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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0728**

Jeffrey Alan LaFontaine, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed June 10, 2008
Affirmed
Halbrooks, Judge**

Dakota County District Court
File No. C3-06-15456

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Considered and decided by Schellhas, Presiding Judge; Klaphake, Judge; and
Halbrooks, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges the district court's order sustaining his driver's license
revocation, maintaining that an informant's tip to the police did not possess sufficient

indicia of reliability to justify the stop of his vehicle. In addition, appellant argues that the officers impermissibly expanded the scope of the traffic stop. Because we conclude that the district court did not err in its determinations that the traffic stop was based on reasonable articulable suspicion and the officers' conduct during the stop was proper, we affirm.

FACTS

At approximately 1:03 a.m. on September 24, 2006, police dispatch radioed to Officers James Dronen and Nicholas Stevens, members of the Lakeville Police Department who were working in separate squad cars, that there had been a traffic accident with possible injuries in a southbound lane of Interstate 35 near County Road 50. Dispatch advised the officers that the information had been reported by a citizen who had stopped to render assistance and was still at the accident scene. The caller, incorrectly as it later turned out, told dispatch that a vehicle involved in the crash had just left the accident site after its driver argued with one of the occupants of the other car. The caller described the vehicle that left the scene as a Chevy Silverado with a license-plate number of NGU-772 and stated that it was driving southbound on Interstate 35.

Believing that the driver of the Silverado had committed a crime by leaving the scene of an accident, *see* Minn. Stat. § 169.09 (2006), Officer Dronen positioned his squad car southbound on I-35 near County Road 70. When a Silverado that matched the vehicle's description drove past him, Officer Dronen followed it and verified that the vehicle's license plate matched the one reported by the caller. Officer Dronen then

stopped the vehicle, identifying its driver and lone occupant as appellant Jeffrey Alan LaFontaine.

Officer Dronen testified that he had not personally observed any traffic violations before initiating the stop of appellant's vehicle. Officer Dronen further testified that he did not verify whether dispatch had specific identifying information about the caller, such as a name or address, before making the stop. But moments after appellant's vehicle was stopped, Officer Puncochar arrived at the scene of the accident, identified the caller, who was still talking to dispatch, and interviewed him.

Officer Stevens, who went to assist Officer Dronen, parked directly in front of appellant's vehicle, effectively blocking it in. By the time that Officer Stevens arrived, Officer Dronen was talking with appellant at the rear of his vehicle. Because Officer Stevens was concerned that appellant was a flight risk and because he was also concerned for the officers' safety, he opened the vehicle's passenger door, leaned inside, turned off the engine, and removed the keys from the ignition. As Officer Stevens leaned into appellant's vehicle to turn off the ignition, he smelled an odor of alcohol. In a subsequent conversation with appellant, Officer Stevens noted that appellant also smelled of alcohol. Appellant was arrested for driving while impaired; a later breath test revealed he had an alcohol concentration of .097. After appellant was placed under arrest, the officers learned that he had not been involved in the crash but had witnessed it and stopped briefly to provide assistance.

Appellant's driver's license was subsequently revoked pursuant to Minnesota's implied-consent law. He petitioned for judicial review of the revocation, contending that

the traffic stop and the expansion of its scope were improper. The district court sustained the revocation of his driver's license. This appeal follows.

DECISION

I.

Appellant argues that the information that the citizen caller provided did not create a reasonable suspicion to justify the stop of his vehicle. We review de novo a district court's determination regarding the legality of a warrantless search or seizure, including a stop based on reasonable suspicion, to determine whether the district court erred in suppressing or not suppressing the evidence. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004); *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999).

The factual basis needed to justify an investigatory stop "is minimal." *Knapp v. Comm'r of Pub. Safety*, 610 N.W.2d 625, 628 (Minn. 2000). All the police must show to justify an investigatory stop is "that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004) (quotations omitted). There must be "some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity." *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997) (citing *United States v. Cortez*, 449 U.S. 411, 417, 101 S. Ct. 690, 695 (1981)).

Here, the stop of appellant's vehicle was based on information supplied by a citizen informant. An informant's tip may be adequate to support an investigatory stop if the tip has "sufficient indicia of reliability." *In re Welfare of G.M.*, 560 N.W.2d 687, 691

(Minn. 1997). Minnesota cases dealing with investigatory stops based on informant tips have largely focused on two factors when evaluating the reliability of the tip: (1) any identifying information given by the informant and (2) the existence of objective facts that provide some indication of the basis for the informant's knowledge that the suspect is engaging in illegal behavior. *Rose v. Comm'r of Pub. Safety*, 637 N.W.2d 326, 328 (Minn. App. 2001). Neither of these factors is dispositive, and ultimately the basis for an officer's investigatory stop must be analyzed in light of the totality of the circumstances. *Jobe v. Comm'r of Pub. Safety*, 609 N.W.2d 919, 921 (Minn. App. 2000) (citing *Alabama v. White*, 496 U.S. 325, 330, 110 S. Ct. 2412, 2416 (1990)).

