

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 1023

VERSUS

JOHNNY PAUL SIMON

SEP 23 2014

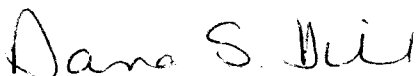
In Re: State of Louisiana, applying for supervisory writs,
17th Judicial District Court, Parish of Lafourche, No.
525561.

BEFORE: GUIDRY, THERIOT, AND DRAKE, JJ.

WRIT GRANTED. The telephone call to the 911 operator from Jade Simon wherein she stated her concern over the defendant's claim that he was going to commit suicide, admitted that the defendant had been drinking and driving, complained of the defendant's erratic driving, and requested police assistance provided reasonable suspicion for a police investigatory stop of the defendant. La. Code Crim. P. art. 215.1, as well as federal and state jurisprudence, recognizes the right of a law enforcement officer to temporarily detain and interrogate a person who he reasonably suspects of criminal conduct. See **Terry v. Ohio**, 392 U.S. 1, 10, 88 S.Ct. 1868, 1874, 20 L.Ed.2d 889 (1968); **State v. Colarte**, 96-0670 (La. App. 1st Cir. 12/20/96), 688 So.2d 587, 591, writ denied, 97-1015 (La. 10/3/97), 701 So.2d 197. An officer has the right to stop an individual and to demand his name, address, and an explanation of his actions and the right to detain the person temporarily to verify information given or to obtain information independently of his cooperation. **State v. Fauria**, 393 So.2d 688, 690 (La. 1981); **State v. Vincelli**, 555 So.2d 21, 24 (La. App. 1st Cir. 1989). Additionally, the officer need not have talked to the informant in order to act on a report from the police dispatch, provided that the information conveyed to the dispatcher had the requisite indicia of reliability to justify a stop based on reasonable suspicion. See **State v. Elliott**, 2009-1727 (La. 3/16/10), 35 So.3d 247, 251. In **Elliott**, the supreme court noted that a growing number of jurisdictions have concluded that drunken or erratic driving presents such an immediate risk of public safety that it constitutes an exception to the general rule of **Florida v. J.L.**, 529 U.S. 266, 120 S.Ct. 1375, 146 L.Ed.2d 254 (2000), that indicated that police may not act on anonymous tips unless they corroborate them in sufficient detail. In the instant case, the telephone call was not from an anonymous tipster, but instead was from Jade Simon, who gave her name and location, the defendant's name, location, and a description of his vehicle. Accordingly, the trial court's ruling granting the defendant's motion to suppress is reversed, and this matter is remanded to the trial court for further proceedings.

JMG
MRT
EGD

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