2018 IL App (1st) 141040-U

No. 1-14-1040

Order filed May 18, 2018

Fifth Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 18062
	)	
LAMONT THOMAS,	)	Honorable
	)	Thomas M. Davy,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Reyes and Justice Gordon concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in denying defendant's motion to quash arrest and suppress evidence where, given the law in effect at the time of defendant's *Terry* stop (*Terry v. Ohio*, 392 U.S. 1 (1968)), the police had reasonable suspicion to believe that defendant had committed, or was about to commit, a crime based on a tip from a citizen, who was identifiable, gave a basis for his knowledge and predicted defendant's behavior.

¶ 2 This case is before us on remand from a supervisory order of our supreme court. Defendant Lamont Thomas was arrested, pursuant to an investigative alert, on September 21,

2011, two years after police officers conducted a September 15, 2009, *Terry* stop (*Terry v. Ohio*, 392 U.S. 1 (1968)). The *Terry* stop was based on a citizen's tip that a black male in a red shirt placed a gun in a backpack and was walking east on 80th Place. There, as one of the officers performed a protective pat down, defendant dropped the backpack he was holding and fled. The officers recovered a handgun from defendant's backpack, but defendant was not apprehended until two years later. Following a bench trial, defendant was convicted of unlawful use or possession of a weapon by a felon and sentenced to five years' imprisonment. On appeal, defendant contends that the trial court erred in denying his motion to quash arrest and suppress evidence because police lacked reasonable suspicion to justify a *Terry* stop. We affirm.

¶ 3 In our initial decision, issued on December 23, 2016, we reversed the order of the trial court denying defendant's motion to quash arrest and suppress evidence. See *People v. Thomas*, 2016 IL App (1st) 141040, ¶ 1. In doing so, we found the tip sufficiently reliable to justify a *Terry* stop. *Id.* ¶ 26. However, we noted that, following defendant's *Terry* stop, the portion of the Illinois aggravated unlawful use of a weapon statute (720 ILCS 5/24-1.6(a)(1), (a)(3)(A) (West 2008)), which banned the possession of a handgun in public and formed the basis of the officers' reasonable suspicion of criminal activity to justify the *Terry* stop, was held to be facially unconstitutional by *People v. Aguilar*, 2016 IL 112116, and void *ab initio*. *Thomas*, 2016 IL App (1st) 141040, ¶ 29. Therefore, we ultimately concluded that the *Terry* stop was unlawful and the evidence seized as a result of the stop was subject to the exclusionary rule. *Id.* ¶ 37. The State filed a petition for leave to appeal (PLA) to the Illinois Supreme Court from that order.

¶ 4 On September 27, 2017, our supreme court issued a supervisory order, in which it denied the State's PLA but directed this court to vacate our 2016 order. The supreme court instructed us

to reconsider "whether the trial court erred in denying defendant's motion to quash arrest and suppress evidence, and determine if a different result is warranted" in light of the supreme court's decision in *People v. Holmes*, 2017 IL 120407. *People v. Thomas*, No. 121947 (Ill. Sept. 27, 2017) (supervisory order). We allowed the parties to file supplemental briefs responding to the supervisory order and vacated our prior order.

¶ 5 In their supplemental briefs, the parties agree that this court's prior decision, finding that *Aguilar* rendered the *Terry* stop unlawful, cannot stand in light of our supreme court's decision in *Holmes*. However, the parties disagree as to the scope of this court's jurisdiction on remand from a supervisory order. Defendant argues that, although this court in its prior order found the citizen's tip sufficiently reliable to justify the *Terry* stop, this court is not bound by that prior, now-vacated, judgment. See *People v. Warren*, 2016 IL App (1st) 090884-C, ¶¶ 60-68 (the supreme court's instruction to vacate a previous judgment requires the appellate court to enter a new judgment on all issues, even those not addressed specifically in the supervisory order). He argues that this court should reconsider his initial argument that the tip at issue, standing alone, was insufficient to provide the police with the reasonable suspicion necessary to justify the *Terry* stop.

