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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Du Page County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 15-CF-225
)	
SHADRIC SMITH,)	Honorable
)	Liam C. Brennan,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Presiding Justice Hudson and Justice Spence concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly denied defendant's motion to quash and suppress, as defendant's arrest was supported by probable cause: the informant bore indicia of reliability, the police corroborated much of her information, and the information provided probable cause to believe that defendant possessed cocaine with the intent to deliver.
- ¶ 2 Defendant, Shadric Smith, appeals from an order of the circuit court of Du Page County denying his motion to quash his arrest and suppress evidence, contending that information from an informant failed to provide probable cause for his arrest. Because the informant was reliable and her information established probable cause for defendant's arrest, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Defendant was indicted on one count of unlawful possession with the intent to deliver 1 gram or more but less than 15 grams of a substance containing cocaine (720 ILCS 570/401(c)(2) (West 2014)). Defendant filed a motion to quash his arrest and suppress physical evidence and statements obtained following his arrest (motion to suppress).

¶ 5 The following evidence was established at the hearing on the motion to suppress. According to Officer Wojtek Kowal of the Naperville police department, in late 2014, Kayla Anderson agreed to act as an informant for the Naperville police. Despite that agreement, Anderson sold drugs several times to an undercover police officer.

¶ 6 On February 3, 2015, Officer Kowal, who was then assigned to the Du Page County Metropolitan Enforcement Group (DuMEG), arrested Anderson following another sale of narcotics to an undercover officer. After the arrest, Anderson entered into a written agreement to work as an informant for DuMEG. The agreement provided, in part, that the state's attorney had final approval of any consideration Anderson might receive in exchange for her information.

¶ 7 Later on February 3, Anderson provided information regarding the person from whom she had purchased the drugs that she had been selling. She referred to her source as "Joe." She described him as a tall, black male with a large build. She thought that he lived in Harvey. She added that he drove a "gray boxy type SUV" and that she bought cocaine from him weekly. She also provided his cell phone number. A subsequent investigation revealed that the phone number was not assigned to anyone named Joe.

¶ 8 At Officer Kowal's direction, Anderson arranged, via text messages, to purchase crack cocaine from her source. According to Officer Kowal, Anderson texted her source that she needed two "eight balls" of crack cocaine. She received a response of okay. The deal was to

occur around 8 p.m. that evening in the parking lot of a Red Roof Inn. Anderson told Officer Kowal that her source attended school near the Red Roof Inn.

¶ 9 Around 7:30 p.m., officers established surveillance near the Red Roof Inn. Officer Kowal, Officer Roman, and Anderson were in a vehicle in a nearby Target parking lot. There were other surveillance vehicles nearby.

¶ 10 Shortly after 8 p.m., Anderson, using the cell phone number that she had identified as Joe's, exchanged texts with her source. Anderson texted that she was almost there and asked where he was. At 8:26 p.m., the source called Anderson and told her that he had driven to the Red Roof Inn but could not find her. About a minute later, Anderson called back and told him to meet her at a nearby Denny's parking lot. The other police units were notified and moved closer to the Denny's.

¶ 11 As Officer Kowal drove to the Denny's, Anderson identified Joe's SUV. According to Officer Kowal, the SUV was light gray. As they passed the SUV, Officer Kowal could not see inside, and Anderson was not able to identify anyone in the SUV. Officer Kowal notified the other units that Anderson had identified the SUV. Officer Sanborn, in another surveillance unit, reported that there was a black male driving the SUV.

¶ 12 When the trio arrived at the Denny's, the SUV was backed into a parking space. As the SUV started to drive out of the parking space, two of the surveillance vehicles blocked its path.

¶ 13 Officer Potrafka exited one of the surveillance units and approached the SUV with his gun drawn. He hit the driver's-side window with his gun, pointed the gun at the vehicle, and loudly ordered the driver to raise his hands. While Officer Potrafka pointed his gun at the driver, Sergeant Anselm and Officer Zlotnicki pulled the driver from the SUV, placed him on the ground, and handcuffed him. The driver was then identified as defendant.

