STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CONNIE MCCLATCHEY,

Defendant-Appellee.

UNPUBLISHED
August 30, 2002

No. 237570
Wayne Circuit Court
LC No. 01-005241

Before: Cooper, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Defendant was charged with operating a vehicle while under the influence of intoxicating liquor (OUIL/PER SE), third offense,[1] MCL 257.625, and operating a vehicle on a suspended license, MCL 257.904(3)(a). The trial court granted defendant's motion to quash the information, and entered an order of dismissal. The prosecutor appeals by right. We reverse and remand.

The prosecution argues that the trial court judge erred when it interpreted the law regarding a warrantless arrest for OUIL. MCL 257.625. We agree. In reviewing a district court's decision to bind over a defendant, as well as the trial court's decision on a motion to quash an information, this Court reviews for an abuse of discretion. *People v Hamblin*, 224 Mich App 87, 91; 568 NW2d 339 (1997). An abuse of discretion occurs when an unbiased person, considering the facts the trial court relied on in making its decision, would conclude that there was no justification for the decision. *People v Orzame*, 224 Mich App 551, 557; 570 NW2d 118 (1997). Moreover, statutory interpretation is a question of law that is considered de novo on appeal. *People v Webb*, 458 Mich 265, 274; 580 NW2d 884 (1998).

MCL 764.15(1)(d) provides as follows:

[1] At the time that defendant was arrested, she was arrested for OUIL, first offense. If defendant had initially been arrested for OUIL – third offense, which is a felony, it appears that the issue raised in this appeal regarding the officer's presence would be moot because under MCL 764.15(1)(b), an officer may arrest a person without a warrant for a felony although it was not committed in the officer's presence.

> (1) A peace officer, without a warrant, may arrest a person in any of the following situations:
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> ***
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> (d) The peace officer has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.

The statute has been in effect in its present format since August 21, 2000. 2000 PA 208. However, before the 2000 amendment, MCL 764.15(1)(d) read:

> (1) A peace officer, without a warrant, may arrest a person in any of the following situations:
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> ***
>
> (d) The peace officer has reasonable cause to believe a felony has been committed and reasonable cause to believe the person committed it.[2]

The lower court judge referenced, and apparently relied on, *People v Lyon*, 227 Mich App 599; 577 NW2d 124 (1998), when it quashed the information and dismissed this case. In *Lyon*, the defendant challenged his arrest for OUIL pursuant to MCL 764.15(1)(h), when a police officer came upon the intoxicated defendant with his car parked on the side of an expressway off ramp. *Id*. at 601-602, The *Lyon* Court stated that "[a]s a general rule, a police officer may not arrest an individual for a misdemeanor if the offense was not committed in the officer's presence." *Lyon, supra* at 604. The Court in *Lyon* also relied on *People v Spencley*, 197 Mich App 505, 506-508; 495 NW2d 824 (1992), for the proposition that the police must observe a defendant operating his vehicle in order to arrest him without a warrant for OUIL. *Lyon, supra* at 608.[3]

We conclude that the lower court erred when it relied on *Lyon, supra*, because the Court in *Lyon* dealt with MCL 764.15(1)(h) rather than MCL 764.15(1)(a), relied specifically on a prior version of MCL 764.15, and relied also on *Spencley*, *supra*, that was decided before the current version of MCL 764.15(1)(d) was enacted in 2000. Under the current version of MCL 764.15(1)(d) that was in effect at the time of the instant offense, the police may, without a warrant, arrest a person, if the officer "has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to

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[2] 1999 PA 269, effective July 1, 2000. Prior versions of MCL 764.15(1)(d) that were in effect before July 1, 2000 contained language that was substantially similar to that provided in 1999 PA 269, i.e., the language regarding "a misdemeanor punishable by imprisonment for more than 92 days" was absent until 2000 PA 208 was enacted.

[3] Despite the fact that this Court found that the defendant's arrest for OUIL under MCL 257.625(1)(a) was not statutorily valid, ultimately the *Lyon* Court held that the arrest was constitutionally valid because it was supported by probable cause. *Lyon, supra* at 611-612.

believe the person committed it." Under MCL 257.625(8)(a)(ii), operating a vehicle under the influence of intoxicating liquor as a first offense is a misdemeanor punishable by imprisonment for not more than ninety-three days. An arrest for OUIL is a misdemeanor that can result in imprisonment for up to ninety-three days, one day more than the ninety-two day requirement imposed by the Legislature in MCL 764.15(1)(d). Therefore, violations of MCL 257.625(1) fall under the purview of MCL 764.15(1)(d) and no longer require a police officer to observe a defendant operating his vehicle in order to arrest him without a warrant.