¶ 6 The State responds that we may not reconsider our prior judgment regarding the reliability of the tip at issue. The State argues that the supreme court's supervisory order vests this court with jurisdiction to take only such action as conforms to the mandate of the supervisory order and that any order issued outside the scope of that authority is void for lack of jurisdiction. *People ex rel. Daley v. Schreier*, 92 Ill. 2d 271, 276-77 (1982). In the alternative, the

State maintains that this court properly found that the tip was sufficiently reliable to justify the *Terry* stop.

¶ 7 We initially note that we need not resolve this alleged jurisdictional issue where, even considering the issue anew, we find the tip sufficiently reliable to justify the *Terry* stop. Therefore, upon our reconsideration[1] of the issue raised in light of *Holmes*, we find that the trial court did not err in denying defendant's motion to quash arrest and suppress evidence because police had reasonable suspicion to justify the *Terry* stop. Accordingly, we affirm defendant's conviction.

¶ 8 Defendant was arrested and charged by indictment with four counts of aggravated unlawful use of a weapon (AUUW) and two counts of unlawful use or possession of a weapon (UUW) based on his September 15, 2009, possession of a handgun in public. The State charged defendant with AUUW for possessing a gun: outside of his home and the gun was uncased, loaded and immediately accessible at the time of the offense (count 1) (720 ILCS 5/24-1.6(a)(1), (a)(3)(A) (West 2008)); outside of his home without having been issued a valid Firearm Owner's Identification Card (FOID card) (count 2) (720 ILCS 5/24-1.6(a)(1), (a)(3)(C) (West 2008)); within the city of Chicago (count 3) (720 ILCS 5/24-1.6(a)(2), (a)(3)(A) (West 2008)) and; within the city of Chicago without having been issued a valid FOID card (count 4) (720 ILCS 5/24-1.6(a)(2), (a)(3)(C) (West 2008)). Defendant was also charged with two counts of UUW for possessing a gun (count 5) and ammunition (count 6) after having been convicted of a felony (720 ILCS 5/24-1.1(a) (West 2008)).

[1] Although we now issue this order in place of our prior order, we draw upon our prior order to the extent that it is not impacted by our supreme court's supervisory order.

¶ 9 Prior to trial, defendant filed a motion to quash arrest and suppress evidence alleging that his arrest was made in violation of the fourth and fourteenth amendments of the United States Constitution. See U.S. Const., amends. IV, XIV. At the hearing on defendant's motion, the State presented the testimony of the two police officers involved in defendant's *Terry* stop. The officers' accounts of the events leading to the stop, including their testimony regarding the contents of a tip they received from an unidentified citizen that prompted them to stop defendant, were substantially consistent and found to be credible by the trial court. Defendant does not contest the substance of the officers' testimony on appeal. The following account of the *Terry* stop, and the events leading to it, was presented at the hearing on defendant's motion to quash arrest and suppress evidence.

¶ 10 Chicago police officer Patrick Kinney testified that about 10 p.m. on September 15, 2009, he and his partner Officer Richard Antonsen, were on patrol in plain clothes and an unmarked police vehicle within the Fourth District when they were flagged down by a man with whom neither officer was familiar. Kinney testified that he did not ascertain the man's name and that the man indicated to the officers that he wished to remain anonymous. Kinney described the man as a "male black approximately in his 30s." Kinney testified the man did not smell of alcohol and his demeanor was "normal." During their approximately 30-second conversation, the man told Kinney that "a male black wearing a red shirt had just placed a black handgun into a backpack and was *** walking eastbound on 80th Place from Exchange [Avenue]." Kinney did not ask the man how he knew about the person with the gun.

¶ 11 After speaking with the unidentified man, Kinney, "within seconds," relocated to 80th Place which was approximately a block and a half away. At the 2900 block of East 80th Place,

Kinney observed four or five people in the area, including defendant, who was wearing a red shirt, holding a backpack to the right side of his body and walking eastbound on the sidewalk. Kinney and Antonsen approached defendant for a field interview. As they did so, Kinney announced his office and defendant walked up the stairs leading to the front porch of a residence. Kinney followed defendant to the porch and attempted to do a protective pat down of defendant's person. Kinney testified that he wanted to do a protective pat down of defendant because of the information that was relayed to him that defendant was in possession of a weapon.

