IN THE COURT OF APPEALS OF THE STATE OF ALASKA

JIMMY AARON LAMPLEY, Appellant, v. STATE OF ALASKA, Appellee.	Court of Appeals No. A-12646 Trial Court No. 3PA-16-00276 CR MEMORANDUM OPINION No. 6805 — July 17, 2019

Appeal from the District Court, Third Judicial District, Palmer, John W. Wolfe, Judge.

Appearances: Michael Barber, Attorney at Law, under contract with the Public Defender Agency, and Quinlan Steiner, Public Defender, Anchorage, for the Appellant. Kimberly Del Frate, Assistant District Attorney, Palmer, and Jahna Lindemuth, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, Harbison, Judge, and Coats, Senior Judge.[*]

Judge ALLARD.

[*] Sitting by assignment made pursuant to Article IV, Section 11 of the Alaska Constitution and Administrative Rule 23(a).

Jimmy Aaron Lampley was convicted, following a jury trial, of driving under the influence.[1] On appeal, Lampley argues that the district court erred when it denied his motion to suppress without holding an evidentiary hearing. For the reasons explained here, we agree with Lampley that there were material issues of fact in dispute that required an evidentiary hearing to resolve. Accordingly, we remand this case to the district court for an evidentiary hearing.

Background facts

On February 3, 2016, Alaska State Trooper Andy Adams received a phone call regarding a serious single-vehicle four-wheeler accident near his house in Wasilla. Adams, who was off-duty, instructed the caller to call 911. Adams then proceeded to the accident where he discovered Eric Von Schmidt "face-up, unconscious with a strong pulse." Blood was coming out of Schmidt's left ear, and he was unresponsive to pain stimulus.

The defendant, Jimmy Lampley, was present at the scene when the trooper arrived, although it was not necessarily clear when he arrived or whether he had witnessed or been a part of the events that resulted in the accident. According to Adams's police report, Lampley was very upset and was trying to wake or move Schmidt. Lampley "appeared very eager to leave the scene before [police] arrived, but didn't want to leave his friend."

Trooper Christopher Havens arrived at the scene and turned on his audio recorder. He then detained Lampley, telling Lampley that he was not free to move about and that he needed to remain at the scene. At some point (it is not clear when), Havens began to suspect Lampley of driving under the influence. The trooper conducted field

---

[1] AS 28.35.030(a)(2).

sobriety tests, which Lampley failed. Lampley was then placed under arrest for driving under the influence.

Lampley's motion to suppress

Prior to trial, Lampley moved to suppress the evidence against him, arguing that Trooper Havens had unlawfully seized him. According to Lampley, Havens knew nothing about the accident or Lampley's involvement in the accident at the time he seized him. Lampley asserted that the only information known to Havens was that there had been a serious accident, that Lampley was on the scene trying to assist the injured driver, and that Lampley did not want to stay on the scene. Lampley maintained that Havens seized him before talking to him or interviewing the witness who had reported the accident, and that Havens was therefore unaware of whether Lampley had witnessed or played any role in the accident. Lampley also claimed that Havens was unaware that Lampley had been driving a four-wheeler or that Lampley had hidden his own four-wheeler away from the accident scene.

In support of the motion to suppress, Lampley submitted Trooper Adams's police report. However, he did not submit Trooper Havens's police report; nor did he submit the audio recording of the seizure.

The prosecutor opposed the motion to suppress, relying on facts that Lampley disputed. In his opposition, the prosecutor claimed that, by the time of the seizure, Havens had already spoken to witnesses on the scene, who had described Lampley's actions in moving his four-wheeler as unusual and "suspicious." The prosecutor also asserted that Havens had "observed Lampley to be obviously impaired, including observing bloodshot watery eyes, thick slurred speech and an overwhelming odor of alcoholic beverages on his breath." According to the prosecutor, Havens seized Lampley, in part, to prevent him from driving his four-wheeler while he was intoxicated.

The prosecutor also argued that the seizure was justified because Lampley was an eyewitness to an accident involving serious physical injury and potential death. The prosecutor did not submit the audio recording or any other documentation in support of his version of the facts. Nor did the prosecutor request an evidentiary hearing.

Lampley filed a reply to the prosecutor's opposition, pointing out that the prosecutor was relying on facts that had not been conceded by Lampley. Lampley also pointed out that it was the State's burden to justify the seizure, and he noted the need for an evidentiary hearing to resolve the dispute over what was known to Havens at the time of the seizure.

Instead of holding an evidentiary hearing, the district court denied the motion to suppress on the pleadings, finding that Lampley had been subjected to a lawful *Terry* stop because "[a]t a minimum, facts known to Trooper Havens at [the] time he said 'don't leave' or words to that effect established that defendant may have been a witness to an accident involving serious physical injury/death."

