

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-12590
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER BRIAN GRANT,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 2:24-cr-00018-TPB-KCD-1

Before JORDAN, LAGOA, and KIDD, Circuit Judges.

PER CURIAM:

Christopher Grant appeals his conviction and sentence for possessing a firearm as a convicted felon, challenging the district

court’s denial of his motion to suppress. For the reasons discussed below, we affirm.

I.

Early one morning in January 2024, Lee County Sheriff’s Office Deputy Michael Knapp was surveilling two hotels. According to Knapp, these two hotels were “high-crime hotels,” known to be used for drug-trafficking and other crimes. At around 3:20 a.m., Deputy Knapp saw a car leaving one of the hotels and stopped it because the car’s license plate was not visible and the driver had failed to stop when he turned onto the road from the hotel. After the car stopped in a parking lot, Deputy Knapp got out of his police car and saw the driver, Grant, flicking the burned end of a cigarette out of his car into the parking lot.

Deputy Knapp talked to the driver and identified him as Grant. According to Deputy Knapp, Grant appeared “very nervous” and was “shaking and making furtive movements,” such as shifting in his seat and putting his hands between the seats. Deputy Knapp then ordered Grant out of the car, but Grant did not immediately comply and had to be ordered out of the car several times.

Once Grant was out of the car, Deputy Knapp saw multiple bulges in Grant’s pockets, including a fist-sized bulge in Grant’s back left pants pocket. Believing that Grant was armed, Deputy Knapp frisked Grant. As he patted Grant’s back left pocket, he felt an item that was “consistent with a bag of marijuana.” He then removed the bag—which was marijuana—from Grant’s pocket and arrested Grant. The bag and marijuana weighed 5.86 grams in

25-12590

Opinion of the Court

3

total. Deputy Knapp searched Grant further and found several more illicit substances on him, including oxycodone, cocaine, and a rock-like substance believed to be MDMA. Deputy Knapp then searched the car and found a gun and several rounds of ammunition.

In February 2024, a federal grand jury charged Grant with possessing a firearm and ammunition as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8) (Count 1). Thereafter, Grant moved the district court to suppress evidence authorities gained from searching him and a car he drove, specifically several narcotics, a gun, and statements he made concerning those items. Grant asserted that Deputy Knapp conducted an impermissible search by opening his pockets after feeling an item “consistent with a bag of marijuana” during a pat down because the incriminating nature of the item was not immediately apparent. Grant also contended that Deputy Knapp’s subsequent discovery of the gun when they searched his car had to be suppressed as “fruit of the poisonous tree.”

The district court conducted a suppression hearing, at which Deputy Knapp testified. Deputy Knapp testified that he patted down Grant’s back-left pocket with an open hand for about a second and that he did not “squeeze” or “manipulate” it, but his “bottom fingers came around the bottom side of the bulge just based on the force.” Deputy Knapp felt the texture of the item inside the bulge in Grant’s back-left pocket, which had the “the spongy feel that marijuana has.” Deputy Knapp also heard the crunch of a

“plastic-type exterior bag.” Based on how the bulge felt, Deputy Knapp believed that Grant had marijuana in his back-left pocket. Deputy Knapp testified that he did not believe the bulge was a weapon and did not “continue to squeeze or pat down the bulge” after he determined it was not a weapon.

Following the hearing, the district court issued an order denying Grant’s motion to suppress. The district court found Deputy Knapp to be “highly credible” and noted that Grant did not present any other evidence or testimony to contradict Deputy Knapp’s testimony. The district court also found that Deputy Knapp reasonably suspected that Grant was armed before he patted Grant down and that Deputy Knapp’s protective search “involved no extensive squeezing or manipulation of any part of Defendant’s clothing.” The district court credited Deputy Knapp’s nine years in law enforcement, explaining that, “[b]ased on Deputy Knapp’s extensive . . . experience, Deputy Knapp easily concluded that the bulge in [Grant]’s pocket felt like marijuana based on the plain feel of the bag.” The district court concluded that probable cause existed because “[a]bsolute certainty that a defendant possesses contraband is not required.”

Thereafter, Grant stipulated to a bench trial and the district court found him guilty of Count 1. The district court sentenced Grant to an 18-month term of imprisonment.

II.

A district court’s denial of a defendant’s motion to suppress evidence presents a mixed question of law and fact. *United States v.*

Perez, 661 F.3d 568, 581 (11th Cir. 2011). We review the district court’s findings of fact for clear error and its legal conclusions de novo, construing the facts in the light most favorable to the party that prevailed below. *United States v. Vergara*, 884 F.3d 1309, 1312 (11th Cir. 2018). We will accept the district court’s credibility determination unless the credited testimony is (1) contrary to the laws of nature or (2) so inconsistent or improbable on its face that no reasonable factfinder could accept it. *United States v. Maddox*, 803 F.3d 1215, 1220 (11th Cir. 2015).

III.

We turn to Grant’s first challenge to the district court’s denial of his motion to suppress. Grant argues that Deputy Knapp exceeded the lawful scope of a *Terry* frisk to the extent Deputy Knapp squeezed or manipulated the contents of his back-left pocket.

