

dismissed all of the charges against Brooks.¹ Because the police had probable cause to arrest Brooks for the offense of operating an unregistered vehicle and because the trial court's ruling to the contrary was based on an improper application of the law relating to vehicle registrations, we reverse and remand for further proceedings.

In four separate cases, the State charged Brooks with one count of possession of cocaine, one count of operating an unregistered vehicle, one count of robbery with a firearm or deadly weapon, one count of attempted robbery with a firearm or deadly weapon, and one count of felon in possession of a firearm. Brooks subsequently filed a motion to suppress all of the evidence against him in all four cases, contending that it was discovered as a result of an illegal stop and arrest.

At the hearing on Brooks' motion to suppress, the evidence established that police were patrolling a specific neighborhood looking for a late-model white sedan that was involved in a series of assaults and robberies. They spotted Brooks driving a late-model white sedan into an apartment complex parking lot early in the morning, driving slowly through the lot without stopping, and then pulling back out again—essentially circling slowly through the parking lot at a time when many people would usually be leaving for work. Undercover officers followed Brooks as he entered the parking lot at a different apartment complex and circled through that one without stopping as well. At that point, the undercover officers radioed to patrol officers, who dropped in behind Brooks.

When the officers got behind Brooks, they discovered that they could not read the license tag on Brooks' car. The tag was covered with a piece of plastic, and

¹We have jurisdiction. See Fla. R. App. P. 9.140(c)(1)(A), (1)(B).

moisture between the tag and the plastic made it impossible to read the tag. The patrol officers stopped Brooks for this traffic infraction, and during the stop they determined that the tag on the car was a paper temporary tag from Texas that had expired four days earlier. At that point, the patrol officers asked Brooks for his license, insurance, and registration. Brooks did not have a registration certificate for the car or proof of insurance. He told the officers that the car belonged to his sister.

The patrol officers attempted to verify the registration of the car through a database search for the temporary tag, but their search results indicated that the car was not registered in Texas. The patrol officers then obtained the vehicle identification number (VIN) from the car to try to locate its registration that way. However, the database search for the VIN returned results showing that the car was not registered in Texas or any other state. The patrol officers then called the Hillsborough County Sheriff's patrol operator and had her run the VIN through a more thorough database available at the sheriff's office but not available to them in their cars. That search also came back showing that the car bearing that VIN was not registered in any state, Canada, or Puerto Rico. Hence, at that point, despite three separate searches of three separate databases, the officers had no information to demonstrate that the temporary tag attached to the car had actually been issued to that car or that the car had ever been properly registered anywhere in the United States or Canada.

Because the patrol officers could not confirm that the temporary tag belonged to the car or that the car was properly registered anywhere, they informed Brooks that the car did not appear to be registered anywhere and that it was illegal to drive the unregistered car. Brooks did not argue the point and instead said that he

would call his sister to get a ride. The patrol officers did not cite Brooks at that time, but they reminded him that he could not drive the car and would need to find another way home. As the patrol officers pulled away, Brooks was standing next to the car holding his cell phone.

Undercover officers had watched the stop while it was in progress. After the patrol officers left the scene, Brooks got back into the car and drove off. The undercover officers radioed the patrol officers that Brooks was driving the car again. The patrol officers caught back up with Brooks and arrested him for operating an unregistered vehicle. A pat down for officer safety revealed cocaine in Brooks' pocket. The car was impounded, and an inventory search revealed a firearm in the glove box which Brooks, a convicted felon, was not permitted to possess. Subsequent to his arrest, Brooks confessed to one of the robberies that the police were investigating, and a victim identified him as her assailant in another robbery. This resulted in the four cases against Brooks.

In his motion to suppress, Brooks did not challenge the legality or propriety of the initial stop for the unreadable tag. However, he contended that the second stop and his arrest were illegal because driving a vehicle with an expired tag is only a noncriminal traffic infraction—not a crime. The State countered that Brooks was arrested for operating an unregistered vehicle—a second-degree misdemeanor committed in the presence of the officers—rather than for operating a vehicle with an expired tag. After considering the evidence presented at the hearing, the trial court determined that the expired temporary tag constituted proof that the car was, in fact, registered somewhere and that therefore Brooks could not legally be arrested for

operating an unregistered vehicle. On that basis, the trial court granted the motion to suppress and subsequently dismissed all the charges. The State has brought this timely appeal.

As mentioned above, Brooks did not challenge the legality of the first stop. Instead, the focus of his motion was the legality of the second stop. For the second stop to be legal, the patrol officers must have had probable cause to believe that Brooks was committing a crime in their presence by operating an unregistered vehicle.

Law enforcement officers have probable cause . . . where "the facts and circumstances within their (the officers') knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." State v. Betz, 815 So. 2d 627, 633 (Fla. 2002) (alteration in original) (quoting Brinegar v. United States, 338 U.S. 160, 175-76, 69 S. Ct. 1302, 93 L.Ed. 1879 (1949)). The United States Supreme Court has expressly stated that a law enforcement officer "may draw inferences based on his own experience in deciding whether probable cause exists." Ornelas v. United States, 517 U.S. 690, 700, 116 S. Ct. 1657, 134 L.Ed.2d 911 (1996). The Supreme Court has further explained that probable cause is a "fluid concept—turning on the assessment of probabilities in particular factual contexts—not readily, or even usefully, reduced to a neat set of legal rules." Maryland v. Pringle, 540 U.S. 366, 370-71, 124 S. Ct. 795, 157 L.Ed.2d 769 (2003) (quoting Illinois v. Gates, 462 U.S. 213, 232, 103 S. Ct. 2317, 76 L.Ed.2d 527 (1983)). The "standard of probable cause" is "only the probability, and not a prima facie showing, of criminal activity." Gates, 462 U.S. at 235, 103 S. Ct. 2317 (quoting Spinelli v. United States, 393 U.S. 410, 419, 89 S. Ct. 584, 21 L.Ed.2d 637 (1969)).

