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2020 IL App (3d) 180555-U

Order filed December 10, 2020

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2020

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 14th Judicial Circuit, Henry County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-18-0555
CHRISTINA M. KERN,)	Circuit No. 17-CF-96
Defendant-Appellant.)	Honorable Terence M. Patton, Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Presiding Justice Lytton and Justice Holdridge concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court erred in denying defendant’s motion to suppress evidence where the officer lacked reasonable articulable suspicion to justify a *Terry* stop.
- ¶ 2 Defendant, Christina M. Kern, appeals from her conviction of driving while license revoked. She contends that the Henry County circuit court improperly denied her pretrial motion to suppress evidence where the officer lacked reasonable articulable suspicion to justify a *Terry* stop. We reverse and remand.

¶ 3

I. BACKGROUND

¶ 4

The State charged defendant with driving while license revoked (625 ILCS 5/6-303(a) (West 2016)). Defendant filed a motion to suppress evidence, and the court held a hearing on the motion.

¶ 5

Officer Adam Hull testified that on March 6, 2017, at approximately 3:10 p.m., the Colona Police Department received a call on a nonemergency line. The caller, who wished to remain anonymous, reported that defendant would be driving a red/maroon Chevy Impala into town and “that she *** had a revoked license.” Hull stated that he was familiar with defendant and knew her grandfather owned a similar vehicle. Hull immediately began to look for the vehicle. When he located a vehicle matching the description and ran the registration, he learned that defendant’s grandfather was the registered owner. Hull knew that defendant typically resided at her grandfather’s home. Hull also knew that the grandfather was not driving the vehicle because he lived in a rehabilitation center on that date. Hull could not identify who was driving the vehicle or whether that person was male or female. According to Hull, defendant did not commit any equipment or other traffic violations. The vehicle pulled into the driveway of defendant’s grandfather’s residence, and Hull conducted a stop. He observed defendant exit the driver’s side door. Hull then confirmed through dispatch that defendant’s license was revoked.

¶ 6

The court asked Hull several questions.

“THE COURT: Did the caller tell you why they were reporting this?”

[HULL]: No, not that I’m aware of, no.

THE COURT: I mean, did the caller say, ‘Christina Kern’s driver’s license is revoked’ or ‘Christina is not supposed to be driving his car,’ anything like that?

[HULL]: I knew Christina’s driver’s license was revoked.

THE COURT: Sure, but the caller.

[HULL]: The caller? I- I can’t remember, to be honest with you. I don’t believe so.”

Hull confirmed the status of defendant’s driver’s license after he initiated the stop. Hull also clarified that the anonymous caller did not call 911, and the call was not recorded.

¶ 7 The court denied defendant’s motion to suppress finding that the anonymous caller gave Hull information to reasonably infer that defendant was involved in criminal activity.

¶ 8 The case proceeded to a stipulated bench trial. The trial included the evidence presented at the suppression hearing, and the State introduced defendant’s driving abstract that showed her license revocation began February 23, 2012 and was eligible for reinstatement on April 14, 2016. Defendant’s license was revoked on March 6, 2017. The court found defendant guilty of driving while license revoked and sentenced defendant to three years’ imprisonment. Defendant appeals.

¶ 9 II. ANALYSIS

¶ 10 Defendant argues the circuit court erred in denying her motion to suppress evidence. We agree, as Hull did not have reasonable suspicion to justify a *Terry* stop.

¶ 11 We apply a two-part standard when reviewing a court’s ruling on a motion to suppress evidence. *People v. Grant*, 2013 IL 112734, ¶ 12. We will uphold the court’s factual findings unless they are against the manifest weight of the evidence. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). We review the ultimate legal question of whether suppression of evidence is warranted *de novo*. *Id.*

¶ 12 The federal and state constitutions protect citizens from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Vehicle stops are subject to the

fourth amendment's reasonableness requirement and are analyzed under the principles set forth in *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968). Under *Terry* a police officer may conduct a brief, investigatory traffic stop when the officer has reasonable articulable suspicion to believe "that the person has committed, or is about to, commit a crime." *People v. Close*, 238 Ill. 2d 497,505 (2010). The reasonable suspicion necessary to justify a *Terry* stop " 'is dependent upon both the content of information possessed by police and its degree of reliability.' " *Navarette v. California*, 572 U.S. 393, 397 (2014) (quoting *Alabama v. White*, 496 U.S. 325, 330 (1990)).