The Fourth Amendment prohibits unreasonable searches and seizures. U.S. Const. Amend. IV. A warrantless search is unreasonable unless the search falls within an exception. *Minnesota v. Dickerson*, 508 U.S. 366, 372 (1993). Under one of these exceptions, sometimes called a *Terry* stop, an officer may stop an individual whose conduct reasonably leads the officer to believe that criminal activity is occurring. *Id.* at 372–73. During a *Terry* stop, an officer may “patdown” the stopped individual to determine if the individual has a weapon, but only if the officer has a justifiable belief that the individual is armed and presently dangerous. *Id.* at 373. An

officer's *Terry* frisk must be "carefully limited" to a search of a suspect's "outer clothing . . . to discover weapons which might be used to assault" the officer. *United States v. Johnson*, 921 F.3d 991, 997 (11th Cir. 2019) (en banc) (quotation omitted). The scope of a *Terry* frisk must remain "related" to protecting the officer and anyone else nearby. *Id.* at 998–99 (quotation omitted).

In *Dickerson*, an officer conducting a lawful *Terry* frisk felt a small lump in the suspect's jacket pocket. 508 U.S. at 377–78. After determining that the lump was not a weapon, the officer continued to examine it by "squeezing, sliding and otherwise manipulating" the contents of the pocket, thereby ascertaining that the lump was crack cocaine. *Id.* at 378. The Supreme Court held that the continued manipulation exceeded the bounds of a protective frisk and that the incriminating character of the object was not immediately apparent. *Id.* at 378–79.

Here, the district court found that Deputy Knapp's protective search "involved no extensive squeezing or manipulation of any part of the Defendant's clothing." Grant contends that this finding is clearly erroneous because Deputy Knapp's own description of the frisk—his "bottom fingers came around the bottom side of the bulge just based on the force"—necessarily constitutes squeezing. We disagree.

Deputy Knapp consistently testified that he patted the pocket once, for approximately one second, and with an open hand; that he did not squeeze or otherwise manipulate the bulge;

25-12590

Opinion of the Court

7

and that he did not continue to pat or squeeze the bulge after determining it was not a weapon. His statement that his bottom fingers “came around the bottom side of the bulge just based on the force” is readily reconciled with a single open-hand pat where the objects in a person’s pocket are pressed against their body without constituting the kind of deliberate squeezing or sliding forbidden by *Dickerson*.

The district court having observed Deputy Knapp’s demeanor and having noted the absence of any contradictory evidence, found him “highly credible.” That credibility determination is entitled to deference because Deputy Knapp’s testimony was neither contrary to the laws or nature or so improbable that no reasonable factfinder could accept it. *Maddox*, 803 F.3d at 1220.

We thus conclude that the district court did not clearly err by crediting Deputy Knapp’s testimony that he patted, rather than squeezed or manipulated, Grant’s back-left pocket during the *Terry* frisk. The district court therefore did not clearly err in concluding that the manner of the touch did not exceed the permissible scope of a *Terry* frisk.

IV.

Next, Grant argues that Deputy Knapp lacked probable cause to search his pocket. During a *Terry* frisk, if an officer discovers an object “whose contour or mass” makes the object’s identity as contraband “immediately apparent,” the officer has probable cause to seize the object without a warrant (“the plain feel exception”). *Dickerson*, 508 U.S. at 375-76. In the plain view context, we

have held that the character of an item is “immediately apparent” if “the facts available to the officer would warrant a man of reasonable caution in the belief that certain items may be contraband.” *United States v. Folk*, 754 F.3d 905, 912 (11th Cir. 2014) (quotation omitted).

Probable cause exists if a reasonable police officer in his position with the same knowledge would believe that evidence of a crime is present in the location he intends to search based on the totality of the circumstances. *See United States v. Braddy*, 11 F.4th 1298, 1312 (11th Cir. 2021). Though probable cause requires more than mere suspicion, it does not require conclusive proof. *Rankin v. Evans*, 133 F.3d 1425, 1435 (11th Cir. 1998). What the officer himself subjectively believes about the existence or nonexistence of probable cause is irrelevant. *United States v. Lindsey*, 482 F.3d 1285, 1292 n.5 (2007). However, “the observations and experiences of the law enforcement officers working a case must be weighed as a part of the totality of the circumstances that might create probable cause.” *United States v. Gonzalez*, 969 F.2d 999, 1003 (11th Cir. 1992).

Here, we conclude that the district court did not clearly err by crediting Deputy Knapp’s testimony that he felt marijuana through Grant’s clothing because one could reasonably infer that Deputy Knapp could identify marijuana, a common drug, based on his testimony that he had experience identifying drugs through clothing. *See Folk*, 754 U.S. F.3d at 912. Accordingly, Deputy

25-12590

Opinion of the Court

9

Knapp had probable cause to search Grant's back-left pocket because any reasonable officer who was confident that he felt marijuana in a suspect's pocket would believe that the pocket contained evidence of a crime. Thus, we conclude that the district court did not err in denying Grant's motion to suppress.

V.

For these reasons, we affirm Grant's conviction and sentence.

AFFIRMED.