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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2301**

State of Minnesota,
Respondent,

vs.

Todd Deverne Undahl,
Appellant.

**Filed October 21, 2008
Affirmed
Worke, Judge**

Freeborn County District Court
File No. 24-CR-06-1724

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Craig S. Nelson, Freeborn County Attorney, David J. Walker, Assistant County Attorney, Freeborn County Courthouse, 411 South Broadway, Albert Lea, MN 56007 (for respondent)

Thomas C. Baudler, Baudler Baudler Maus & Blahnik, L.L.P., 108 North Main Street, Austin, MN 55912 (for appellant)

Considered and decided by Worke, Presiding Judge; Klaphake, Judge; and Peterson, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the district court's denial of his pretrial motion to dismiss the complaint, arguing that the initial stop of his vehicle based on a tip was unlawful because the citizen informant was not reliable and the tip did not include specific, articulable facts that appellant had committed a crime. We affirm.

DECISION

“In reviewing a district court's determinations of the legality of a limited investigatory stop, we review questions of reasonable suspicion de novo.” *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). “In doing so, we review findings of fact for clear error, giving due weight to the inferences drawn from those facts by the district court.” *Id.* (quotation omitted). “A [district] court's finding is erroneous if this court, after reviewing the record, reaches the firm conviction that a mistake was made.” *State v. Kvam*, 336 N.W.2d 525, 529 (Minn. 1983).

Officers received a report of a male harassing a female at a truck stop. The victim informed the officers that appellant Todd Deverne Undahl had been harassing her by coming around her house and attempting to have contact with her. The victim lived on the same road near the truck stop. While an officer was interviewing the victim, a friend of the victim spotted appellant's vehicle driving past the truck stop and pointed it out to the officer. The officer pulled appellant over and while speaking with appellant noticed an odor of alcohol. Appellant failed several field sobriety tests, and a preliminary breath test reflected an alcohol concentration of .165. Appellant was charged with first-degree

DWI, first-degree DWI .08 or more, and possession of an open bottle. Appellant argues that the information that the citizen informant provided did not create a reasonable suspicion to justify the stop.

The factual basis needed to justify an investigatory stop “is minimal.” *Knapp v. Comm’r of Pub. Safety*, 610 N.W.2d 625, 628 (Minn. 2000). In order to justify an investigatory stop the police must show “that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004) (quotations omitted). There must be “some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.” *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997) (quoting *United States v. Cortez*, 449 U.S. 411, 417, 101 S. Ct. 690, 695 (1981)).

The stop of appellant’s vehicle was based on information supplied by a citizen informant. There is a presumption that citizen informants are reliable. *State v. Jones*, 678 N.W.2d 1, 11 (Minn. 2004). Minnesota cases dealing with investigatory stops based on informant tips have largely focused on two factors when evaluating the reliability of the tip: (1) identifying information given by the informant, and (2) objective facts supporting the informant’s assertion that the suspect is engaging in criminal activity. *Rose v. Comm’r of Pub. Safety*, 637 N.W.2d 326, 328 (Minn. App. 2001), *review denied* (Minn. Mar. 19, 2002). Neither of these factors is dispositive, and ultimately the basis for an investigatory stop must be analyzed in light of the totality of the circumstances. *Jobe v. Comm’r of Pub. Safety*, 609 N.W.2d 919, 921 (Minn. App. 2000) (citing *Alabama v.*

White, 496 U.S. 325, 330, 110 S. Ct. 2412, 2416 (1990)). Identifying information enhances an informant's reliability because the informant can be held accountable for false information. *Playle v. Comm'r of Pub. Safety*, 439 N.W.2d 747, 748 (Minn. App. 1989).

In evaluating whether allegations of criminal activity are reliable, a report of possible wrongdoing that lacks a known factual basis is given little or no weight. *See Rose*, 637 N.W.2d at 330 (concluding that a stop based on informant's tip violated the Fourth Amendment when nothing was known about why the informant believed that the driver was intoxicated). "Recent personal observation of incriminating conduct has traditionally been the preferred basis for an informant's knowledge." *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985). The reliability of an informant's allegations may also be enhanced "by sufficient police corroboration of the information supplied, and corroboration of even minor details can lend credence to the informant's information where the police know the identity of the informant." *State v. Ward*, 580 N.W.2d 67, 71 (Minn. App. 1998) (quotation omitted). But an "informant's reliability is not enhanced if the informant merely gives information that is easily obtained." *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004).

The information the officers received regarding appellant was from the victim, a relative of appellant's, and the victim's friends who were present at the scene. *See Jones*, 678 N.W.2d at 11 (stating the presumption that citizen informants are reliable). Further, the fact that the informants' identities were known or could easily be obtained by the officers at the scene enhanced the reliability of the tip. *See Playle*, 439 N.W.2d at 748.

While the officers were interviewing the victim, appellant's vehicle was spotted and identified by a member of the group at the scene. The officers immediately responded by stopping appellant's vehicle. Because appellant was still in the immediate area where the harassment occurred, it was reasonable for the officers to conclude that there was an objective manifestation that appellant was returning to continue the harassment when the officers saw him. When the officer pulled appellant over to investigate the harassment report, he detected a strong odor of alcohol coming from appellant's vehicle. Based on the totality of circumstances in this case, we conclude that the citizen-informant's tip contained sufficient indicia of reliability to create a reasonable basis for suspicion that appellant was continuing to harass or about to resume harassing the victim. Therefore, the stop of appellant's vehicle was justified.

Affirmed.