¶ 14 After defendant was handcuffed, he was searched. The officers found cash and two cell phones but no drugs. A search of the SUV revealed no drugs.

¶ 15 Defendant was then placed in a police vehicle. He waived his *Miranda* rights and consented to a search of both cell phones. On one phone, Officer Zlotnicki found the text messages between defendant and Anderson regarding the purchase of the crack cocaine.

¶ 16 According to Sergeant Anselm, defendant told the officers that he was renting a room at the Red Roof Inn and that there was crack cocaine in the room. After a search of the room uncovered no drugs, defendant stated that he had thrown the crack cocaine onto the parking lot of the Target store. A search of the Target parking lot failed to disclose any drugs. The officers then transported defendant to the police station, where a search revealed approximately three grams of crack cocaine in his sock.

¶ 17 The trial court ruled that defendant was arrested when he was removed from the SUV, placed on the ground, and handcuffed. The court then found that Anderson was a reliable informant and that there was probable cause for the arrest. Thus, the court denied the motion to suppress and subsequently denied defendant's motion to reconsider.

¶ 18 Following a stipulated bench trial, defendant was found guilty and sentenced to 12 years' imprisonment. Defendant, in turn, filed this timely appeal.

¶ 19

II. ANALYSIS

¶ 20 On appeal, defendant contends that there was no probable cause to arrest him, as the police acted on uncorroborated information from an unreliable informant. The State responds that the informant was reliable and that the police corroborated much of the information.¹

¹ Defendant further maintains that the evidence should have been suppressed as it was tainted by the illegal arrest. The State, however, asserts only that probable cause existed and

¶ 21 In reviewing a ruling on a motion to suppress evidence, we apply a two-part standard. *People v. Hopkins*, 235 Ill. 2d 453, 471 (2009). Although we accord great deference to the factual findings, and will reverse only if they are against the manifest weight of the evidence, we review *de novo* the ultimate ruling on a motion to suppress. *Hopkins*, 235 Ill. 2d at 471.

¶ 22 A warrantless arrest is valid only if supported by probable cause. *Hopkins*, 235 Ill. 2d at 472. Probable cause to arrest exists when the facts known to the police when they make the arrest are sufficient to lead a reasonably cautious person to believe that the arrestee has committed a crime. *Hopkins*, 235 Ill. 2d at 472. The existence of probable cause depends upon the totality of the circumstances at the time of the arrest. *Hopkins*, 235 Ill. 2d at 472.

¶ 23 In addressing probable cause, we deal with probabilities. *Hopkins*, 235 Ill. 2d at 472. They are the factual and practical considerations of everyday life on which reasonable and prudent people, not legal technicians, act. *Hopkins*, 235 Ill. 2d at 472. Accordingly, whether probable cause exists depends upon commonsense considerations, and the calculation concerns the probability of criminal activity, rather than proof beyond a reasonable doubt. *Hopkins*, 235 Ill. 2d at 472. Indeed, probable cause does not require even a showing that the belief that the suspect had committed a crime was more likely true than false. *Hopkins*, 235 Ill. 2d at 472.

¶ 24 If the facts supplied in an informant's tip are essential to a finding of probable cause, the tip must be reliable. *People v. Johnson*, 368 Ill. App. 3d 1073, 1081 (2006). An indication of the reliability of the information is when the facts learned through police investigation independently verify a substantial part of the informant's tip. *Johnson*, 368 Ill. App. 3d at 1081 (citing *People v. James*, 118 Ill. 2d 214, 225 (1987)). Indeed, information from an informant can

does not contend that the evidence was admissible independent of any taint. Thus, the only issue before us is whether there was probable cause for the arrest.