¶ 12 As Kinney reached for defendant's waistband, defendant dropped the backpack he was holding onto the porch. Kinney testified that he had not started to pat down defendant before defendant dropped the backpack. The officer acknowledged that he prepared an arrest report, detailing the events that happened on the porch, and admitted that in the report he stated that he conducted a pat down of defendant's person and that defendant dropped the backpack while he was conducting the pat down. Kinney testified that during the pat down he intended to search defendant's person and not the backpack.

¶ 13 Kinney stated that when the backpack hit the porch it made a "thud" sound that was consistent with a steel object, such as a gun, inside the backpack. Kinney also stated that the thud was a sound he has heard before based on "people dropping guns" in his presence. As the officer picked up the backpack, defendant grabbed it and they started to struggle over it. Kinney gained possession of the backpack and threw it to his partner, who was standing below the porch near the sidewalk. As Kinney attempted to detain defendant, he heard Antonsen say "gun."

¶ 14 Officer Antonsen testified to substantially the same sequence of events as Kinney. Antonsen added that he observed defendant walking eastbound on 80th Place within minutes, "if

not sooner," of speaking with the unidentified man. After Kinney announced his office to defendant, the officer told defendant he was going to search him. Kinney did not say anything to defendant between announcing his office and informing defendant that he was going to search him. Antonsen stated that the porch defendant was standing on was made of concrete and that it was a "landing" in front of a door with enough space for three people to stand. Defendant dropped the backpack as Kinney approached him. When defendant did so, Antonsen heard a "metal sound" like "something hard hitting the ground." Antonsen stated that he was familiar with guns, had recovered hundreds of guns, was on "the specialized unit for guns," and that the sound he heard when defendant dropped the backpack was consistent with a gun being inside the backpack. After Kinney gained possession of the backpack, he threw it to Antonsen, who placed the backpack on the ground, opened it and saw a handgun inside. Antonsen said "gun" upon seeing the weapon in the backpack.

¶ 15 Following argument, the trial court denied defendant's motion to quash arrest and suppress evidence. In doing so, the court stated that "this is a close case" and found that, based on the short period of time within which the officers observed defendant and corroborated the unidentified man's tip, which predicted defendant's behavior, a pat down of defendant and a search of his backpack would have been justified even if defendant did not drop the backpack. In reaching this conclusion, the court stated that it believed the sequence of events as documented in Kinney's arrest report that the officer was beginning to pat down defendant when defendant dropped the backpack.

¶ 16 Defendant filed a motion to reconsider the denial of his motion to quash arrest and suppress evidence. During the hearing on his motion, defense counsel argued that there was a

search performed in this case and that the officers did not have probable cause to perform the search before or after defendant dropped the backpack. Counsel also pointed out to the court that the porch in question was made of wood, not concrete as testified to by Antonsen, and that this contradicts the officer's testimony that he heard a "metal sound" when defendant dropped the backpack. In denying defendant's motion to reconsider, the court stated that police were justified in making a *Terry* stop based on the unidentified man's tip, which was predictive and the contents of which would not have been available to anyone. With regard to the porch being made of wood, the court stated that it was not of such significance that it would have changed the court's ruling on defendant's motion to suppress in light of Kinney's testimony that the backpack made a "thud" sound when defendant dropped it and that it would have made that sound on any surface.

¶ 17 At trial, Officer Kinney testified consistent with his testimony at the hearing on defendant's motion to suppress. Kinney added that the unidentified man told the officers that he had observed a man place a handgun into a bag and directed the officers in the direction of the man. The unidentified man described the perpetrator as a black male, wearing a red shirt and holding a backpack. Kinney denied that he patted down defendant before defendant dropped the backpack, but acknowledged that in the arrest report he indicated that defendant dropped the backpack during the pat down. After speaking with Antonsen, Kinney learned that the gun in the backpack was a revolver loaded with six live rounds. Kinney also added that, as he tried to place defendant in custody, defendant fled through the house and was not apprehended on the night in question.

¶ 18 Officer Antonsen testified consistent with his testimony at the hearing on defendant's motion to suppress. He added that, along with the gun, there was also an "application" bearing defendant's name inside the backpack. After recovering the gun, Antonsen yelled "gun" and released the ammunition from the cylinder of the gun. Antonsen testified that defendant was not arrested on the night in question, but that he encountered defendant on September 21, 2011, and, after learning about an investigative alert for defendant, placed him in custody.

¶ 19 The State introduced into evidence a certified copy of defendant's 2006 conviction for aggravated driving under the influence and then rested.

¶ 20 Samuel Moore, defendant's friend, testified that at the time of defendant's trial he was in custody of the Illinois Department of Corrections. Moore stated that he and his cousin, Joshua Jenkins, were walking towards defendant's house when, about 15 feet away from the house, two officers stopped them and patted them down. The officers told Moore and Jenkins to leave the area and asked defendant to come down from the porch of his house. The officers then approached defendant, who was standing on the porch, and the officers and defendant started arguing.

¶ 21 The trial court found defendant guilty of two counts of unlawful use or possession of a weapon by a felon based on his possession of the firearm and ammunition. The court sentenced defendant to five years' imprisonment on the firearm count. In doing so, the court noted that there was a finding of guilty on both counts and, without objection from either party, stated that a sentence would be entered on the firearm count. Defendant appeals.

¶ 22 On appeal, defendant contends that the trial court erred in denying his motion to quash arrest and suppress evidence because police lacked reasonable suspicion to justify a *Terry* stop

based on an uncorroborated tip that a black male in a red shirt placed a gun in a backpack and was walking East on 80th Place. Defendant claims that because the officers failed to ascertain the reliability of the anonymous tip before acting on it, they lacked the reasonable suspicion necessary to justify the *Terry* stop. Defendant thus maintains that the recovered gun must be suppressed as a fruit of an illegal stop and that this court should outright reverse his conviction.

¶ 23 Review of a trial court's ruling on a motion to suppress follows a two-part standard of review. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). Under this standard, a reviewing court will review the trial court's findings of fact for clear error while giving due weight to any inferences drawn from those facts by the fact finder. *Id*. As such, the factual findings made by the court in connection with a motion to suppress will not be disturbed on appeal unless they are against the manifest weight of the evidence. *Id*. A reviewing court, however, is free to undertake its own assessment of the facts in relation to the issues presented and draw its own conclusions in deciding what relief, if any, should be granted. *Id*. In doing so, a reviewing court may look to trial testimony as well as the evidence presented at the hearing on the motion to suppress. *People v. Hopkins*, 235 Ill. 2d 453, 473 (2009), citing *People v. Stewart*, 104 Ill. 2d 463, 480 (1984). We review *de novo* the trial court's ultimate legal ruling regarding whether the arrest should be quashed and the evidence suppressed. *Luedemann*, 222 Ill. 2d at 542.

¶ 24 The United States and Illinois Constitutions guarantee the right of the people to be free from unreasonable searches and seizures. U.S. Const., amends. IV, XIV; Ill. Const. 1970, art I, § 6. "Reasonableness under the fourth amendment generally requires a warrant supported by probable cause." *People v. Sanders*, 2013 IL App (1st) 102696, ¶ 12. However, our supreme court has recognized three types of police-citizen encounters that do not constitute an

unreasonable seizure. *Luedemann*, 222 Ill. 2d at 544. These encounters are: (1) arrests, which must be supported by probable cause; (2) a brief investigative stop, also known as a *Terry* stop; and (3) encounters that do not involve coercion or detention and therefore do not implicate fourth amendment interests. *Id*.

¶ 25 The encounter relevant to the case at bar is a *Terry* stop. In *Terry v. Ohio*, 392 U.S. at 27, the United States Supreme Court held that "an officer may, within the parameters of the fourth amendment, conduct a brief, investigatory stop of a citizen when the officer has a reasonable, articulable suspicion of criminal activity, and such suspicion amounts to more than a mere 'hunch.' " During a *Terry* stop, an officer may temporarily detain an individual for questioning where the officer reasonably believes the individual has committed, or is about to commit, a crime. *Terry*, 392 U.S. at 21-22; *Sanders*, 2013 IL App (1st) 102696, ¶ 13.

