

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT OWEN HANES,

Defendant-Appellee.

UNPUBLISHED

March 3, 2009

No. 281406

Isabella Circuit Court

LC No. 07-005765-AR

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

PER CURIAM.

In this prosecutor's appeal, plaintiff appeals by leave granted from the circuit court's order reversing the district court's denial of defendant's motion to suppress evidence and dismiss a charge of operating a motor vehicle while intoxicated, MCL 257.625. We reverse the circuit court and remand for reinstatement of the charge against defendant. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

This case arose from an incident in Isabella County in November 2006. A sheriff's deputy received a notice from central dispatch to be on the lookout for a possible intoxicated driver. The deputy was informed that a named taxi driver had called the police, reporting that defendant had been "cut off" at a bar, then refused a taxi, stumbled as he left the bar, and drove away. The taxi driver followed defendant and provided continuous updates, which were relayed to the deputy through central dispatch.

The deputy was able to locate the taxi driver and defendant from the information provided by the taxi driver. Defendant's vehicle and license plate number matched the descriptions provided. The deputy followed defendant's vehicle for a short distance and observed it weaving inside its lane, although it did not cross the centerline or fog line. The deputy effectuated a traffic stop. The circuit court concluded that the stop was unlawful.

In reviewing a decision concerning a motion to suppress, this Court reviews the trial court's findings of fact for clear error. *People v Taylor*, 253 Mich App 399, 403; 655 NW2d 291 (2002). Those findings will be upheld unless this Court is left with a definite and firm conviction that a mistake was made. *People v Brown*, 279 Mich App 116, 127; 755 NW2d 664 (2008). This Court reviews de novo the trial court's decisions concerning issues of law. *People v Kaslowski*, 239 Mich App 320, 323; 608 NW2d 539 (2000); see also *People v Hrlic*, 277 Mich App 260, 263; 744 NW2d 221 (2007).

“The lawfulness of a search or seizure depends on its reasonableness.” *People v Beuschlein*, 245 Mich App 744, 749; 630 NW2d 921 (2001). The reasonableness of a search or seizure depends on “whether the officer’s action was justified at its inception, and whether it was reasonably related in scope to the circumstances that justified the interference in the first place.” *Terry v Ohio*, 392 US 1, 20; 88 S Ct 1868; 20 L Ed 2d 889 (1968).

Generally, an investigatory stop must be justified by a particularized suspicion, based on some objective manifestation, that a person is engaged in or is about to be engaged in some type of criminal activity. *People v Dunbar*, 264 Mich App 240, 247; 690 NW2d 476 (2004). An officer’s reasonable suspicion may be based on information obtained from another officer, *People v Chambers*, 195 Mich App 118, 122; 489 NW2d 168 (1992), or an informant, *Dunbar, supra* at 248. The officer must be able to “articulate specific facts that, taken together with rational inferences from those facts, reasonably warrant the intrusion.” *People v Rice*, 192 Mich App 512, 518; 482 NW2d 192 (1992).

The determination regarding whether there was reasonable suspicion must be made case-by-case, under the totality of the circumstances, and must be based on common sense and inferences about human behavior. *People v Jenkins*, 472 Mich 26, 32; 691 NW2d 759 (2005). In determining the existence of a reasonable suspicion, a court should consider the objective facts, and deference should be given to the experience of law enforcement officers and their assessments of criminal modes and patterns. *People v Oliver*, 464 Mich 184, 196, 200; 627 NW2d 297 (2001).

In determining whether reliance on an informant established a reasonable suspicion, a court must consider the totality of the circumstances, including the reliability of the informant’s information. *Dunbar, supra* at 248. In determining the reliability of the information, a court should consider the reliability of the particular informant, the nature of the particular information, and the reasonableness of the suspicion in light of the informant’s reliability and the nature of the information. *Id.* This Court has held that identified citizens and police officers are presumptively reliable. *People v Powell*, 201 Mich App 516, 523; 506 NW2d 894 (1993); *People v Goeckerman*, 126 Mich App 517, 522; 337 NW2d 557 (1983).

Here, there was no reason to question the reliability of the information provided by the taxi driver, who had identified himself to police. The officer followed the informant’s directions and was able to find defendant’s vehicle. Because of the nature of the offense and the potential for damage, the officer elected to stop defendant’s vehicle based on the supplied information, before he observed more erratic driving. Under the totality of the circumstances, the officer had a lawful basis to support the stop, and the circuit court erred in granting defendant’s motion.

Reversed and remanded for reinstatement of the charge against defendant. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter