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2013 IL App (3d) 120182-U

Order filed March 20, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
)	Tazewell County, Illinois,
Plaintiff-Appellant,)	
)	Appeal No. 3-12-0182
v.)	Circuit No. 11-TR-7913
)	
DAJN SVENDSEN,)	Honorable
)	Lisa Y. Wilson,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justices Lytton and McDade concurred in the judgment.

ORDER

- ¶ 1 *Held:* In a traffic case, the police officer involved unreasonably prolonged the duration of the traffic stop by asking defendant, the driver of the vehicle, for identifying information after the purpose for the stop had been satisfied. The appellate court, therefore, affirmed the trial court's grant of defendant's motion to suppress evidence.
- ¶ 2 Defendant, Dajn Svendsen, was charged with driving while license suspended (625 ILCS 5/6-303 (West 2010)). He filed a motion to quash arrest and suppress evidence (motion to suppress), which the trial court granted after a hearing. The State appeals. We affirm the trial

court's ruling.

¶ 3

FACTS

¶ 4 The evidence presented at the hearing on the motion to suppress established that on May 19, 2011, at about 4:45 p.m., deputy Paul Helmig of the Tazewell County Sheriff's Office was traveling in his squad car eastbound on Court Street when he saw a gold-colored Blazer make a U-turn in front of him between 17th and 18th Streets. The Blazer drove over the curb, over the sidewalk, and into the grass. Helmig was unable to get the license plate number or to determine the year of the vehicle but did notice that the driver was a female subject. Helmig drove to the next intersection, activated his emergency lights, turned around, and gave pursuit, although he apparently lost sight of the vehicle. After driving for about 20 or 30 seconds, the distance of a few blocks, Helmig saw a very similar looking gold Blazer traveling on Park Avenue near Court Street. Believing that vehicle might be the offending vehicle, Helmig made a traffic stop. Upon doing so, he informed dispatch of the stop and of the license plate number of the vehicle.

¶ 5 As Helmig approached the vehicle, he saw that the driver, the instant defendant, was a male subject. Helmig realized that the vehicle was not the vehicle he had seen make a U-turn and that he had stopped the wrong vehicle. Helmig explained to defendant the reason for the stop and asked to see defendant's driver's license and proof of insurance. Defendant told Helmig that he did not have his license with him and provided Helmig with his name and date of birth. Upon checking defendant's information, Helmig learned that defendant's driver's license was suspended. Defendant presumably was arrested at that time.

¶ 6 During the hearing, when Helmig was questioned further about why he continued to ask for defendant's driver's license even though he knew that he had stopped the wrong vehicle,

Helmig stated:

"Well, for [one], I had already logged out with him with my dispatch and when we come into contact with anyone we need to run their name to make sure that they are who they are, that they don't have any outstanding warrants, also for officer's safety."

In addition, Helmig testified that doing so was the custom and practice of the sheriff's office.

¶ 7 At the conclusion of the hearing, the trial court took the case under advisement. The trial court later granted defendant's motion to suppress. In doing so, the trial court found that although the initial stop of defendant's vehicle was proper, Helmig exceeded the scope of the underlying justification for the traffic stop by asking defendant for identifying information after the purpose for the stop had been satisfied. Following the denial of its motion to reconsider, the State filed a certificate of impairment and brought the instant appeal to challenge the trial court's ruling.

¶ 8 ANALYSIS

¶ 9 On appeal, the State argues that the trial court erred in granting the motion to suppress. The State asserts that Helmig's request for the identifying information of defendant, the driver of the stopped vehicle, did not unreasonably prolong the duration of the traffic stop. Defendant argues that the trial court's ruling was proper and should be affirmed. Defendant asserts that once Helmig realized that defendant was not the person that he was looking for, all reasonable suspicion evaporated, and the traffic stop should have ended.

¶ 10 A reviewing court applies a two-part standard of review to a trial court's ruling on a motion to suppress evidence. *Ornelas v. United States*, 517 U.S. 690, 699 (1996); *People v.*

Luedemann, 222 Ill. 2d 530, 542 (2006). The trial court's findings of fact are given great deference and will not be reversed on appeal unless they are against the manifest weight of the evidence. *Luedemann*, 222 Ill. 2d at 542. However, as to the trial court's ultimate legal ruling of whether reasonable suspicion or probable cause exists and whether suppression is warranted, *de novo* review applies. *Luedemann*, 222 Ill. 2d at 542-43; *People v. Sorenson*, 196 Ill. 2d 425, 431 (2001). The reviewing court is free to make its own assessment of those legal issues, based upon the findings of fact, and to draw its own conclusions. See *Luedemann*, 222 Ill. 2d at 542.

