IN THE COURT OF APPEALS OF IOWA

No. 1999-278 (9-508) / 98-1973
Filed October 27, 1999

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STATE OF IOWA,
Appellant,

vs.

PARIS ROGERS,
Appellee.

Appeal from the Iowa District Court for Polk County, A. Patricia Houlihan, Judge.

The State seeks discretionary review of a district court ruling which granted Paris Rogers' motion to suppress evidence obtained from the investigatory stop of his vehicle. **REVERSED AND REMANDED.**

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney General, John P. Sarcone, County Attorney, and Michelle Chenoweth, Assistant County Attorney, for appellant.

James R. Cook of Parrish, Kruidenier, Moss, Dunn & Montgomery, L.L.P., Des Moines, for appellee.

Heard by Streit, P.J., and Vogel and Vaitheswaran, JJ.

VOGEL, J.

The State seeks discretionary review of a district court ruling which granted Paris Rogers' motion to suppress evidence obtained from the investigatory stop of his vehicle. We reverse and remand.

Background facts. At approximately 1:15 a.m. on January 19, 1998, the Polk County police dispatcher received a report from Sandi's OK Corral that an intoxicated customer had left the tavern without paying his bill. The dispatcher was further informed that the customer was heading northbound on Northwest Sixth Drive in Des Moines in a maroon Ford pickup truck with Florida license plates and the words "Fiber Logic" written on the sides in white letters. Deputy Lance Kooiker was relayed this information via radio dispatch, and within minutes located a vehicle matching the description heading north on Northwest Sixth Drive.

Deputy Kooiker pulled over the vehicle and advised the driver, Paris Rogers, about the report made by Sandi's OK Corral. Rogers admitted he had been at the tavern but claimed he had paid his bill with a credit card. Deputy Kooiker observed that Rogers had watery and bloodshot eyes, slurred speech, and smelled strongly of alcohol. Rogers failed field sobriety tests and was subsequently charged with operating while intoxicated.

Rogers filed a motion to suppress evidence obtained from the stop. The district court granted the motion, finding that the State had failed to provide proof of the

factual foundation for the radio dispatch. Our supreme court granted the State's application for discretionary review.

Scope of review. As Rogers' motion to suppress alleged a violation of his constitutional rights, our standard of review is de novo. *See State v. Breuer*, 577 N.W.2d 41, 44 (Iowa 1998). Under that standard, we must independently evaluate the totality of the circumstances as shown by the entire record. *State v. Howard*, 509 N.W.2d 764, 767 (Iowa 1993).

I. Reasonable cause. The State contends that the district court erred in suppressing the evidence because there was reasonable suspicion to support an investigatory stop of Rogers' vehicle.

The Fourth Amendment requires that a police officer must have reasonable cause to stop an individual for investigatory purposes. *State v. Waters*, 538 N.W.2d 862, 862 (Iowa App. 1995) (citing *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880, 20 L.Ed.2d 889, 906 (1968)). 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." *State v. Lamp*, 322 N.W.2d 48, 51 (Iowa 1982) (quoting *State v. Aschenbrenner*, 289 N.W.2d 618, 619 (Iowa 1980)).

Rogers correctly asserts that a reasonably founded suspicion may not be established solely by evidence that the stopping officer received a radio dispatch. *See State v. Bailey*, 452 N.W.2d 181, 183 (Iowa 1990). In *Bailey*, none of the underlying

factual foundation for the dispatched information was allowed into the record because of an erroneous hearsay ruling. *See id.* at 182. The Iowa Supreme Court held that proof of the factual foundation for the relayed message was also required in order to establish a reasonable cause for the stop. *See id.* at 183. In this case, we find there was sufficient proof of the factual foundation in the record. The information provided by the caller for Sandi's OK Corral was most specific as to the vehicle, the direction it was traveling, and the street is traveling on. Even if the caller had been completely anonymous, this information, combined with Deputy Kooiker's corroboration, was sufficient enough to establish its reliability. *See Alabama v. White*, 496 U.S. 325, 329 110 S. Ct. 2412, 2416, 100 L.Ed.2d 301, 310 (1990) (detailed information combined with police corroboration can establish reliability of an anonymous informant and be sufficient to establish reasonable cause for investigatory stop); *see also State v. Markus*, 478 N.W.2d 405, 408 (Iowa App. 1991) (information from anonymous caller deemed reliable because it provided vehicle description, license plate, and direction of travel and was corroborated by officers). Deputy Kooiker did not need to observe any criminal activity himself in order to stop Rogers because he had such specific, corroborated information. *See Markus*, 478 N.W.2d at 408 (officers did not have to see the defendant drive "all over the roadway" to justify stop since they had reliable information from an anonymous caller) (citation omitted).

We reject Rogers' implication that a sworn complaint is required from an informant before an officer can reasonably rely on reported information. Reasonable

cause or suspicion is a less demanding standard than probable cause. *State v. Ohlsen*, 537 N.W.2d 794, 796 (Iowa App. 1995). It can be established with information that is different in quantity or content than that required to establish probable cause, and can arise from information that is less reliable than that required to show probable cause. *See id.* at 796-97 (citing *Alabama v. White*, 496 U.S. at 330, 110 S.Ct. at 2416. 110 L.Ed.2d at 309).

Having found reasonable cause in the record to support the investigatory stop, we hereby reverse the district court order granting Rogers' motion to suppress. We remand this case for further proceedings and do not retain jurisdiction.

REVERSED AND REMANDED.