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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of November – 2024

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People v. Tveasha Johnson, 2024 IL App (4th) 231185, October 2, 2024.

THE CASE: Dispatch received a 911 call concerning a possible drunk driver. The same “tipster” then made a second 911 call giving further information about the potential drunk driver. An Officer responded and observed the suspect car and then conducted a Terry stop. Did the Officer have sufficient reasonable suspicion to justify the stop of the suspect car?

FACTS: The arresting Officer received a dispatch about a possible intoxicated driver with children in her car at a specific location. The dispatch identified the car as a gray SUV and included a possible license plate number. Based on this information, the Officer drove toward the location. On the way, the Officer received a second dispatch stating that the subject vehicle was still at the original location but was now leaving. Once at the location, the Officer quickly identified the suspect car and was able to confirm it matched the vehicle description and plate number from the dispatch. Instead of immediately stopping the vehicle, the Officer decided “to continue to follow it to make sure that it was the vehicle I was looking for and to see if there were any reasons to stop the vehicle.” The Officer followed the vehicle without her overhead lights activated for approximately two minutes when, without any signal from the Officer, the suspect car stopped in the roadway. The Officer stopped her squad car behind the car “to see what was going to happen.” The Officer “thought a vehicle stopping in the middle of the roadway for no apparent reason was odd.” She explained that there were no obstructions in the roadway, no one exited the car, and the driver did not turn on the car's flashing lights. The vehicle sat still in the roadway for “approximately a minute,” then resumed driving. At a nearby intersection, the Officer witnessed a traffic violation—namely, “[t]he vehicle failed to stop prior to the white line as indicated. Instead, it stopped out into the intersection.”

The suspect car turned onto a nearby street, and the Officer then saw the car make a second abrupt movement to the left without any obstruction in the roadway. The car then pulled into a driveway, at which time the Officer activated her overhead lights because she believed she had a reasonable suspicion or probable cause to initiate a traffic stop, based upon the information in the dispatch and the driving she observed. The Officer’s squad car video supported the statements of the Officer. Subsequently, Johnson took a breath test that measured her blood alcohol content as 0.176. Johnson explained that she had not been drinking that day and when she arrived in her driveway and the Officer finally activated her overhead lights, she became “irritated,” so she drank “five bottles of shooters” that were in the car. Johnson emphasized that she “was irritated because [the Officer] had plenty of time to pull me over and didn't and waited until I got home.” Johnson stated that it does not take her long to get drunk. In response, the Officer stated that after stopping Johnson, it took her just a few seconds to approach the suspect.] After being charged with DUI, Johnson moved to suppress the evidence collected in this case.

TRIAL COURT HOLDING: The trial court issued an oral ruling denying Johnson's motion to suppress. The court first found that two grounds existed for the Officer to initiate the traffic stop—namely, (1) the “citizen informant” and (2) the officer's observations. Regarding the “citizen informant,” the trial court found that, although the court “was not given a great deal of information about the tip itself,” the logical conclusions to be drawn were that (1) the information came from a person who had called 911 and identified himself or herself and (2) the tip was made contemporaneously with the informant's observations. The trial court identified the four factors for determining whether a traffic stop based on an anonymous informant's tip of possible drunk driving is justified: (1) whether there is a sufficient quantity of information so the officer can be certain the vehicle stopped is the one the tipster identified, (2) the length of the time interval between the officer's receiving the tip and the officer's locating the suspect vehicle, (3) whether the tip is based on contemporaneous eyewitness observations, and (4) whether the tip is sufficiently detailed to permit the reasonable inference that the tipster has actually witnessed an ongoing motor vehicle offense. [People v. Shafer, 311 Ill. Dec. 359, (2007)] The trial court found all four Shafer factors were satisfied in the present case and, accordingly, the Officer had a reasonable suspicion to stop Johnson's vehicle. The trial court further found that the Officer's observations of Johnson's driving during the six minutes that the Officer followed her did not dispel the reasonable suspicion created by the informant's tip.

ARGUMENT: Johnson appealed, arguing that neither (1) the third-party tip nor (2) the Officer's own observations of Johnson's driving justified the traffic stop in this case. The People responded that (1) the third-party tip was sufficiently reliable to justify the traffic stop and (2) even if the tip alone was insufficient, the tip plus the Officer's observations gave rise to reasonable suspicion.

FIRST QUESTION: Did the 911 calls justify the Terry stop of Johnson’s car?

ARGUMENTS: The appellate court first noted that Johnson argued that the trial court erred by finding that the tip alone provided a reasonable suspicion sufficient to justify the stop. In making this argument, Johnson conceded that pursuant to Illinois law, the tip (1) “may be given more weight” because “the informant called a police emergency line” and (2) requires “less rigorous corroboration” because it “alleged a possibly intoxicated driver.” Johnson also conceded that the first and second *Shafer* factors were satisfied—namely, (1) the tip provided sufficient detail such that the officer could be certain the stopped vehicle was the one the tipster identified and (2) the time interval between the officer receiving the tip and stopping the suspect vehicle was short. However, Johnson argued that the tip did not justify a *Terry* stop because the third and fourth *Shafer* factors were not satisfied. Specifically, Johnson contended that the tip (1) was not based on contemporaneous eyewitness observations and (2) lacked sufficient detail to permit the reasonable inference that the tipster actually witnessed the alleged crime.

CONCLUSIONS AND REASONING: In response, the appellate court first rejected the argument that each of the four *Shafer* factors must be satisfied before the tip in this case may be deemed reliable. Rather, the Court declared that the reasonableness of a *Terry* stop is based upon the totality of the circumstances surrounding that stop. According to the Court, the four *Shafer* factors are simply relevant factors to be weighed, along with other relevant factors, to gauge the reliability of a tip. Further, the Court noted that Johnson had conceded that the call was non-anonymous because it was placed to a police emergency number. [As the Court stated: “[I]f a witness has put himself in a position where he would be criminally liable for a false claim if his report proved to be fabricated, little scrutiny of the basis for his knowledge is required.] Additionally, the Court rejected Johnson’s argument that the tip did not support a *Terry* stop because the third and fourth *Shafer* factors were not present.