¶ 26 To justify a *Terry* stop, officers must be able to point to specific and articulable facts which, considered with the rational inferences from those facts, make the intrusion reasonable. *Sanders*, 2013 IL App (1st) 102696, ¶ 14; *People v. Rhinehart*, 2011 IL App (1st) 100683, ¶ 14. Although reasonable suspicion is a less stringent standard than probable cause, an officer's hunch or unparticularized suspicion is insufficient. *People v. Lampitok*, 207 Ill. 2d 231, 255 (2003). When determining whether an investigatory stop is reasonable, we rely on an objective standard and view the facts from the perspective of a reasonable officer at the time of the stop. *Sanders*, 2013 IL App (1st) 102696, ¶ 14. A decision to make a *Terry* stop is a practical one based on the totality of the circumstances. *Id*.

¶ 27 A *Terry* stop may be initiated based on information received from a member of the public. *Sanders*, 2013 IL App (1st) 102696, ¶ 15. Generally, a tip from a "concerned citizen" is

considered more credible than information from a paid informant or a person who provided the tip for personal gain. *Id.* A tip from an anonymous person may be sufficient to justify a *Terry* stop provided the information bears some indicia of reliability. *People v. Henderson*, 2013 IL 114040, ¶ 26. If an unidentified person places their anonymity at risk by speaking to officers in person we may consider this fact when weighing the reliability of the tip. *Sanders*, 2013 IL App (1st) 102696, ¶ 26. The tip must be " 'reliable in its assertion of illegality, not just in its tendency to identify a determinate person.' " *Id.*, quoting *Florida v. J.L.*, 529 U.S. 266, 272 (2000).

¶ 28 In this court, defendant argues that the tip was not sufficiently reliable to provide the officers with a reasonable suspicion of criminal activity to justify a *Terry* stop, while the State argues that it was reliable. In denying defendant's motion to suppress and his motion to reconsider, the court stated that the tip from the unidentified man was sufficient to justify a *Terry* stop because its contents were not available to anyone, it was predictive in nature, and the officers corroborated the tip in a short period of time.

¶ 29 Here, we agree with the trial court that, based on the evidence presented, the tip was sufficiently reliable to justify a *Terry* stop. The record shows that the unidentified man in this case approached Officers Kinney and Antonsen in person and engaged in a face-to-face conversation with the officers. In doing so, the man risked his anonymity and the chance that the officers might identify him in the future. As such, the unidentified man in this case has a greater resemblance to a citizen informant than an anonymous one. See *Sanders*, 2013 IL App (1st) 102696, ¶ 31. Moreover, the face-to-face conversation allowed Kinney to observe the man's demeanor and determine the man's credibility as he gave the tip to the officer. See *id.* Kinney testified that the man did not smell of alcohol and that his demeanor was "normal." Apparently,

Kinney found the man credible because the officer "within seconds" relocated to the area where the man said defendant would be walking eastbound.

¶ 30 During his conversation with the officers, the man explained the basis of his knowledge, and accurately described defendant's appearance and defendant's direction of travel. Kinney testified at trial that the unidentified man told the officers that he had observed a man place a handgun into a bag and that the man was a black male, wearing a red shirt and holding a backpack. The officers corroborated the tip "within seconds" because the distance between the tip and the *Terry* stop was a "block and [a] half." Moreover, the tip in this case did provide some predictive information through which the officers were able to corroborate the tip, *i.e.*, that defendant would be walking eastbound on 80th Place. See *Sanders*, 2013 IL App (1st) 102696, ¶ 25 (tip was sufficient to justify a *Terry* stop where the informant spoke to the officer in person, explained the basis of his knowledge, and accurately described defendant's direction of travel). This information, under the totality of the circumstances, was sufficiently reliable to allow Officer Kinney to initiate a *Terry* stop. See *Sanders*, 2013 IL App (1st) 102696, ¶ 31. Accordingly, the trial court did not err in denying defendant's motion to suppress.

