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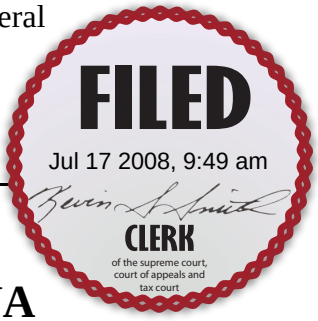

IN THE COURT OF APPEALS OF INDIANA

Q.T.F.,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 71A04-0712-JV-710
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE ST. JOSEPH PROBATE COURT
The Honorable Peter J. Nemeth, Judge
The Honorable Harold E. Brueseke, Magistrate
Cause No. 71J01-0703-JD-206

July 17, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Q.T.F. contends that the probate court abused its discretion in admitting evidence obtained during a warrantless search of a vehicle in which he was a passenger. We affirm.

The facts most favorable to the probate court's decision indicate that on March, 20, 2007, police were dispatched to the intersection of Hartzer and Meade Streets in South Bend due to an anonymous tip that two vehicles at that location were involved in ongoing drug deals. One of the vehicles involved was described as a green Oldsmobile with a paper license plate. The tipster also described one of the dealers as a black male wearing a grey hooded sweatshirt, white t-shirt, and blue jeans. Officer Paul Strabavy then approached the intersection in his marked patrol car and observed the two cars. As he approached, Officer Strabavy saw a 1999 green Oldsmobile Alero with a paper license plate in the rear window speed away. Officer Strabavy gave chase, and, when he was unable to read the license plate, performed a traffic stop.

While approaching the vehicle, Officer Strabavy observed Q.T.F. sitting alone in the backseat, repeatedly turning and looking at the officer while furtively moving his arms. Q.T.F. was wearing a grey hooded sweatshirt, white t-shirt, and blue jeans, fitting the description from the dispatch. Officer Strabavy requested a driver's license from the driver, who was unable to produce one. The passengers also failed to produce driver's licenses. Additionally, the driver was unable to produce any registration information on the vehicle. Officer Strabavy removed all the occupants from the vehicle and patted them down for weapons pursuant to department procedure. Once outside the vehicle, Q.T.F. was visibly sweating, despite the cold weather, and asked lots of questions. He also pulled lip balm from his pocket and applied it to his lips several times. During an inventory search prior to

impounding the vehicle, officers found a chapstick container in the backseat where Q.T.F. was sitting. The item contained a plastic baggie holding crack cocaine and two pills.

On March, 29, 2007, the State filed a delinquency petition alleging that Q.T.F. committed what would have been class B felony possession of cocaine and class D felony possession of cocaine had he been an adult. On April 11, 2007, Q.T.F. filed a motion to suppress the evidence obtained during the warrantless search of the vehicle. After a hearing, the probate court denied the motion on July 12, 2007. Q.T.F. requested an interlocutory appeal, which the trial court denied. On August 22, 2007, the court conducted a factfinding hearing and adjudicated Q.T.F. a delinquent under both counts of the petition. This appeal ensued.

At the outset, we note that Q.T.F. failed to object to evidence obtained during the investigatory stop at the factfinding hearing. Although Q.T.F. filed a motion to suppress and requested an interlocutory appeal, he made no effort to assert this claim at the factfinding hearing. Failure to lodge a contemporaneous objection at the time the evidence is offered results in waiver of the claim. *See Britt v. State*, 810 N.E.2d 1077, 1080 (Ind. Ct. App. 2004). Waiver notwithstanding, we address the merits of the claim.

"Our standard of review for rulings on the admissibility of evidence is essentially the same whether the challenge is made by a pre-trial motion to suppress or by trial objection." *Widduck v. State*, 861 N.E.2d 1267, 1269 (Ind. Ct. App. 2007). We do not reweigh the evidence, and we consider the conflicting evidence most favorable to the trial court's ruling. *Id*. Unlike an ordinary sufficiency of the evidence case, however, we must also consider any uncontested evidence favorable to the defendant. *Id*.

Q.T.F. contends that the probate court abused its discretion in admitting the cocaine because it was seized without a warrant or reasonable suspicion. The Fourth Amendment prohibits unreasonable searches and seizures. *Terry v. Ohio*, 392 U.S. 1, 9 (1968). Police must, whenever practicable, obtain advance judicial approval of searches and seizures through the warrant procedure. *Id* at 20. A police officer may briefly detain someone who the officer believes has committed a traffic infraction. *State v. Harris*, 702 N.E.2d 722, 726 (Ind. Ct. App. 1998). Once the purpose of the traffic stop is completed, a motorist cannot be further detained unless something that has occurred during the stop caused the officer to have a reasonable and articulable suspicion that criminal activity is afoot. *United States v. Hill*, 195 F.3d 258, 264 (6th Cir. 1999), *cert. denied* (2000).