¶ 11 In general, when a police officer makes a traffic stop on a vehicle and detains its occupants, a "seizure" has occurred within the meaning of the fourth amendment, even if the stop lasted for only a short time and was for a limited purpose. *Brendlin v. California*, 551 U.S. 249, 255 (2007); *People v. Harris*, 228 Ill. 2d 222, 231 (2008). Because of its brief nature, a traffic stop is usually analyzed in the same manner as a *Terry* investigative stop (see *Terry v. Ohio*, 392 U.S. 1 (1968)) and as such, must be supported by reasonable suspicion to be lawful. *People v. Hackett*, 2012 IL 111781, ¶ 20. A traffic stop that is lawful at its inception, however, may become unlawful if either: (1) the duration of the stop is unreasonably prolonged; or (2) the officer's actions during the stop independently trigger the fourth amendment. *Illinois v. Caballes*, 543 U.S. 405, 407-08 (2005); *Harris*, 228 Ill. 2d at 235-36; *People v. Baldwin*, 388 Ill. App. 3d 1028, 1033 (2009). An investigative stop that is originally lawful must cease once reasonable suspicion dissipates, unless there is a separate fourth amendment justification to prolong the stop. *Baldwin*, 388 Ill. App. 3d at 1033.

¶ 12 In the present case, although the traffic stop of defendant's vehicle was supported by reasonable suspicion and was initially lawful, it became unlawful when deputy Helmig requested

that defendant produce his identifying information. It is clear from the evidence presented in this case that as Helmig approached the vehicle, he saw that defendant, the driver of the vehicle, was not the person for whom he was looking. At that point, the purpose of the traffic stop had been satisfied and the traffic stop should have ended. See *People v. Bunch*, 207 Ill. 2d 7, 17 (2003) (the questions posed to the passenger of a vehicle after the driver had been arrested and the purpose of the stop had ended unreasonably prolonged the duration of the stop), *reaffirmed in Harris*, 228 Ill. 2d at 244 n.3; *Baldwin*, 388 Ill. App. 3d at 1033; *People v. Cummings*, 2013 IL App (3d) 120128, ¶ 13. While Helmig could have gone up to the vehicle, explained the purpose for the stop, and apologized for the mistake (see *Cummings*, 2013 IL App (3d) 120128, ¶ 17), he could not continue an investigation and request defendant's identifying information without an additional fourth amendment justification for prolonging the stop (see *Cummings*, 2013 IL App (3d) 120128, ¶ 13; *Baldwin*, 388 Ill. App. 3d at 1033). By asking for defendant's identifying information after the purpose for the stop had ended and without having reasonable suspicion for continuing the detention, Helmig unreasonably prolonged the duration of the stop. See *Bunch*, 207 Ill. 2d at 17; *Baldwin*, 388 Ill. App. 3d at 1035; *Cummings*, 2013 IL App (3d) 120128, ¶ 18. The trial court, therefore, properly granted defendant's motion to suppress.

¶ 13 In reaching that conclusion, we adhere to the analysis set forth in *Cummings*, a case that was recently decided by this court with very similar facts in which this court reached the same conclusion. See *Cummings*, 2013 IL App (3d) 120128, ¶¶ 8-19. We also continue to reject the decision in *People v. Bradley*, 292 Ill. App. 3d 208 (1997), a case which is relied upon by the State in its argument here, in which another district of the appellate court held that an officer could request a driver's license and proof of insurance from a motorist that he had stopped, even

after reasonable suspicion had dissipated. See *Bradley*, 292 Ill. App. 3d at 211. As noted in *Cummings*, we believe that the *Bradley* case was wrongly decided, and we will not follow it here. See *Cummings*, 2013 IL App (3d), ¶ 14. We also decline to follow the decision in *People v. Hernandez*, 2012 IL App (2d) 110266, another case relied upon by the State in the instant appeal. The decision in *Hernandez* was based upon the ruling in *Bradley* and adopts the same rule of law as *Bradley*. See *Hernandez*, 2012 IL App (2d) 110266, ¶¶ 5-7.

¶ 14

CONCLUSION

¶ 15 For the foregoing reasons, we affirm the judgment of the circuit court of Tazewell County.

¶ 16 Affirmed.