NOT DESIGNATED FOR PUBLICATION
ARKANSAS COURT OF APPEALS
D.P. MARSHALL JR., Judge

DIVISION IV

CACR06-1463

3 October 2007

ROBERT LIEBLONG, APPELLANT	AN APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT [CR2005-2655]
v.	
STATE OF ARKANSAS, APPELLEE	THE HONORABLE CHRISTOPHER CHARLES PIAZZA, CIRCUIT JUDGE
	REVERSED AND REMANDED

Robert Lieblong entered a conditional guilty plea to possession of methamphetamine with intent to deliver. He reserved the right to appeal the denial of his motion to suppress evidence found during the search of his car. On the authority of *Sims v. State*, 356 Ark. 507, 157 S.W.3d 530 (2004), and *Lilley v. State*, 362 Ark. 436, 208 S.W.3d 785 (2005), we reverse Lieblong's conviction and remand the case.

I.

We recite the facts in detail because we must consider the totality of the circumstances in our *de novo* review of the suppression issue. *Lilley*, 362 Ark. at 439, 208 S.W.3d at 788. The facts were essentially undisputed.

Corporal Dale Donovan of the State Police stopped Lieblong for speeding on Interstate 30 in Little Rock. Lieblong was driving a rented Pontiac Bonneville. When Donovan approached the car, Lieblong appeared nervous. Donovan performed a background check, which revealed that Lieblong had a criminal history involving drugs. Donovan gave Lieblong a warning for speeding and told him that by "giving him a break, it would help him to understand he needs to straighten things up in his life . . . following what he's supposed to do as far as the law is concerned." Donovan testified that Lieblong responded by saying that "he had a lot of problems, and he was still trying to straighten things out . . .." Donovan perceived that Lieblong became more nervous at this point. Donovan asked for permission to search the car and if Lieblong had any drugs or weapons in the car. Lieblong said that he had no drugs or weapons, but responded ambiguously to the search request, saying that he was on his way to his parents' house and was running late.

Donovan then asked Lieblong to step out of the car and asked again for permission to search it. Lieblong got out of the car as requested but would not

consent to the search. Donovan then gave Lieblong an option: he could wait twenty or thirty minutes for a K-9 unit to arrive and do a dog-sniff, or he could allow Donovan to search the car, which would take only five minutes. Lieblong consented and let Donovan search the car. Donovan found 75.9 grams of methamphetamine.

II.

The holdings in *Sims* and *Lilley* control this case. Unless Corporal Donovan had a reasonable, articulable suspicion that Lieblong was involved in criminal activity, then his continued detention of Lieblong after he issued the warning violated the Fourth Amendment. *Laime v. State*, 347 Ark. 142, 155–56, 60 S.W.3d 464, 473–74 (2001).

In *Sims*, for example, an officer wrote Sims a ticket for having a defective brake light, at which point the purpose of the traffic stop was completed. 356 Ark. at 510, 157 S.W.3d at 532. Although Sims continued to appear nervous, was sweating, had prior drug arrests, and made a "strange" statement about having just come from Wal-Mart, the officer had no objective basis for a reasonable suspicion that Sims was involved in criminal activity. Our supreme court therefore suppressed the fruits of the officer's post-ticket search. 356 Ark. at 514–16, 157 S.W.3d at 535–36. In *Lilley*, the officer likewise did not have reasonable suspicion to detain Lilley after the purpose of the traffic stop ended even though Lilley appeared nervous,

the rental car he was driving smelled like air freshener, it was rented in another person's name, and it was a one-way rental. Again, the court rejected the officer's search. 362 Ark. at 445–46, 208 S.W.3d at 792.

III.

At trial, Corporal Donovan acknowledged that the purpose of the traffic stop was completed when he gave Lieblong the warning. At that point, Lieblong was free to go. But Donovan testified that he never told Lieblong that he could leave if he wanted to do so. The State argues that Donovan had reasonable suspicion to detain Lieblong after the traffic stop because Lieblong was nervous, had a criminal history involving drugs, and made a suspicious statement that he was still trying to straighten his life out. We disagree.

Lieblong's nervousness cannot create a reasonable suspicion of criminal activity. *Sims*, 356 Ark. at 514–15, 157 S.W.3d at 535. Likewise, his prior drug arrests cannot create reasonable suspicion. 356 Ark. at 510, 514–16, 157 S.W.3d at 532, 535–36. Lieblong's statement—that he was trying to straighten his life out—was ambiguous and "could have been merely a nervous attempt at conversation." *Ibid.* Our precedents are clear, moreover, that all of these circumstances combined do not create adequate grounds for reasonable suspicion.

Lilley, 362 Ark. at 445–46, 208 S.W.3d at 792; *Sims*, 356 Ark. at 514–15, 157 S.W.3d at 535–36.

We recognize that Corporal Donovan may have relied "on his experience to make 'inferences and deductions that might well elude an untrained person.'" *Dominguez v. State*, 290 Ark. 428, 439, 720 S.W.2d 703, 708 (1986), *quoting United States v. Cortez*, 449 U.S. 411, 418 (1981). But the officer's perceptions must still be supported by objective facts. *Dominguez*, 290 Ark. at 439, 720 S.W.2d 708–09. Though the combination of factors may have, as Corporal Donovan said, "[thrown] up a red flag" for him, the objective facts did not support that perception. We hold that the officer did not have a reasonable, articulable suspicion to detain Lieblong after issuing the warning. Therefore, the evidence that Corporal Donovan found during his post-warning search should have been suppressed.

Judgment reversed; case remanded.

BAKER and MILLER, JJ., agree.