First, with regard to the third factor, Johnson argued that “the tipster’s information was insufficient to establish that his tip was based on contemporaneous eyewitness observation.” The appellate court disagreed. According to the Court, the tipster in this case placed two calls to 911. During the first call, the tipster reported an intoxicated driver with children in the car. Minutes later, the same tipster placed a second call, stating that the vehicle was still at the original location but was now leaving. The Court concluded that the evidence of two phone calls—which provided real-time, updated location information of the suspect vehicle—supported the reasonable inference that the tip was based on contemporaneous eyewitness observation. Accordingly, the third *Shafer* factor weighed in favor of reliability.

Regarding the fourth factor, Johnson argued that the tip “was not sufficiently detailed to permit the reasonable inference that the tipster had actually witnessed an ongoing motor vehicle offense.” Again, the Court disagreed. The Court held that the law does not, and should not, require a tipster to explain why he or she believes a suspected drunk driver is drunk. The Court noted that when a person describes someone as “drunk” or “intoxicated,” a reasonable person understands what that descriptor means. That is to say, the description itself conveys that the subject is physically and cognitively impaired by some intoxicating substance and unsafe to operate a vehicle. Additional an explanation is not required, particularly in the context of a report of a drunk driver, when the risk to the public is heightened and prompt interdiction is imperative. Further, the Court emphasized that, in this case, the tipster also reported that two children were in the car, further heightening the danger and the Officer’s need to quickly intervene.

SECOND QUESTION: Did the Officer’s observations of the Johnson’s car support a *Terry* Stop?

CONCLUSIONS AND REASONING: The appellate court concluded that it did not need to determine definitively whether the Officer’s observations of Johnson’s driving, alone, would have supported either probable cause or reasonable suspicion for an investigatory stop because the Officer was operating on more than just her own observations; she also had the reliable citizen’s tip that Johnson was driving drunk. The Court concluded by noting that whether reasonable suspicion exists to justify a traffic stop depends on the totality of the circumstances, that is, “the whole picture.”

CONCLUSION: In this case, the appellate court concluded that the totality of the circumstances clearly justified the Officer’s stop of Johnson’s car. The Officer received two non-anonymous tips through a police emergency number that Johnson was intoxicated while driving a car with two children inside. The citizen identified the car and the location with sufficient detail that the Officer could be sure the car she stopped was the one the citizen identified. The Officer followed the car to observe the driver, although she need not have done so given the reliability of the tip and the danger that drunk drivers pose to the community. Although the Officer arguably did not observe each element of a particular traffic code violation, Johnson drove in an odd manner, corroborating the citizen’s report that Johnson was indeed driving while intoxicated. Under these circumstances, the appellate court declared that it had no difficulty concluding that the Officer’s actions were justified and did not run afoul of the fourth amendment prohibition on unreasonable searches and seizures.

QUIZ QUESTIONS FOR THE MONTH OF NOVEMBER – 2024

People v. Tyeasha Johnson, 2024 IL App (4th) 231185, October 2, 2024.

1. Can a *Terry* stop legally be based only on a tip from a citizen?
 - a. Yes.
 - b. No.

2. Non-anonymous tips are seen to be more reliable than anonymous tips. Tips made on police emergency numbers (such as 911 calls) are considered to be anonymous tips because callers are not required to identify themselves in order to make the call.
 - a. True.
 - b. False.

3. In this case, the tipster called about a possible drunk driver. Pursuant to Illinois law, the fact that the call concerned a possible drunk driver lessens the amount of corroboration needed to rely upon that tip.
 - a. True.
 - b. False.

4. The People argued that the 911 calls received concerning a potential drunk driver alone justified a *Terry* stop of the suspect vehicle. Did the appellate court agree with this argument?
 - a. Yes.
 - b. No.

QUIZ QUESTIONS AND ANSWERS FOR THE MONTH OF NOVEMBER – 2024

People v. Tveasha Johnson, 2024 IL App (4th) 231185, October 2, 2024.

1. Can a *Terry* stop legally be based only on a tip from a citizen?
a. Yes. A police officer may initiate a Terry stop based on information received from a third party if the information is reliable and allows the officer to reasonably infer that a person was involved in criminal activity. People v. Shafer, 372 Ill. App. 3d 1044, (2007)

2. Non-anonymous tips are seen to be more reliable than anonymous tips. Tips made on police emergency numbers (such as 911 calls) are considered to be anonymous tips because callers are not required to identify themselves in order to make the call.
b. False. Calls made to a police emergency number, such as 911, are not anonymous because the police have enough information to identify the caller, even if he or she does not give his or her name. People v. Ewing, 377 Ill. App. 3d 585, (2007).

3. In this case, the tipster called about a possible drunk driver. Pursuant to Illinois law, the fact that the call concerned a possible drunk driver lessens the amount of corroboration needed to rely upon that tip.
a. True. Less rigorous corroboration of tips is needed when the tip concerns a suspected drunk driver because intoxicated drivers pose a significant risk to themselves and the public. People v. Shafer, 372 Ill. App. 3d 1044, (2007)

4. The People argued that the 911 calls received concerning a potential drunk driver alone justified a *Terry* stop of the suspect vehicle. Did the appellate court agree with this argument?
a. Yes. The Court made the following observation: “The Officer followed the car to observe the driver, although she need not have done so given the reliability of the tip and the danger that drunk drivers pose to the community.”