Lampley was later convicted at a jury trial of driving under the influence. This appeal followed.

Why we agree with Lampley that his motion to suppress could not be resolved without an evidentiary hearing

When a warrantless seizure has occurred for purposes of the Fourth Amendment, the burden is on the State to justify that seizure.[2] Here, the State provided

[2] *Willie v. State*, 829 P.2d 310, 312 (Alaska App. 1992); *see also Florida v. Royer*, 460 U.S. 491, 500 (1983); *United States v. Uribe*, 709 F.3d 646, 650 (7th Cir. 2013) ("The government bears the burden of establishing reasonable suspicion by a preponderance of the evidence.").

multiple justifications for the trooper's seizure of Lampley. But, as we explained above, all of these justifications relied on facts that Lampley actively disputed.

Under *Terry v. Ohio* and *Coleman v. State*, a police officer may briefly stop and detain an individual for investigation without a warrant if the officer reasonably suspects that the person is engaged in, or about to be engaged in, criminal conduct.[3] *Coleman* further limits those investigative stops to "cases where the police officer has a reasonable suspicion that imminent public danger exists or serious harm to persons or property has recently occurred."[4] Driving under the influence clearly fits that category. Thus, if Havens possessed information that gave rise to a reasonable suspicion that Lampley was about to drive while intoxicated (or that Lampley had been driving while intoxicated), the seizure would have been justified.[5]

It is also possible that Lampley could have been seized as a witness to a crime. Under *Metzker v. State*, a police officer may temporarily detain a witness at a crime scene when exigent circumstances exist.[6] Thus, if there was reason to believe that Schmidt's accident was caused by negligent driving, driving under the influence, or any other unlawful activity, then Havens could be justified in temporarily detaining Lampley as a witness to that accident, provided that exigent circumstances existed that justified the temporary detention.[7]

---

[3] *Terry v. Ohio*, 392 U.S. 1, 30 (1968); *Coleman v. State*, 553 P.2d 40, 46 (Alaska 1976).

[4] *Coleman*, 553 P.2d at 46.

[5] *See id.*; *Hartman v. State, Dep't of Admin., Div. of Motor Vehicles*, 152 P.3d 1118, 1122 (Alaska 2007).

[6] *Metzker v. State*, 797 P.2d 1219, 1222 (Alaska App. 1990).

[7] *See id.* (recognizing authority of the police to stop a person as a witness to a suspected (continued...)

Lastly, Havens's actions could potentially be justified under the community caretaker doctrine because the accident involved serious physical injury and potentially death.[8] But to succeed under the community caretaker doctrine, "the State must prove both (1) that the officer *actually* (*i.e.*, subjectively) believed that police assistance was required or requested, and (2) that the circumstances known to the officer *objectively* justified this conclusion."[9] In other words, the State needed to produce evidence that Havens subjectively and reasonably believed that he needed to temporarily detain Lampley in order to provide assistance to Schmidt.

The problem in this case is that Lampley actively contested all of the underlying facts. According to Lampley, Havens had no reason to believe that he was anything other than a Good Samaritan who had happened upon the accident. Likewise, according to Lampley, Havens had no reason to believe that Lampley had been driving while intoxicated or that Lampley was about to drive while intoxicated. Although Lampley's assertions may seem unlikely in light of the prosecutor's version of events, Lampley was nevertheless entitled to hold the State to its burden of justifying the temporary detention that occurred here.

Accordingly, we conclude that the trial court erred when it resolved the suppression motion on the pleadings without holding an evidentiary hearing. We

---

[7] (...continued)
crime when exigent circumstances exist); *Beauvois v. State*, 837 P.2d 1118, 1121 (Alaska App. 1992) (same); *see also Castle v. State*, 999 P.2d 169, 173 (Alaska App. 2000) (no exigency existed warranting seizure of witness to driver's crime of driving with revoked license).

[8] *See Cady v. Dombrowski*, 413 U.S. 433, 441 (1973); *Crauthers v. State*, 727 P.2d 9, 10 (Alaska App. 1986).

[9] *Burnett v. State*, 264 P.3d 607, 611 (Alaska App. 2011) (citing *Crauthers*, 727 P.2d at 11).

therefore remand this case to the district court for an evidentiary hearing on whether the temporary detention of Lampley was justified under the circumstances known to Trooper Havens at the time of the seizure.

Conclusion

This case is REMANDED to the district court for an evidentiary hearing. The court shall hold the evidentiary hearing within 90 days of the issuance of this decision, although this deadline may be extended for good cause. Upon the conclusion of the evidentiary hearing, the district court shall make written findings of fact and conclusions of law. Upon submission of those findings and conclusions to this Court, the parties may request to file supplemental pleadings. We retain jurisdiction.