¶ 31 However, in our initial order in this case, after finding the tip sufficiently reliable to justify the *Terry* stop, we nevertheless concluded that the contents of the tip did not provide the officers with reasonable suspicion of criminal activity. In doing so, we noted that, although on the date of the *Terry* stop Illinois law completely prohibited the possession of a handgun in public, if the gun was uncased, loaded, and immediately accessible at the time of the offense (See 720 ILCS 5/24-1.6(a)(1), (a)(3)(A) (West 2008)), in 2013, our supreme court found this form of the AUUW offense to be unconstitutional on its face and void *ab initio* (*Aguilar*, 2013 IL

112116, ¶¶ 21-22). *Thomas*, 2016 IL App (1st) 141040, ¶ 29. We reasoned that suspected criminal activity based on a statute that was void from its inception could not supply the officers with reasonable suspicion to effectuate the *Terry* stop. *Id.* ¶¶ 29-31. Because there was no other basis for finding reasonable suspicion, we found that the *Terry* stop in this case constituted an unreasonable seizure and violated defendant's constitutional rights. *Id.* ¶ 31. Having so found, we then concluded that the gun recovered as a result of the *Terry* stop was subject to the exclusionary rule. *Id.* ¶ 37.

¶ 32 In reaching this conclusion, we relied in large part on this court's prior decision in *People v. Holmes*, 2015 IL App (1st) 141256, *rev'd*, 2017 IL 120407 (see *Thomas*, 2016 IL App (1st) 141040, ¶¶ 37-41). Although *Holmes* dealt with probable cause rather than reasonable suspicion, we found the reasoning therein instructive. However, this court's decision in *Holmes* was subsequently overturned by our supreme court (see *Holmes*, 2017 IL 120407), which held that "the void *ab initio* doctrine does not retroactively invalidate probable cause based on a statute later held unconstitutional on federal constitutional grounds or on state constitutional grounds subject to the limited lockstep doctrine." *Id.* ¶ 37. Because the police officers in *Holmes* had probable cause—at the time of the defendant's arrest—to arrest him for violating the AUUW statute, the arrest was valid, despite the fact that the portion of the statute relied upon by the officers was later declared unconstitutional. *Id.* ¶ 39.

¶ 33 Our supreme court's decision in *Holmes* dictates that we reach a different result in this case than we did in our initial decision. Given that the tip, under the totality of the circumstances, was sufficiently reliable, Officer Kinney had reasonable suspicion to initiate a *Terry* stop and seize the gun because, at the time of the *Terry* stop, a statute prohibited possession of an uncased,

loaded, and immediately accessible handgun. See 720 ILCS 5/24-1.6(a)(1), (a)(3)(A) (West 2008). In light of *Holmes*, we must conclude that reasonable suspicion was not vitiated by the subsequent holding in *Aguilar* that section 24-1.6(a)(1), (a)(3)(A), of the AUUW statute was void *ab initio*.

¶ 34 In his supplemental brief, defendant argues that the tip in this case was not sufficiently reliable to provide the officers with a reasonable suspicion of criminal activity to justify a *Terry* stop. Defendant maintains that this court erred in relying on *Sanders* and finding that the informant here was more like a "citizen informant" than an "anonymous" informant. In support of this argument defendant directs our attention to *J.L.*, *Rhinehart*, and *Henderson*. We find *J.L.*, *Rhinehart*, and *Henderson* distinguishable from the case at bar.

¶ 35 In *J.L.* the tip that "a young black male standing at a particular bus stop and wearing a plaid shirt was carrying a gun" was given anonymously over the telephone and the unidentified individual did not explain how he knew of the gun the defendant possessed or give any basis for his inside information. *J.L.*, 529 U.S. at 268. When officers arrived at the bus stop six minutes later, they saw three black males, including J.L., who was wearing a plaid shirt. *Id*. Based on the anonymous tip, one of the officers searched J.L. and recovered a gun. *Id*. The Supreme Court determined that the search was an invalid *Terry* stop because the anonymous tip was not sufficiently reliable to provide the officer with reasonable suspicion that J.L. was carrying a gun. *Id*. at 272-74. In so doing, the Supreme Court recognized that there is a difference between an anonymous tip and one from a known informant whose reputation can be ascertained and who can be held accountable if a tip turns out to be fabricated. *Id*. at 270. Unlike in *J.L.*, in this case,

the unidentified man placed his anonymity at risk by speaking with the officers in person and provided the officers with some basis for how he knew about the gun.