¶ 13 A. Anonymous Call

¶ 14 Defendant first argues the anonymous call was insufficient to reliably establish that a crime was being committed or was about to be committed. "A tip from an anonymous person may supply the requisite quantum of suspicion to conduct a *Terry* stop, provided the information bears some indicia of reliability. [Citations.] The tip must be 'reliable in its assertion of illegality, not just in its tendency to identify a determinate person.' " *People v. Henderson*, 2013 IL 114040, ¶ 26 (quoting *Florida v. J.L.*, 529 U.S. 266, 272 (2000)). "[W]here there is no evidence that the tipster gave a name or contacted the police through an emergency number, 'the tip must be treated as an anonymous one, and its reliability hinges on the existence of corroborative details observed by the police.' " *People v. Lopez*, 2018 IL App (1st) 153331, ¶ 22 (quoting *People v. Smulik*, 2012 IL App (2d) 110110, ¶ 8). "The tip *** must include specific allegations of observed violations or conduct that led the informant to the conclusion that the driver was involved in an ongoing crime." *Id.* ¶ 25.

¶ 15 Here, the record establishes, and the parties do not dispute, that an anonymous call preceded the vehicle stop. This call was insufficient to independently provide Hull with reasonable suspicion to stop the described vehicle. First, the caller provided generic descriptions

of defendant, her location, and the vehicle she drove. Second, the caller did not report that they witnessed defendant driving the vehicle or committing any traffic violations that would justify a *Terry* stop. See *id.* Due to the generality of the caller’s tip, Hull was unable to corroborate the allegation that defendant was driving the vehicle until after he initiated the *Terry* stop. Moreover, there is no indication that Hull conclusively determined whether defendant’s license was revoked until after he initiated the stop. Initially, Hull testified that the caller reported defendant driving on a revoked license. However, when questioned by the court, Hull clarified that he knew defendant’s license was revoked and the caller did not report defendant’s license was revoked. Therefore, the tip was insufficiently detailed to be a reliable indicator of a traffic violation, and it could not, by itself, provide Hull with the necessary reasonable suspicion to stop defendant.

¶ 16 B. Independent Reasonable Suspicion

¶ 17 Defendant next argues the circumstances did not establish reasonable suspicion of criminal activity to independently justify the stop. Generally, “[a] police officer may conduct a brief, investigatory stop of a person where the officer can point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion.” *People v. Hackett*, 2012 IL 111781, ¶ 20. An officer must articulate sufficient facts present at the time of the encounter to justify his reasonable suspicion that a traffic violation has occurred. *Close*, 238 Ill. 2d at 505. While an officer’s suspicion need not rise to the level of probable cause, it must be more than an inarticulate hunch. *Id.*

¶ 18 Hull testified that he *knew* defendant’s license was revoked. However, before making the traffic stop, Hull failed to confirm his suspicion by verifying that defendant was actually driving the vehicle and conducting a driver’s license check. Hull’s suspicions about the state of defendant’s license is especially problematic given that the trial record established that

defendant's driver's license became eligible for reinstatement 11 months prior to the stop.

Therefore, Hull's belief that defendant's license was revoked at the time of the stop amounted to unparticularized suspicion of criminal activity that did not, by itself, justify a traffic stop.

¶ 19 In coming to this conclusion, we reject the State's attempt to analogize this case to *Kansas v. Glover*, 589 U.S. ___, ___, 140 S. Ct. 1183, 1186 (2020). In *Glover*, an officer conducted a stop on a vehicle after he ran the vehicle's registration and learned that the registered owner had a revoked license. The officer assumed that the registered owner of the truck was also the driver. He conducted a stop without confirming that the registered owner was driving the truck. The officer observed no other traffic violations prior to initiating the stop. *Id.* at ___, 140 S. Ct. at 1187. The Supreme Court found that in some circumstances it is reasonable to conduct a stop on a vehicle where the registered owner's license was revoked, without verifying that the owner is the driver. *Id.* at ___, 140 S. Ct. at 1191.

¶ 20 The present case is factually distinct from *Glover* in that Hull's registration check revealed that defendant's grandfather was the registered owner and his license was not revoked. Unlike *Glover*, where it was reasonable to assume from the registration check that the registered owner was also the driver who had an invalid driver's license, it was not reasonable to assume that: (1) the registered owner's granddaughter was driving the vehicle, and (2) her license was revoked. Additionally, the issue in this case is not whether the officer reasonably inferred the vehicle's registered owner was driving to justify a stop. Instead, the issue is whether Hull had reasonable articulable suspicion of criminal activity to justify a stop of the vehicle. Ultimately, Hull's testimony failed to establish reasonable cause to believe that defendant was driving the vehicle and that her license was revoked before he made the stop. Due to these differences, we find *Glover* to be inapplicable to the present case.

III. CONCLUSION

¶ 21

¶ 22

The judgment of the circuit court of Henry County is reversed and remanded.

¶ 23

Reversed and remanded.