support probable cause when the police investigation corroborates a substantial portion of the informant's story, even if the investigation does not independently verify the defendant's involvement in a crime. *People v. Arnold*, 349 Ill. App. 3d 668, 672 (2004). The reliability of the informant is another fact to be considered. *Johnson*, 368 Ill. App. 3d at 1081 (citing *People v. Adams*, 131 Ill. 2d 387, 397 (1989)). The reliability of the informant is enhanced if she is known to the police or implicates herself in the crime at issue. *Johnson*, 368 Ill. App. 3d at 1081 (citing *People v. House*, 141 Ill. 2d 323, 369-70 (1990)). However, if an informant is offered leniency in exchange for information that incriminates others, such information is clearly suspect. *James*, 118 Ill. 2d at 224. The determination of whether an informant has provided reliable information depends on the totality of the circumstances. *People v. Tisler*, 103 Ill. 2d 226, 245-46 (1984) (citing *Illinois v. Gates*, 462 U.S. 213, 239 (1983)).

¶ 25 In this case, Anderson's reliability was established under the totality of the circumstances. First, she was a known informant. That decreased the risk of her fabricating the information. See *James*, 118 Ill. 2d at 223 (an unknown informant requires an independent showing of reliability, because of the obvious risk of misrepresentation or fabrication).

¶ 26 Second, Anderson implicated herself in the crime. Indeed, she admitted that she had purchased crack cocaine weekly from defendant. Because a person typically does not admit her criminal conduct lightly or falsely, Anderson's admission enhanced her reliability. See *James*, 118 Ill. 2d at 224.

¶ 27 Third, there is no indication that Anderson was given any specific inducement or promise in exchange for providing information about defendant. Although Officer Kowal testified that the written agreement with Anderson provided that the state's attorney had final approval of any

consideration given to Anderson, there was no evidence of any specific consideration given in exchange for information about defendant.

¶ 28 Fourth, the police were able to corroborate much of the information provided by Anderson. She used the cell phone number that she had given to the police to text and to call her source about the purchase of crack cocaine. Her source, in turn, called her to say that he had been at the Red Roof Inn parking lot, the pre-arranged location, but had not seen her. He did so within the pre-arranged time frame. He then drove to the Denny's lot as he had told Anderson he would. Upon seeing his vehicle, Anderson readily identified it. Although Anderson was not able to identify the driver, Officer Sanborn identified the driver as a black male. Thus, much of the information provided by Anderson had been verified before defendant's arrest.

¶ 29 The lack of any showing of previous reliable information from Anderson does not detract from our conclusion that she was reliable in this case. Prior reliable tips are simply one consideration in the totality of the circumstances as to whether Anderson was currently reliable. When we view the totality of the circumstances, there were sufficient indicia of Anderson's reliability.

¶ 30 Not only was Anderson reliable, her information, along with the observations by the police, provided probable cause to arrest defendant for possession with the intent to deliver crack cocaine. Anderson told the police that she weekly had purchased cocaine from defendant. She then, in the presence of the police, texted defendant to arrange a drug purchase. After texting defendant, he agreed to sell her crack cocaine. Anderson then arranged to meet defendant at a certain location at a specified time. Defendant arrived at the prearranged location and within the agreed-to time frame. He was driving a vehicle consistent with Anderson's description. He also

generally met the description given by Anderson. Under the totality of the circumstances, the police had probable cause to arrest defendant.

¶ 31 Finally, defendant's reliance on *People v. Davis*, 398 Ill. App. 3d 940 (2010), is misplaced. The issue in *Davis* was whether an informant provided sufficiently reliable information to establish probable cause for a search warrant. *Davis*, 398 Ill. App. 3d at 958. In holding that she had not, the court noted that there was no evidence that the informant had provided reliable tips in the past, there was no independent police corroboration, the informant was an admitted drug user, and the defendant recently had beaten the informant. *Davis*, 398 Ill. App. 3d at 958. Because the facts in *Davis* are clearly distinguishable from our case, *Davis* does not support defendant's position.

¶ 32

III. CONCLUSION

¶ 33 For the reasons stated, we affirm the order of the circuit court of Du Page County denying defendant's motion to quash his arrest and suppress evidence. As part of our judgment, we grant the State's request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 34 Affirmed.