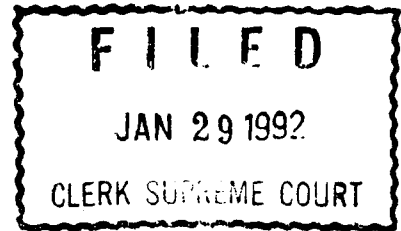


IN THE COURT OF APPEALS OF IOWA

No. 1-635 / 91-812



STATE OF IOWA,

Plaintiff-Appellee,

vs.

839

JOHN MICHAEL SEARS,

Defendant-Appellant.

Appeal from the Iowa District Court for Washington County, Michael J. Stewart, Judge.

Sears appeals from his conviction, following a bench trial, for second-offense OWI. **AFFIRMED.**

Michael R. Mullins of Morrison, Lloyd, McConnell & Mullins, Washington, for appellant.

Bonnie J. Campbell, Attorney General, Julie Ann Halligan, Assistant Attorney General, Gerald N. Partridge, County Attorney, for appellee.

Heard by Donielson, P.J., and Schlegel and Sackett, JJ.

SACKETT, J.

This case involves a stop of a vehicle based on a citizen's complaint.

Defendant-appellant John Michael Sears appeals his conviction for operating a motor vehicle while intoxicated, second offense. Sears contends the trial court erred in concluding reasonable cause existed to stop the automobile he was driving and in admitting evidence obtained in stopping his car. He also contends during the hearing on his motion to suppress evidence resulting from the vehicle stop, the trial court should have excluded all the testimony of the citizen who made the telephone report of erratic driving. We affirm.

A woman who identified herself as Rita Jo Flynn, called the Washington County Sheriff's office after she and her family observed a car they were following driving in an erratic manner. The stopping officers were informed by the police dispatcher "there was a vehicle coming toward Washington and it had been all over the road. . . ." The caller also provided a license number and a description of the vehicle. Shortly thereafter the officers observed defendant's vehicle. The defendant's vehicle was traveling in the direction indicated by Flynn. It also matched the description and license plate number she had given.

When the officers first observed the vehicle, it was just outside of Washington. The officers followed the

vehicle in the City of Washington for about two miles before stopping it. While following the vehicle the officers observed no erratic driving. The point where defendant was stopped was approximately twenty miles from where Flynn had first observed defendant's automobile.

The defendant alleges a constitutional violation. Our review is de novo. State v. Stevens, 394 N.W.2d 388, 389 (Iowa 1986), cert. denied, 419 U.S. 1057 (1987).

The fourth amendment requires reasonable cause to stop a vehicle for investigative purposes:

When a stop is challenged on the basis that reasonable cause did not exist, the State must show that the stopping officer had "specific and articulable cause to support a reasonable belief that criminal activity may have occurred. Circumstances giving rise to suspicion or curiosity will not suffice.

State v. Lamp, 322 N.W.2d 48, 51 (Iowa 1982) (citation omitted).

To evaluate the reliability of a tip, we look at the tip itself and the corroboration of the tip through independent police work.

Reasonable suspicion, like probable cause, is dependent upon both the content of information possessed by police and its degree of reliability. Both factors -- quantity and quality -- are considered in the "totality of the circumstances - the whole picture," that must be taken into account when evaluating whether there is reasonable suspicion. Thus, if a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion than would be required if the tip were more reliable. The Gates court applied its totality of the circumstances approach in this manner, taking into account the facts known to the officers from personal

observation, and giving the anonymous tip the weight it deserved in light of its indicia of reliability as established through independent police work. The same approach applies in the reasonable suspicion context, the only difference being the level of suspicion that must be established.

Alabama v. White, 496 U.S. ___, 110 S. Ct. 2412, 2416, 110 L. Ed. 2d 301, 309 (1990). Independent corroboration of the inculpatory details of the caller's tip is not mandatory. State v. Niehaus, 452 N.W.2d 184, 191 (Iowa 1990).

The reliability of a citizen informant is shown "'by the very nature of the circumstances under which the incriminating information became known.'" State v. Post, 286 N.W.2d 195, 200 (Iowa 1979) (quoting State v. Drake, 224 N.W.2d 476, 478 (Iowa 1974)). The caller identified herself by name.

The officers had reasonable cause to stop defendant's car. We have made this determination without considering the suppression hearing testimony of Rita Jo Flynn. Therefore, it is unnecessary for us to address defendant's second claimed error.

AFFIRMED.