

STATEMENT OF THE CASE

Joseph Trammell appeals his conviction for Public Intoxication, as a Class B misdemeanor, following a bench trial. Trammell raises a single issue on appeal, namely, whether police had reasonable suspicion to initiate an investigatory stop of him. We conclude that, under the totality of circumstances, the officer had a reasonable suspicion to stop Trammell under the Fourth Amendment to the United States Constitution. Therefore, we affirm.

FACTS AND PROCEDURAL HISTORY

On the evening of September 5, 2009, Indianapolis Metropolitan Police Officer Dustin Greathouse was working in the area of Post Road and 21st Street. At 11:37 he received a report from dispatch that a man had attempted to climb onto the porch of Apartment 205 at 9210 E. 21st Street. The porch was approximately eight feet above ground level. The caller had reported that the man, an African-American with “some kind of twisty in his hair[,]” was walking away from the apartment toward Post Road. Transcript at 7.

Officer Greathouse proceeded to the apartment complex and arrived in the general area within two to three minutes after he received the call from dispatch. He saw Trammell at 9100 E. 21st Street, roughly one hundred yards from the address of the incident, walking away from the apartment complex. Trammell, an African-American male wearing his hair in braids, met the description given by the caller, and the officer saw no one else in the area. Officer Greathouse shined his spotlight on Trammell,

activated the red and blue emergency lights on his police vehicle, and asked Trammell to stop. Trammell complied.

Officer Greathouse then spoke with Trammell “to identify him and just to see where he was, see if he was indeed the person that the caller was talking about.” Id. at 9. While conversing with Trammell, the officer could “smell the strong odor of alcoholic beverage coming from [his] breath and person[.]” Id. at 23. He also noticed that Trammell’s eyes were “very red and glassy” and that his balance was unsteady. Id. at 23.

The State charged Trammell with intimidation, as a Class D felony, and public intoxication, as a Class B misdemeanor. At the bench trial, Trammell objected to Officer Greathouse’s testimony and moved to suppress evidence obtained as a result of Officer Greathouse’s stop of Trammell. In support, Trammell argued that the officer had lacked a reasonable suspicion to initiate a stop. Following arguments by counsel, the court denied the motion and overruled the objection. At the close of evidence, the court found Trammell guilty of public intoxication and not guilty of intimidation and sentenced him accordingly. Trammell now appeals.

DISCUSSION AND DECISION

Our standard of review of rulings on the admissibility of evidence is effectively the same whether the challenge is made by a pre-trial motion to suppress or by a trial objection. Ackerman v. State, 774 N.E.2d. 970, 974 (Ind. Ct. App. 2002), trans. denied. We look for substantial evidence of probative value to support the trial court’s decision. Swanson v. State, 730 N.E.2d 205, 209 (Ind. Ct. App. 2000), trans. denied. We consider the evidence most favorable to the court’s decision and any uncontradicted evidence to

the contrary. Id.; see also Kelley v. State, 825 N.E.2d 420, 426 (Ind. Ct. App. 2005) (when ruling upon the admissibility of evidence at trial, the court should consider evidence from a motion to suppress hearing which is favorable to the defendant and which has not been countered or contradicted by foundational evidence offered at trial).

Trammell contends that the court erred when it admitted Officer Greathouse's testimony about Trammell. Specifically, Trammell argues that the officer did not have a reasonable suspicion to support an investigatory stop and that his seizure of Trammell violated the Fourth Amendment.¹ The Fourth Amendment prohibits unreasonable searches and seizures by the government, and its safeguards extend to brief investigatory stops of persons or vehicles that fall short of traditional arrest. Moultry v. State, 808 N.E.2d 168, 170 (Ind. Ct. App. 2004). However, a police officer may briefly detain a person for investigatory purposes without a warrant or probable cause if, based upon specific and articulable facts together with rational inferences from those facts, the official intrusion is reasonably warranted and the officer has a reasonable suspicion that criminal activity "may be afoot." Id. at 170-71 (quoting Terry v. Ohio, 392 U.S. 1, 21-22 (1968)).

Reasonable suspicion is a "somewhat abstract" concept, not readily reduced to "a neat set of legal rules." Id. at 171 (quoting United States v. Arvizu, 534 U.S. 266, 274 (2002)). "When making a reasonable suspicion determination, reviewing courts examine the 'totality of the circumstances' of the case to see whether the detaining officer had a 'particularized and objective basis' for suspecting legal wrongdoing." Id. (quoting

¹ At trial the State conceded that Officer Greathouse's interaction with Trammell constituted a stop under the Fourth Amendment.

Arvizu, 534 U.S. at 273). The reasonable suspicion requirement is met where the facts known to the officer, together with the reasonable inferences arising from such facts, would cause an ordinarily prudent person to believe criminal activity has occurred or is about to occur. Id. It is well settled that reasonable suspicion must be comprised of more than an officer's general "hunches" or unparticularized suspicions. Webb v. State, 714 N.E.2d 787, 788 (Ind. Ct. App. 1999) (quoting Terry, 392 U.S. at 27). Although we generally review a trial court's decision to admit evidence despite a motion to suppress under an abuse-of-discretion standard, the ultimate determination of reasonable suspicion is reviewed de novo. Burkett v. State, 736 N.E.2d 304, 306 (Ind. Ct. App. 2000).

Trammell contends that Officer Greathouse did not have a reasonable suspicion to initiate an investigatory stop. In particular, he argues that the description of the suspect given to dispatch, and therefore to Officer Greathouse, was too general because it included "only the race, gender, and a vague hairstyle to go on." Appellant's Brief at 3. As a result, Trammell maintains that the description "was not specific enough to yield a narrow pool of suspects." Appellant's Brief at 3. In support, he relies on Burkett. There, police had received a report that a group of African-American men were selling drugs in a high-crime neighborhood. When police arrived in the area, they saw Burkett, wearing a hooded sweatshirt with the hood up in seventy-six-degree weather. When the officer pulled up, Burkett walked away. The officer then exited his vehicle, requested Burkett to stop, and patted him down. The court held that the officer did not have a reasonable suspicion for the search because the description from dispatch was both very general and

did not match Burkett and because the officer found him to be alone, not in a group. Id. at 307-08.

Here, Officer Greathouse had a general description of an African-American man with braided hair. But while dispatch had told Officer Greathouse that the victim had described the perpetrator as an African-American man with “some kind of twisty in his hair[,]” Transcript at 7, dispatch had also told him that the perpetrator had walked away from the 21st Street apartment toward Post Road. Upon receiving the report, Officer Greathouse immediately proceeded to the area of 21st Street and Post Road. About one hundred yards away from the apartment complex, he saw a single African-American male pedestrian, Trammell, whose hair was in braids. Given the immediacy of Officer Greathouse’s response and arrival to the area, the absence of other people in the area, and the fact that the lone pedestrian matched the physical description of the single alleged perpetrator, we conclude that Officer Greathouse had a reasonable suspicion under the totality of the circumstances to initiate a Terry stop of Trammell and to investigate further.

Affirmed.

VAIDIK, J., and BROWN, J., concur.