements as monitored by his cell phone real-time GPS data. *Id.* In this case, law enforcement obtained warrants for defendant’s real-time GPS cell phone

data. Each warrant, however, contained an express time limitation. Specifically, both warrants authorized access to the data for 30 days “from the date of search warrant service.”

The prosecution argues that the second warrant was not “served” until October 27, 2023, when Verizon acknowledged receipt. We disagree. The warrant was sent to Verizon on October 25, 2023. Although the warrant does not define “service,” and no statutory provision specifically defines the term in this context, the ordinary legal meaning of word “service” refers to delivery, not acknowledgment of delivery. Indeed, “service” and “proof of service” are distinct concepts. *Black’s Law Dictionary* (12th ed) defines “service” as “[t]he formal *delivery* of . . . legal process . . . to a litigant” or “the legal *communication* of a judicial process.” (Emphasis added). By contrast, “proof of service” is a “document filed . . . in court as evidence that the process has been *successfully served* on a party.” *Black’s Law Dictionary* (12th ed) (emphasis added). See also, e.g., MCR 6.102(C)(2) (noting that a summons may be “served” by way of different delivery methods). In other words, “service” is delivery of the legal process itself; acknowledgement or proof of that delivery is a separate matter. Here, the evidence establishes that the second warrant was delivered to Verizon on October 25, 2023. Therefore, the 30-day period began on that date and expired on November 24, 2023. Law enforcement’s subsequent use of defendant’s cell phone data from November 25, 2023 and November 26, 2023 was outside the period authorized by the warrant.

Nor can defendant’s probation term that he must “submit to” a warrantless search of his cell phone justify the search here. Relevant to this case, Merriam-Webster defines “submit” as “to yield oneself to the authority or will of another” or “to permit oneself to be subjected to something.” *Merriam-Webster’s Collegiate Dictionary* (12th ed). In other words, in order for defendant to “submit to” a warrantless search of his cell phone, he had to take some sort of voluntary action in providing the requested item to a requesting officer. That is not what occurred here. In fulfilling law enforcement’s request, Verizon may have “submitted to” the search, but defendant did not.

Alternatively, the prosecution argues that suppression is unwarranted because the officers in this case acted in good faith and probable cause to arrest defendant continued to exist. According to the prosecution, even if “service” means delivery, the officers in this case reasonably, although mistakenly, believed that service was not complete until Verizon acknowledged receipt of the warrant. In support of this argument, the prosecution relies on Verizon’s continued provision of defendant’s GPS data after November 24, 2023.

The record does not support the prosecution’s argument. First, the receipt e-mail on which the prosecution relies explicitly stated that the data was to be provided only until November 24, 2023. Thus, Verizon’s acknowledgement of receipt did not indicate that the warrant authorized collection of data beyond that date; in fact, it indicated the opposite. Second, the police were aware of the limited monitoring period because they included the 30-day limitation in their affidavits. Therefore, the officers knew, or should have known, that the warrant contained a 30-day limitation and the 30-day period was tied to the date of service. Moreover, the officer’s testimony concerning service of the warrant undermines, rather than supports, the officers’ claimed good-faith belief. One officer twice characterized his act of sending the warrant to Verizon as having “served” the warrant before retreating from that characterization and stating that October 25, 2023 was merely the date the warrant was “sent.” This testimony suggests that the officers understood delivery of

the warrant constituted service and did not contemporaneously believe that service depended on Version's acknowledgment of receipt. Accordingly, the good-faith exception does not apply, and the trial court erred by denying defendant's motion to suppress.

We reverse the trial court's denial of defendant's motion to suppress, vacate defendant's convictions, and remand this case to the trial court for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Randy J. Wallace
/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin