

2011 IL App (2d) 110362-U
No. 2-11-0362
Order filed December 2, 2011

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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 Lake County.
)	
Plaintiff-Appellant,)	
)	
v.)	No. 09-CF-4823
)	
CHRISTOPHER J. FERRARESI,)	Honorable
)	James K. Booras,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

Held: The trial court erred in granting defendant's motion to quash his arrest and suppress evidence: the police had probable cause and thus needed no warrant to effect a public arrest, as the investigation convincingly established that defendant played a role in a burglary and thefts.

¶ 1 The State appeals an order quashing the arrest of defendant, Christopher J. Ferraresi, and suppressing evidence. We reverse and remand.

¶ 2 Defendant was charged with one count each of unlawful possession of a stolen motor vehicle (625 ILCS 5/4-103(a)(1) (West 2008)) and burglary (720 ILCS 5/19-1(a) (West 2008)) and three

counts of theft (720 ILCS 5/16-1(a)(1)(A) (West 2008)). He moved to quash his arrest and suppress evidence obtained via the arrest.

¶ 3 At the hearing on defendant's motion, the sole witness was Lake County deputy sheriff Anthony Parisi. On direct examination, he testified as follows. On December 4, 2009, at about 2:30 p.m., while riding with another detective on a public highway, he stopped defendant's car. Parisi read defendant his *Miranda* rights, handcuffed him, and placed him into the squad car. There was no warrant for defendant's arrest and Parisi had not observed him commit any offenses. Parisi arrested defendant based on information that he had been involved in a burglary at the property of Meridian Construction and the theft of two vehicles from the site.

¶ 4 Parisi explained the information upon which he had based his arrest of defendant. Patrick Markle had been arrested at about 1:30 a.m. on December 4, 2009, while driving one of the stolen vehicles. Parisi and other officers interviewed Markle, who allowed them to check his phone. They learned that there had been a call from defendant's number. During the interview, Markle first said that he had been at the Meridian site while two other people (not including defendant) carried out the crimes. Later, he said that defendant had asked him to drive to Libertyville "to get a vehicle." After further questioning, however, Markle changed his story. He said that the first truck that he stole from the site broke down and that he called defendant; that defendant picked up Markle and drove him back to the Meridian site; that, on the return trip, Markle said that they had to leave the broken-down truck behind because it was stolen; and that defendant told Markle to get out of his car.

¶ 5 As part of his investigation, Parisi viewed a security video from Meridian. It showed a 2005 Chevrolet Trailblazer dropping off someone at the site around the time of the burglary. Parisi could not tell from the video whether the person who exited was the driver or a passenger. After the person exited the Trailblazer, the vehicle "drove up, like turned around, *** backed up maybe along

the fence line, turn[ed] its headlights off and then maybe about five minutes later turned the lights back on and drove off.” The car’s license plate number was not visible on the video. A check with the Secretary of State’s office revealed that defendant had a 2005 Trailblazer registered to him. An inquiry to the Toll Authority disclosed that that vehicle had passed through the Edens toll plaza at about 12:12 a.m. on December 4, 2009, and that a vehicle stolen from the Meridian site had passed through the Edens toll plaza at the same time.

¶ 6 Parisi testified on cross-examination as follows. At about 1:30 a.m. on December 4, 2009, Sergeant White told him that there had been a forced entry into the Meridian site and that a dump truck and a pickup truck were missing. Parisi went to the site. There, Deputy Tony Caliendo told him that he had stopped the pickup truck and had later learned that it was stolen and that Markle had been driving it. Caliendo explained that he had stopped Markle shortly before 1:30 a.m. “just down the road” from the Meridian site. Parisi testified that the gate to the Meridian site had been damaged from being forced open and that a door had been ripped off a trailer.

¶ 7 Parisi testified that the security video showed the dump truck leaving the Meridian site at about 11:45 p.m. on December 3, 2009. Before the dump truck left, a Chevrolet Trailblazer “pull[ed] up down Laura Lane by Meridian” and one person got out. The video did not show any other car in the vicinity of the Trailblazer at the time or anyone other than the person who exited the Trailblazer walking around in the area. After the person exited the Trailblazer, the Trailblazer stayed about five minutes, then drove off. Approximately 27 minutes later, the dump truck left the site. Later, the video showed Markle walking back to the sight.

¶ 8 Parisi testified that, when the police spoke to Markle, he first told them that he, “Tim,” and “Virgil” had been driven to the Meridian site by one of their girlfriends, in a Chevy Lumina. Upon checking Markle’s phone, Parisi found a call from defendant near the time of the burglary, but no

calls from anyone named Tim or Virgil. Parisi learned from the Secretary of State's office that a 2005 Chevrolet Trailblazer was registered to defendant, and Caliendo told Parisi that the police had seen a Chevy Trailblazer driving in the vicinity of the Meridian site around the time of the burglary. The Tollway Authority employee confirmed that the stolen dump truck had passed through the Edens spur toll plaza at the same time as defendant's Trailblazer.

¶ 9 Parisi testified that, after receiving all of the foregoing information, he spoke to Markle, who told Parisi that he and defendant were "best friends" and that defendant had wanted him to "go up to Libertyville to get a vehicle." Later, Markle said that he had been the one who wanted to "pick up the vehicle." Markle added that defendant had driven him in the Trailblazer to the Meridian site, where Markle absconded with the dump truck. Markle said that the dump truck broke down on the Edens spur. He left the disabled truck by the side of the road, and defendant promptly drove him back to the Meridian site. At about 5 a.m., Parisi received word that the dump truck had been found just off the Edens.

¶ 10 After hearing arguments that centered on whether there had been probable cause to arrest defendant, the trial judge stated that he would "not comment[] on the existence of probable cause" but reasoned that, because the police had lacked a warrant to arrest defendant and no exigent circumstances justified the failure to procure one, the arrest had been illegal. The trial court granted defendant's motion. After the court denied its motion to reconsider, the State timely appealed.

¶ 11 On appeal, the State argues that the suppression order was based on the erroneous legal premise that the police needed a warrant to arrest defendant. The State contends that no warrant was needed, because the arrest took place in public—on the highway as defendant was driving—and was supported by probable cause. Defendant concedes the State's legal argument, but he maintains (without elaborating) that the order was proper because the police lacked probable cause.

¶ 12 Because the facts are undisputed, our review is *de novo*. See *People v. Close*, 238 Ill. 2d 497, 504 (2010). We agree with the parties that the trial court’s order was based on an error of law. Because defendant was in a public place, the police could arrest him without a warrant, as long as they had probable cause. See *People v. Bauer*, 393 Ill. App. 3d 414, 426-27 (2009) (warrantless traffic stop and arrest of defendant upheld). Therefore, the only issue is whether there was probable cause to arrest defendant. We hold that there was.

¶ 13 Probable cause exists when the facts that the officer knows are sufficient to warrant a person of reasonable caution to believe that the arrestee has committed an offense. *Id.* at 426. Probable cause requires more than mere suspicion but less than proof beyond a reasonable doubt. *Id.*

¶ 14 Here, Parisi had probable cause to arrest defendant in connection with the Meridian burglary and the thefts of the two vehicles. At the time of the arrest, Parisi had exceedingly strong evidence that defendant had a role in the offenses. The security video showed a Chevrolet Trailblazer dropping Markle off at the Meridian site, a gated area not open to the general public, and leaving the site a few minutes later, followed by the (first) stolen vehicle. Parisi confirmed not only that defendant owned a 2005 Chevrolet Trailblazer but that his vehicle went through the same toll plaza at the same time as the stolen dump truck. Markle described the offenses and also implicated his close friend, albeit reluctantly, telling the officers that the two had agreed to “get” a vehicle (a statement corroborated by the phone record) and that defendant not only drove Markle to the Meridian site but also drove him back there after the first stolen vehicle broke down. Given all of the foregoing, we have no difficulty in concluding that the arrest of defendant was supported by probable cause.

¶ 15 The interlocutory order of the circuit court of Lake County is reversed, and the cause is remanded.

¶ 16 Reversed and remanded.