APPENDIX A

SUPREME COURT OF ILLINOIS
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May 27, 2020

In re: People State of Illinois, respondent, v. Franklin C. Edwards, petitioner. Leave to appeal, Appellate Court, Fifth District. 124885

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 07/01/2020.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

APPENDIX B

2019 IL App (5th) 180300-U

NO. 5-18-0300

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	St. Clair County.
	)	
v.	)	No. 15-CF-720
	)	
FRANKLIN C. EDWARDS,	)	Honorable
	)	Robert B. Haida,
Defendant-Appellee.	)	Judge, presiding.

PRESIDING JUSTICE OVERSTREET delivered the judgment of the court.
Justices Chapman and Moore concurred in the judgment.

ORDER

¶ 1 *Held*: Police officers had reasonable and articulable suspicion to make an investigatory stop of the vehicle the defendant drove; therefore, the circuit court improperly granted the defendant's motion to suppress.

¶ 2 This appeal concerns the constitutionality of a traffic stop of a vehicle driven by the defendant, Franklin C. Edwards. A police officer conducted the traffic stop in conjunction with an investigation into a shooting incident that occurred earlier that morning at an apartment complex in Belleville, Illinois, in which the defendant was a suspect. The traffic stop resulted in the arrest of the defendant for driving on a suspended license. While in custody for the traffic offense, the defendant gave incriminating

statements during police interrogations concerning the shooting incident and was charged with seven offenses stemming from the incident.

¶ 3 The defendant filed a motion to suppress his statements, arguing that the statements stemmed from an unconstitutional traffic stop. The circuit court granted the defendant's motion to suppress the statements, finding that the arresting police officer did not have a sufficient basis to conduct the traffic stop that resulted in the defendant's arrest. Pursuant to Illinois Supreme Court Rule 604(a)(1) (eff. Mar. 8, 2016), the State seeks an interlocutory review of the circuit court's order granting the motion to suppress. For the following reasons, we reverse the circuit court's order and remand for further proceedings.

¶ 4 BACKGROUND

¶ 5 At the hearing on the defendant's motion to suppress, the State presented evidence concerning a police investigation into a shooting incident that occurred outside an apartment complex. During the investigation, officers learned of the defendant's possible involvement in the incident as well as the defendant's use of a maroon Ford Focus that was parked at the crime scene. This appeal concerns an officer's investigatory stop of the vehicle as it drove away from the crime scene on the same morning of the shooting.

¶ 6 The shooting incident occurred during the early morning hours on June 13, 2015, when one or more persons discharged firearms in the parking lot of the apartment complex, which was located on Freedom Drive in Belleville, Illinois. One of the residents of the apartment complex, Anna Hall, called 9-1-1 to report the incident.

¶ 7 Several officers from the Belleville Police Department responded to the scene, including Detective Daniel Collins, who arrived at around 3 a.m. Collins described the "crime scene" as very large with "a lot of shell casings." When Collins arrived, other officers were already at the scene trying to determine what had transpired. During his investigation, Collins spoke with Hall, who told him that she saw an individual firing a "rifle." She did not know the person's name but, according to Collins, she said that the person shooting was "associated" with the defendant. The record does not include any description of the person Hall saw shooting or any elaboration on how she believed this person was "associated" with the defendant.

¶ 8 Hall informed Collins that the defendant was the maintenance man for the apartment complex and lived in an apartment inside building 217 of the apartment complex, but she did not know which specific apartment inside the building. Hall told Collins that the defendant was at the apartment complex that night but that she did not see him firing a weapon. According to Collins, Hall also told him that the defendant was "associated with a maroon Ford Focus." Investigators located the maroon Ford Focus parked at the apartment complex.

¶ 9 At the hearing, Collins told the court that a detective named Keilbach also responded to the apartment complex and spoke to a person named Jeremy Gully. The record does not include Keilbach's testimony or any indication of who Gully is or what he specifically told Keilbach about the incident except that, according to Collins, Gully told Keilbach that he saw the defendant "out there shooting."

¶ 10 As the investigation into the shooting continued, other officers and detectives arrived at the Belleville police station to report for duty later that morning. Collins told the circuit court that the arriving officers were "briefed *** on what had transpired," which included "information that had been learned by either in-person investigation, statements from witnesses, all that." Collins testified that Keilbach was present during the briefing and informed the arriving officers what he learned during his interview of Gully, presumably that the defendant was "out there shooting."

¶ 11 Detective Patrick Koebbe arrived at the Belleville police station at approximately 8:25 a.m. on June 13, 2015, and attended the briefing described by Collins. Koebbe told the circuit court that he was "advised that there were interviews of witnesses conducted." He testified that he learned from the briefing that the defendant was the maintenance man for the apartment complex, was an individual that investigators were "looking to make contact with," and lived in an apartment inside building 217 or 219 of the apartment complex. He testified that he was "advised that witnesses stated that they were familiar with the maintenance man driving a maroon in color Ford Focus" and that "witnesses described the shooter running into an apartment at 217 Freedom, which was indicated that the maintenance man lived in that same area as where the apartment was pointed out to be." In addition, Koebbe learned that the shooter had been standing on the hood of the maroon Ford Focus and that investigators had collected footwear impressions from the hood of the vehicle.

¶ 12 Meanwhile, while Koebbe attended the briefing at the police station, patrol officer David Abernathy sat in a parking lot across the street from the crime scene in a location

where he could keep watch on the maroon Ford Focus. The maroon Ford Focus was parked in "one of the parking lots of the apartment complex" and had remained in the same location since officers had arrived at the scene to investigate the incident. While Abernathy watched the vehicle, he saw the vehicle pull out of the apartment complex's parking lot. He started following it.

¶ 13 Abernathy initially testified at the suppression hearing that he saw a black male leave from an apartment building, enter the vehicle, and drive away from the parking lot. On cross-examination, he admitted that it was possible that he did not see anyone get into the car and that he just saw the car pull out of the parking lot. He testified that he saw that the driver of the vehicle was a black male as it passed in front of him. Regardless, he testified that, at the time, he did not have any physical description of the defendant and did not know whether the defendant was a black male. He only had a description of the vehicle that he was assigned to watch, a maroon Ford Focus with a specific license plate number.

¶ 14 Abernathy advised "dispatch" that the vehicle had left the apartment complex and that he was following it. Nothing in the record indicates that Abernathy included any description of the driver when he advised dispatch that the vehicle was moving. When asked whether he told anyone that there was a black male driving the car, he testified, "I don't think so."

¶ 15 By that time, Detective Koebbe was driving to the crime scene. He received a radio dispatch informing him that the maroon Ford Focus was leaving the apartment

complex. He directed Abernathy to stop the vehicle "for investigative reasons." When asked about the basis for stopping the vehicle, Koebbe testified:

> "[W]e had witnesses state that [the defendant] was a suspect and he was associated with a maroon vehicle. *** We know that this vehicle was *** associated with the crime scene that was there the whole time.
>
> * * *
>
> So we knew that there was a maroon vehicle parked in the area where the shooting occurred, actually recovered evidence from the vehicle on the hood of the vehicle as a result of witnesses saying that the shooter was actually standing on this vehicle. We had officers on scene the entire time while it was being investigated. So we knew the vehicle hadn't came or left. And then our officer ultimately observed an individual leaving the apartment where the maintenance man was described to have lived and entered the vehicle and then proceeded to drive away from the scene."

¶ 16 Koebbe testified that when he directed Abernathy to stop the vehicle, he did not know who was driving. He did not testify that he knew that the driver was a black male. In addition, prior to the stop, investigators had determined that the maroon Ford Focus was registered to an individual named Rockell Bacon, not the defendant. The record does not indicate what the officers knew at that time, if anything, with respect to Bacon's relationship to or association with the defendant.

¶ 17 Abernathy stopped the vehicle as directed. He did not observe the driver (the defendant) commit any traffic violations prior to the stop. He asked the defendant for his

license and proof of insurance card. The defendant told Abernathy that he did not have a license because he was suspended and that he could not provide proof of insurance. Abernathy placed the defendant under arrest.

¶ 18 At the Belleville police station, officer Shawn Odell conducted three video-recorded interviews of the defendant. The first interview occurred at 12:50 p.m. on June 13, 2015. The second and third interviews occurred the following day. The defendant's statements made during these interviews are the subject matter of the defendant's motion to suppress.

¶ 19 Following the in-custody interviews, the defendant was charged with seven offenses: aggravated battery in violation of section 12-3.05(e)(1) of the Criminal Code of 2012 (Code) (720 ILCS 5/12-3.05(e)(1) (West 2014)); three counts of armed violence in violation of section 33A-2(a) of the Code (*id.* § 33A-2(a)); and three counts of criminal damage to property in violation of section 21-1(a)(1) of the Code (*id.* § 21-1(a)(1)). On January 10, 2017, he filed the motion to suppress the statements he made to the police during the June 13 and 14, 2015, police interrogations.

¶ 20 On May 18, 2018, the circuit court conducted a hearing on the defendant's motion to suppress and took the motion under advisement. On May 25, 2018, the circuit court entered an order granting the defendant's motion to suppress. The court found as follows: "Based upon all of the facts and circumstances, the traffic stop made by the patrol officer was not supported by a reasonable suspicion that the vehicle's operator had committed or was about to commit a criminal offense." The circuit court suppressed "all evidence produced by virtue of the improper traffic stop."

¶ 21 The State now appeals.

¶ 22 ANALYSIS

¶ 23 A circuit court's ruling on a motion to suppress evidence is reviewed under a two-part standard of review: (1) we will not reverse the circuit court's factual findings unless they are against the manifest weight of the evidence, but (2) we review *de novo* the circuit court's ultimate legal ruling on whether suppression is warranted. *In re D.L.H.*, 2015 IL 117341, ¶ 46. Our analysis in the present case focuses on the legal issue of whether the circuit court correctly suppressed the evidence under fourth amendment standards, not whether any of the circuit court's findings of fact are against the manifest weight of the evidence. Our review in this case, therefore, is *de novo*.

¶ 24 The parties agree that the validity of the circuit court's order suppressing the defendant's statements hinges on the constitutionality of the traffic stop. Resolution of that issue, in turn, centers on the application of *Terry v. Ohio*, 392 U.S. 1 (1968), in which "the United States Supreme Court held that the public interest in effective law enforcement makes it reasonable in some situations for law enforcement officers to temporarily detain and question individuals even though probable cause for an arrest is lacking." *People v. Galvez*, 401 Ill. App. 3d 716, 718 (2010). Under *Terry*, "a police officer may briefly stop a person for temporary questioning if the officer has knowledge of sufficient articulable facts at the time of the encounter to create a reasonable suspicion that the person in question has committed or is about to commit a crime." *People v. Lee*, 214 Ill. 2d 476, 487 (2005). The legislature has codified the *Terry* standards in section 107-14 of the Code of Criminal Procedure of 1963. 725 ILCS 5/107-14 (West 2014).

¶ 25 When determining whether an officer acted with reasonable suspicion or probable cause, a court must consider the "totality of the circumstances." *People v. Jackson*, 348 Ill. App. 3d 719, 729 (2004). Additionally, "[e]ach case is governed by its own particular facts and circumstances." *People v. Scarpelli*, 82 Ill. App. 3d 689, 694 (1980). A court must also refrain from "second-guessing" a police officer's professional judgment, given that the police are often required to make "split-second decisions, without the benefit of immediate hindsight" in situations that are often uncertain, tense, and rapidly evolving. *People v. Lomax*, 2012 IL App (1st) 103016, ¶ 40. In addition, reasonable suspicion can be established from third-party information collectively received by officers working in concert, even if that information is not specifically known to the officer conducting the *Terry* stop. *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 54.

¶ 26 In the present case, the circuit court granted the defendant's motion to suppress because, when Abernathy made the traffic stop, the officers investigating the shooting did not have "reasonable suspicion that the vehicle's operator had committed or was about to commit a criminal offense." We disagree with the circuit court's ruling. The Supreme Court has held that investigatory stops are not limited to situations where a police officer has reasonable grounds to suspect that a crime is being committed or is about to be committed. If the police have reasonable suspicion, grounded in specific and articulable facts, that a person they encounter was involved in or is wanted in connection with a completed felony, an investigatory stop may be made to investigate that suspicion. *United States v. Hensley*, 469 U.S. 221, 229 (1985). We believe that Abernathy's investigatory stop in the present case was constitutionally permissible under this reasoning.

¶ 27 In *Hensley*, an informant told police officers in Ohio that the defendant drove a getaway car in connection with a robbery of a local tavern that had occurred six days earlier. *Id*. at 223. About five miles away, a police department in Kentucky, some of whose officers were familiar with the defendant, received a "wanted flyer" that was based upon the informant's tip. *Id.* About 12 days after the robbery, a police officer in Kentucky, who had seen the flyer, reported that he recognized the defendant in the driver's seat of a white Cadillac convertible. *Id*. at 223-24. A second officer heard this report and pulled the automobile over for an investigatory stop a short time later. *Id*. at 224. He asked the two occupants to exit the automobile. *Id.* The officer saw a revolver in plain view protruding from under the passenger's seat, and a subsequent search of the car yielded two more weapons. *Id*. at 224-25. The defendant argued that the weapons evidence should be suppressed because the arresting officer had impermissibly stopped him in violation of the fourth amendment. *Id.* at 225. The Supreme Court disagreed, concluding that the stop was proper. *Id*. at 233-34

¶ 28 In its analysis, the Court noted that the limits on investigatory stops to investigate past criminal activity are determined by balancing the nature and quality of the intrusion on personal security against the importance of the governmental interests alleged to justify the intrusion. *Id*. at 228. The factors to be balanced may be somewhat different when a stop is made to investigate past criminal activity rather than ongoing criminal conduct. *Id*. For example, unlike ongoing criminal activity, a stop to investigate an already completed crime, among other things, does not always promote the interest of

crime prevention. Also, public safety may be less threatened if the suspect is no longer violating the law, and the officer making a stop to investigate past crimes has "a wider range of opportunity to choose the time and circumstances of the stop." *Id*. at 228-29.

¶ 29 "Despite these differences, where police have been unable to locate a person suspected of involvement in a past crime, the ability to briefly stop that person, ask questions, or check identification in the absence of probable cause promotes the strong government interest in solving crimes and bringing offenders to justice." *Id*. at 229. The *Hensley* Court emphasized that, "[p]articularly in the context of felonies or crimes involving a threat to public safety, it is in the public interest that the crime be solved and the suspect detained as promptly as possible." *Id*.

¶ 30 In the present case, the defendant does not dispute that the officers had reasonable suspicion to believe that he had committed a crime and that they could stop him on the street. In his brief, the defendant correctly states, "If officers encountered [the defendant] on the street, they would almost certainly have reasonable suspicion to briefly detain him based on Gully's claim that [the defendant] was the one firing the weapon." Therefore, the issue before us is whether the police had knowledge of specific and articulable facts giving rise to reasonable suspicion that the defendant was the driver of the maroon Ford Focus. If so, the fourth amendment allowed them to make a *Terry* stop "to investigate that suspicion." *Id.*

¶ 31 A fair statement of the specific and articulable facts that justified the officer's reasonable suspicion that the defendant drove the maroon Ford Focus is as follows: the officers, collectively, were aware (1) that a shooting occurred at an apartment complex

during early morning hours on the same morning of the traffic stop; (2) that the defendant was identified by at least one eyewitness as being the shooter or one of the shooters; (3) that investigators were trying to locate the defendant as a suspect in the shooting; (4) that the defendant lived at the apartment complex where the shooting occurred and worked there as the maintenance person; (5) that the defendant was known to drive a maroon Ford Focus that was parked at the apartment complex at the time of the shooting and remained parked at the apartment complex during the police investigation of the crime scene; (6) that a shooter (perhaps the defendant) was seen standing on top of the maroon Ford Focus during the shooting incident; (7) that investigators recovered footwear impressions from the hood of the maroon Ford Focus during their investigation; (8) that the maroon Ford Focus was registered to an individual named Rockell Bacon; and (9) that on the same morning of the shooting, while an officer kept continual watch of the vehicle, an unknown person began to drive away from the apartment complex in the vehicle.

¶ 32 These facts establish that the officers had reason to suspect that the driver of the vehicle was the defendant, who was wanted in connection in the shooting incident. Under *Hensley*, the officers were allowed to make a brief stop to investigate their suspicion. In *Hensley*, the Court stated:

> "[The defendant] was reasonably suspected of involvement in a felony and was at large from the time the suspicion arose until the stop by the *** police. A brief stop and detention at the earliest opportunity after the suspicion arose is fully

consistent with the principles of the Fourth Amendment." *Hensley*, 469 U.S. at 234.