¶ 36 In *Rhinehart*, a police officer was flagged down by a woman who told the officer that a black male wearing a white shirt and yellow pants had a gun and provided the officer with the defendant's location. *Rhinehart*, 2011 IL App (1st) 100683, ¶ 3. The officer went to the location, observed the defendant who matched the description of the man with the gun, and, after identifying himself as a police officer, conducted a pat down search of the defendant which yielded a gun. *Id.* In determining that the tip was not sufficiently reliable to justify a *Terry* stop, this court stated that, although the tip was made in person which permitted the officer to develop an impression of the woman's credibility, there was nothing in the record to show that the officer believed the woman where he was not questioned regarding his observations of her or the reasons he believed the tip was reliable. *Id.* ¶¶ 14, 15. This court also noted that the woman did not indicate how she knew of the criminal activity or predict the defendant's future actions. *Id.* ¶ 16. In addition, the record in *Rhinehart* did not contain evidence indicating that the woman had seen the gun or established the distance between the tip and the *Terry* stop. *Id.* ¶¶ 18-19.

¶ 37 Here, unlike in *Rhinehart*, Officer Kinney was questioned about the unidentified man and testified that the man did not smell of alcohol and that his demeanor was "normal." In addition, unlike in *Rhinehart*, the record before us is not silent as to how the unidentified man knew of the gun. Officer Kinney testified at trial that the unidentified man told the officers that he had observed a man place a handgun into a bag. Finally, unlike in *Rhinehart*, the record here shows that the distance between the tip and the *Terry* stop was only a block and a half.

¶ 38 In *Henderson*, our supreme court found that an anonymous in-person tip of "a 'possible gun' in a tan, four-door Lincoln" was insufficient to justify a *Terry* stop because the tip provided no predictive information through which police could test the citizen's knowledge of the gun. *Henderson*, 2013 IL 114040, ¶¶ 3, 30. In so finding, the *Henderson* court, citing *Rhinehart*, noted that although the tip was provided in person rather than by telephone, that fact standing alone is insufficient to demonstrate the reliability of the information provided to police. *Id.* Here, unlike in *Henderson*, the unidentified man told the officers that he had observed a man place a handgun into a bag, described the appearance of the man and his direction of travel. This information was more specific than a "possible gun" and was corroborated by the officers within seconds when they observed defendant, who matched the description provided to the officers, walking eastbound on 80th Place holding a backpack.

¶ 39 Contrary to defendant's argument, we find *Sanders* more instructive than *J.L.*, *Rhinehart*, or *Henderson*. In *Sanders*, the issue was: "whether a police officer's 15-second conversation with an unidentified woman, during which the woman stated that she had seen a man place a machine gun into a car and described the man, the car and the car's trajectory, provided reasonable suspicion to stop the car that defendant was driving when the officers only corroborated 'innocent' details of the tip, *i.e.*, the make and color of the car, the license plate, and the direction of travel before effectuating a stop." *Sanders*, 2013 IL App (1st) 102696, ¶ 16. In finding that it did, this court in *Sanders* stated that the informant spoke to an officer in person, explained the basis of her knowledge, and accurately described defendant's direction of travel. *Id*. ¶ 25. Under the totality of the circumstances, the court in *Sanders* concluded that the

information in the tip was sufficiently reliable to allow an officer to reasonably infer that defendant was involved in criminal activity and to justify a *Terry* stop. *Id.* ¶ 31.

¶ 40 The issue before us is analogous to the issue in *Sanders*. Here, as in *Sanders*, the unidentified man spoke to Officers Kinney and Antonsen in person, explained the basis of his knowledge, and accurately described defendant and defendant's direction of travel. Based on these facts, we see no reason to depart from the finding in *Sanders* and conclude that, because the officers had reasonable articulable suspicion to justify the *Terry* stop, the trial court did not err in denying defendant's motion to quash arrest and suppress evidence.

¶ 41 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 42 Affirmed.