Defendant urges this Court to construe MCL 764.15 in light of what is considered a permissible arrest under the drunk driving laws, and argues that there are only two exceptions that allow officers to arrest a person without an arrest warrant when the offense is not committed in the presence of the officer. Defendant states that the first exception deals with accidents, MCL 764.15(1)(h), and the second deals with parked cars or sleeping drunk situations, MCL 764.15(1)(i). Defendant also states that the Legislature must not have intended MCL 764.15(1)(d) to apply to situations like the one in this case because, if it did, there would be no need to have the two exceptions mentioned above, as MCL 764.15(1)(d) would cover all of the misdemeanor exceptions.

It is true that apparently plain statutory language can be rendered ambiguous by its interaction with other statutes. *People v Valentin*, 457 Mich 1, 6; 577 NW2d 73 (1998). However, this Court recognizes that the Legislature is charged with knowledge of existing laws on the same subject and is presumed to have considered the effect of new laws on all existing laws. *People v Ramsdell*, 230 Mich App 386, 393; 585 NW2d 1 (1998). Here, defendant is attempting to create an ambiguity where none exists by urging this Court to construe MCL 764.15(1)(d) and limit its applicability. Clearly, an arrest for OUIL is a misdemeanor that can result in imprisonment for up to ninety-three days, one day more than the ninety-two day requirement imposed by the Legislature in MCL 764.15(1)(d). The plain language of MCL 764.15(1)(d) directs that violations of MCL 257.625(1) fall under MCL 764.15(1)(d). The Legislature is presumed to have intended the meaning it plainly expressed. *People v Venticinque*, 459 Mich 90, 99-100; 586 NW2d 732 (1998). Because we find that the plain and ordinary meaning of the statutory language is clear, judicial construction is neither necessary nor permitted. *People v Philabaun*, 461 Mich 255, 261; 602 NW2d 371 (1999).

Defendant also argues that the police did not have the reasonable suspicion necessary to conduct an investigative stop at a house or to make a warrentless arrest based on information from a citizen. In *People v Tooks*, 403 Mich 568; 271 NW2d 503 (1978), our Supreme Court held that citizen-informants reporting suspicious activities that they have personally observed should be deemed inherently reliable "when the information is sufficiently detailed and is corroborated within a reasonable period of time by the officers' own observations." *Id*. at 577. Furthermore, Michigan courts have deemed "identified citizens and police officers to be presumptively reliable." *People v Powell*, 201 Mich App 516, 523; 506 NW2d 894 (1993). Moreover, "[i]nformation supplied from a reliable citizen source is enough to found a reasonable belief." *People v Goeckerman*, 126 Mich App 517, 522; 337 NW2d 557 (1983).

In this case, Marcus Thornsberry, an identified citizen-informant, personally witnessed defendant driving erratically. The informant called the police and provided detailed, specific information regarding the make and model of defendant's car, what roads she traveled on, and how defendant's car ran off the road onto the curb, and swerved out of her lane on several

instances. The informant also followed defendant to a residence, watched her park her car, and then saw her face when she exited her vehicle and entered the house. The informant remained at the scene, and when the police arrived, pointed out defendant's vehicle and the residence she had entered. The police then went to the house to investigate the informant's assertions and were told by a woman who answered the door that defendant was the driver. Defendant then appeared and admitted to the police that she had been driving and had just arrived at the house. The police observed that defendant was clearly intoxicated. She confirmed her intoxication by failing the standard sobriety tests. Later, blood analysis results established that defendant had 0.28 grams of alcohol per one hundred milliliters of blood. In light of the fact that, "[i]nformation supplied from a reliable citizen source is enough to found a reasonable belief," these facts were sufficient to support a reasonable belief that defendant's erratic driving was the result of intoxication, and thus, defendant had violated MCL 257.625(1). *Goeckerman, supra* at 522. Therefore, the trial court erred when it ruled that the police did not have cause to arrest defendant.

We reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jessica R Cooper
/s/ Joel P. Hoekstra
/s/ Jane E. Markey