The same reasoning applies here. The defendant was wanted in conjunction with the shooting incident, and the officers' brief stop of a suspect, based on articulable facts, at their earliest opportunity is consistent with the principles of the fourth amendment.

¶ 33 On appeal, the defendant emphasizes that Abernathy did not know who was driving the vehicle when he made the stop and that the officer who authorized the stop, Detective Koebbe, did not have a physical description of the driver. Indeed, in *Hensley*, prior to the stop, an officer recognized the defendant as being the driver of the white Cadillac that was investigated. *Id.* at 223-24. However, this factual distinction does not change our conclusion.

¶ 34 In order to make a *Terry* stop, an officer's suspicion need not rise to the level of suspicion required for probable cause. *United States v. Sokolow*, 490 U.S. 1, 7 (1989). In addition, the standard "falls considerably short of satisfying a preponderance of the evidence standard." *United States v. Arvizu*, 534 U.S. 266, 274 (2002). As our supreme court stated in *Close*, "[p]olice officers are 'not required to rule out all possibility of innocent behavior' before initiating a *Terry* stop." (Internal quotation marks omitted.) *People v. Close*, 238 Ill. 2d 497, 511 (2010). " 'The purpose of a *Terry* stop is to allow a police officer to investigate the circumstances that provoke *suspicion and either confirm or dispel his suspicions*." (Emphasis added.) *Id*. at 512 (quoting *People v. Ross*, 317 Ill. App. 3d 26, 31 (2000)).

¶ 35 Here, the officers' *suspicion* was that the defendant was the driver of the vehicle, and this suspicion was reasonable under the circumstances. The mere possibility that the defendant was not the driver of the vehicle on this occasion does not negate reasonable suspicion that he could be driving the vehicle under the totality of the circumstances facing the officers at the time of the stop. *People v. Hernandez*, 2012 IL App (2d) 110266, ¶ 32.

¶ 36 The officers did not know who was driving the vehicle or have a physical description of the driver when Koebbe authorized the traffic stop, but the officers stopped the vehicle with knowledge that the defendant was known to drive that specific vehicle and with knowledge that the vehicle was leaving the crime scene (which was also the defendant's residence) on the same morning of the shooting. The proximity of time and location of the articulable facts lends support to Koebbe's suspicion that the defendant drove the maroon Ford Focus at the time of the stop. See also *United States v. Lucky*, 569 F.3d 101, 106 (2d Cir. 2009) (upholding *Terry* stop of vehicle where the officers could not determine whether the driver matched the description of a shooter but the vehicle matched a description of an automobile that fled the shooting two days earlier); and *United States v. Hurst*, 228 F.3d 751, 757 (6th Cir. 2000) (stop of vehicle upheld where its appearance "roughly" matched a description of vehicle involved in a residential burglary and was observed at a location consistent with the time needed to travel to that point from the burglary location (25 minutes)).

¶ 37 The reasonableness of the stop in this case is particularly apparent after considering the "balance between the public interest and the individual's right to personal

security." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). Here, the public's interest was in apprehending a potentially violent offender hours after a shooting incident. The defendant was at large and was wanted for criminal activity that posed a serious threat to public safety. This public interest weighs heavily against the minor intrusion of the driver of the maroon Ford Focus stemming from a brief traffic stop. An investigatory stop is by definition "brief" and "non-intrusive." *United States v. Johnson*, 364 F.3d 1185, 1188 (10th Cir. 2004); see also *Delaware v. Prouse*, 440 U.S. 648, 653 (1979) (noting investigatory stop of an automobile "is limited [in purpose] and the resulting detention quite brief"). Balanced against the strong governmental interest in solving violent crime, the relatively limited intrusion on personal security occasioned by the investigatory stop was warranted. The officers' brief seizure of the driver of the maroon Ford Focus was constitutionally reasonable under the totality of the circumstances.

¶ 38 CONCLUSION

¶ 39 For the foregoing reasons, we reverse the order of the circuit court granting the defendant's motion to suppress and remand for further proceedings.

¶ 40 Reversed and remanded.