State v. Hankerson, 65 So. 3d 502, 506 (Fla. 2011), as revised on denial of reh'g (June 30, 2011).

Here, the record before the trial court showed that the patrol officers had probable cause to believe that Brooks was committing a crime when he drove the car after being informed that it was unregistered. Section 320.02(1), Florida Statutes (2017), requires that "every owner or person in charge of a motor vehicle that is operated or driven on the roads of this state" register the vehicle in the State. The failure to register a vehicle is a second-degree misdemeanor. See § 320.57(1). When Brooks was stopped, he could not produce the car's registration certificate either from Florida or Texas, and the patrol officers could find no record in any of three separate databases that the car was registered anywhere in the United States, Canada, or Puerto Rico. Further, as one of the officers testified, because there was no record that the car was registered, the temporary tag itself could have come from anywhere—it could have been picked up off the street and just stuck on the car. Hence, the facts and circumstances within the patrol officers' knowledge and of which they had reasonably trustworthy information were sufficient to lead them to believe that Brooks was committing the offense of operating an unregistered vehicle. And this probable cause was sufficient to support the second stop and arrest of Brooks. Since that stop was not illegal, the evidence gathered as a result of that stop should not have been suppressed.

In reaching the opposite conclusion, the trial court misconstrued the law concerning the registration of vehicles and the interplay between the registration certificate and the license tag. Section 320.06(1)(a) provides that once a vehicle is registered, the Department of Highway Safety and Motor Vehicles will "assign to the motor vehicle a registration license number consisting of letters and numerals or numerals and issue to the owner or lessee a certificate of registration and one

registration license plate." (Emphasis added.) Thus, registering a vehicle triggers the issuance of a license tag. However, in finding the arrest improper, the trial court stated that the tag "is what creates the registration for the vehicle" and that "the registration and whatever is on the tag are the same." But that is simply not true. In reality, it is just the opposite. Registration triggers the issuance of the tag, and the registration certificate and the tag are two separate items. Without either a copy of the registration certificate or some database evidence to connect the temporary tag to the car, there is no way to know whether the tag on the car actually belongs to that car. Thus, while the existence of a tag on a vehicle may indicate that the vehicle was registered at some point, it is not, in and of itself, proof that the vehicle has been registered.

Moreover, Brooks' arguments in support of the trial court's ruling do not compel an affirmance here. First, contrary to Brooks' argument, he was not illegally arrested for the noncriminal traffic infraction of driving with an expired tag. See § 320.07(3)(a). Instead, he was lawfully arrested for committing the second-degree misdemeanor of operating an unregistered vehicle in the presence of the officers. See §§ 320.02(1), .57(1).

Second, the trial court did not decide the motion to suppress based on its resolution of factual questions that this court may not reconsider. As evidenced by the transcript of the hearing on the motion to suppress, there were no factual disputes involved. Instead, the resolution was a legal one—was the existence of the expired temporary tag attached to the car proof of registration sufficient to overcome the testimony from the patrol officers that searches of three separate databases showed that no car bearing that VIN was registered in any state, Canada, or Puerto Rico. The

trial court concluded that it was based on its interpretation of the law—not a resolution of disputed facts.

Third, the statutory nonresident exception is not applicable to Brooks. It is true, as Brooks points out, that section 320.37(1) provides that the registration provisions "do not apply to a motor vehicle owned by a nonresident of this state if the owner thereof has complied with the provisions of the motor vehicle registration or licensing law of the foreign country, state, territory, or federal district of the owner's residence and conspicuously displays his or her registration number as required thereby." However, the only evidence before the court was that the car was not registered anywhere, much less properly registered in Texas.

Fourth, Brooks' argument that his expired Texas tag should be considered valid because Florida law provides a six-month grace period for expired Florida tags is a non sequitur. He is correct that section 320.07(3)(b) provides that it is not a criminal offense to have an expired registration unless the registration has been expired for more than six months. However, under Texas law, it is a misdemeanor to drive with an expired registration and there is no grace period. See Tex. Transp. Code Ann. § 502.475(a)(3), (b) (2018) (providing that it is a misdemeanor to operate a vehicle with registration insignia that are not for the current registration period). By driving with the expired tag, Brooks has not "complied with the provisions of the motor vehicle registration or licensing law of the foreign . . . state" and is not entitled to the protections of the nonresident exception.

Fifth, Brooks' argument that the evidence did not establish that the car "was in fact unregistered" misses the point. The State was not required to prove at the

hearing that the car was "in fact unregistered." Instead, the State was required to prove only that the patrol officers had probable cause to believe that the car was unregistered. Here, the evidence presented at the hearing was sufficient to establish probable cause to believe that the car was not registered. And this probable cause was sufficient to support the arrest.

In sum, the trial court erred by granting the motion to suppress based on an improper application of the law relating to the registration of vehicles. The expired temporary tag attached to Brooks' car did not constitute proof that the car was actually registered since there was no evidence to show that the expired temporary tag actually belonged to that car. In the absence of some evidence that the expired temporary tag belonged to that car—which could have come from either a copy of the registration certificate or the three database searches—the police had probable cause to believe that Brooks was committing the second-degree misdemeanor of operating an unregistered vehicle. Therefore, his arrest was proper and the evidence obtained after that time was not subject to suppression. Accordingly, we reverse and remand for the charges against Brooks to be reinstated.

Reversed and remanded for further proceedings.

KHOUZAM, C.J., and SMITH, J., Concur.