There is a presumption that citizen informants are reliable. *State v. Jones*, 678 N.W.2d 1, 11 (Minn. 2004). Identifying information about an informant enhances his reliability because the informant can be held accountable for false information. *Playle v. Comm'r of Pub. Safety*, 439 N.W.2d 747, 748 (Minn. App. 1989).

In evaluating whether allegations of criminal activity are reliable, a report of possible wrongdoing that lacks a known factual basis is given little or no weight. *See Rose*, 637 N.W.2d at 329-30 (finding that a stop of a vehicle based on an informant's tip violated the Fourth Amendment when nothing was known about why the informant believed that the driver was intoxicated). "Recent personal observation of incriminating conduct has traditionally been the preferred basis for an informant's knowledge." *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985). The reliability of an informant's allegations may also be enhanced "by sufficient police corroboration of the information supplied, and corroboration of even minor details can lend credence to the informant's information

where the police know the identity of the informant.” *State v. Ward*, 580 N.W.2d 67, 71 (Minn. App. 1998) (quotation omitted). But an “informant’s reliability is not enhanced if the informant merely gives information that is easily obtained.” *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004).

Here, the informant was a citizen who stopped to render assistance at the accident scene. Therefore, the informant was presumed to be reliable. *Jones*, 678 N.W.2d at 11. In addition, the fact that the informant’s identity could be easily obtained enhances the reliability of the tip. *Playle*, 439 N.W.2d at 748. While it would arguably have been preferable if Officer Dronen had verified with dispatch that the informant’s identifying information was known before initiating the traffic stop, his failure to do so does not make his subsequent conduct unreasonable. When officers make an investigatory stop based on an informant’s tip without knowing this information, they run the substantial risk that the stop violates an individual’s right to be free from unreasonable seizures. But even though Officer Dronen did not have identifying information prior to the stop, it was readily ascertainable because the informant stayed in continuous contact with police dispatch and remained at the accident site. While not given as much weight as actually having the informant’s identifying information at the outset, an informant’s identity being readily ascertainable increases the reliability of the tip. *See State v. Davis*, 732 N.W.2d 173, 183 (Minn. 2007) (quoting approvingly from *State v. Maynard*, 783 So.2d 226, 230 (Fla. 2001), for the proposition that an “informant’s actual name need not be known so long as her identity is readily discoverable”); *City of Minnetonka v. Shepherd*, 420 N.W.2d 887, 890 (Minn. 1988) (“[T]he caller, although apparently not identifying

himself by name, identified himself as a station attendant at the Q Petroleum Station in Minnetonka. . . . [This] information gave the authorities a way to locate the caller and hold him accountable if he was knowingly providing false information.”); *see also Playle*, 439 N.W.2d at 749 (upholding a stop based on the tip of an unnamed employee of a Burger King restaurant).

Appellant relies on *Olson v. Comm’r of Pub. Safety* to support his contention that the tip here was not sufficiently reliable to justify the stop of his vehicle. 371 N.W.2d 552 (Minn. 1985). But *Olson* is factually distinguishable. In *Olson*, the police officer stopped Olson based on an anonymous call to dispatch that he had observed a “possibly drunken driver” in a white Datsun with a specified license-plate number. *Id.* at 553. Nothing was known about the informant’s identity, location, or the basis for the informant’s allegation of criminal activity. *Id.* at 556. And the officer who subsequently followed the Datsun did not observe any traffic violations. Therefore, the supreme court concluded:

On this record, there is a complete lack of even the most minimal indicia of reliability for the anonymous tip. If police cannot stop a car on the highway on the basis of mere whim, neither can they stop on the basis, for all they know, of the mere whim of an anonymous caller.

Id.

Based on the totality of circumstances presented in this case, we conclude that the citizen-informant’s tip contained sufficient indicia of reliability to create a reasonable basis for Officer Dronen’s suspicion that appellant had just fled the scene of an accident. Therefore, the stop of appellant’s vehicle was justified.

II.

Appellant also argues that Officer Stevens impermissibly expanded the scope of the stop by leaning into his vehicle and removing his keys from the ignition. Article I, section 10 of the Minnesota Constitution requires that a stop's scope and duration be limited to the underlying justification for the stop, absent additional facts. *State v. Fort*, 660 N.W.2d 415, 418 (Minn. 2003). Any expansion of either the scope or the duration of the stop requires additional reasonable articulable suspicion to justify the expansion. *Id.* We review de novo a district court's determination concerning whether officers impermissibly expanded the scope of a stop. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005).

The district court concluded that based on the investigation related to leaving the scene of an accident, it was reasonable for Officer Stevens to "secure the scene of the stop to prevent further fleeing." We agree. The basis for the stop was the officers' belief that appellant was suspected of leaving an accident that may have involved personal injury, a potential felony. *See* Minn. Stat. § 169.09, subs. 1, 14(a) (2006). Officer Dronen testified that he was worried that appellant would attempt to flee again. Officer Stevens testified that he believed that appellant's large truck could have easily pushed his squad car aside if he had attempted to flee. Given this basis for the stop, Officer Stevens's decision to turn off the engine and remove the keys from the ignition to prevent any possibility of further flight was within the scope of the underlying justification for the stop.

Affirmed.