At the delinquency hearing, Officer Strabavy testified that he stopped the vehicle because he was unable to read the temporary paper license plate displayed in the vehicle's rear window. A traffic stop is permissible where the purpose of the stop is to determine the validity of a license plate. *See Young v. State*, 886 N.E.2d 636, 639 (Ind. Ct. App. 2008), *pet. for trans. pending*. Once Officer Strabavy could determine the validity of the license plate, the purpose of the traffic stop had been satisfied, and further detention would be justified only upon a showing by the officer of reasonable and articulable suspicion that criminal activity was afoot. *Id.*

"Reasonable suspicion entails some minimum level of objective evidentiary justification." *Cash v. State*, 593 N.E.2d 1267, 1268 (Ind. Ct. App. 1992). "Due weight must be given, not to the officer's inchoate and unparticularized suspicion or 'hunch' but to the specific reasonable inferences which the officer is entitled to draw from the facts in light of

his experience." *Id* at 1268-69 (citation omitted). "On review, we consider whether the facts known by the police at the time of the stop were sufficient for a man of reasonable caution to believe that an investigation is appropriate." *State v. Rager*, 883 N.E.2d 136, 139 (Ind. Ct. App. 2008). The grounds for such a suspicion must be based on the totality of the circumstances. *Id*.

Officer Strabavy testified that he was responding in part to an anonymous tip. An anonymous tip alone seldom gives rise to the reasonable suspicion necessary for an investigatory stop. *See Hardister v. State*, 849 N.E.2d 563, 570 (Ind. 2006). "Corroboration is ordinarily necessary where nothing the tipster said shows either reliability or the informant's basis of knowledge." *Id.* The tip in this case provided only the location and description of the vehicle and one of its potential passengers, facts that were readily observable by the public. Therefore, the tip, by itself, would not establish reasonable suspicion. However, because we apply a totality-of-the-circumstances test, the tip must be considered in conjunction with Officer Strabavy's observations and experience.

Here, Officer Strabavy was able to confirm the description of the vehicle and occupant as stated in the tip. Further, the officer testified that when he approached the vehicle, it sped away in an evasive manner. *See Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) ("Headlong flight--wherever it occurs--is the consummate act of evasion: It is not necessarily indicative of wrongdoing but is certainly suggestive of such."). Officer Strabavy also testified that as he exited his police car after stopping the vehicle, he observed Q.T.F. repeatedly turn and look at the officer while furtively moving his arms. *See id.* ("nervous, evasive behavior is a pertinent factor in determining reasonable suspicion."). In light of these facts, we conclude

that the tip, combined with Officer Strabavy's observations and his conclusions based on his experience, would lead a reasonably prudent person to believe that criminal activity was afoot. Therefore, the officer's detainment of Q.T.F. after determining the validity of the license plate was proper.

We next turn to the search of the vehicle. In general, the Fourth Amendment prohibits warrantless searches. *Meister v. State*, 864 N.E.2d 1137, 1142 (Ind. Ct. App. 2007), *trans. denied*. If the search is conducted without a warrant, the burden is upon the State to prove that, at the time of the search, an exception to the warrant requirement existed. *Id*. An inventory search of a vehicle is one such recognized exception. *Taylor v. State*, 842 N.E.2d 327, 330 (Ind. 2006). The threshold question in inventory searches is whether the impoundment was proper. *Id*. Additionally, in order for the inventory search itself to be considered lawful, it must be performed pursuant to standard police procedures. *Woodford v. State*, 752 N.E.2d 1278, 1282 (Ind. 2001), *cert. denied* (2002).

Here, the record indicates that when Officer Strabavy asked for a driver's license, neither the driver nor either passenger was able to produce one. Nor was the driver able to produce any registration information on the vehicle. Officer Strabavy testified that as a result of the inability of the vehicle's occupants to produce the requested information, as well as the vehicle's location, he impounded the vehicle and conducted an inventory search pursuant to the department's procedures. Officer Strabavy testified that his objectives were to remove the vehicle from a two-lane road and prevent it from being broken into, as well as to produce an inventory of its contents. Given these facts, we find that the inventory search of the vehicle was proper, as Officer Strabavy was justified in impounding the vehicle and followed

police procedures in searching the vehicle. *See Woodford*, 752 N.E.2d at 1282 (finding search performed pursuant to standard police procedures where officer testified that he followed written department policy in conducting search). Because the evidence in this case was obtained in the course of a lawful inventory search, its admission by the probate court was not an abuse of discretion.

Affirmed.

BARNES, J., and BRADFORD, J., concur.