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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 Kane County.
)	
Plaintiff-Appellant,)	
)	
v.)	No. 09—CF—432
)	
JUAN C. PEREZ,)	Honorable
)	Patricia Piper Golden,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Schostok and Birkett concurred in the judgment.

ORDER

Held: The trial court erred in granting defendant's motion to quash his arrest and suppress evidence: having substantially corroborated a dispatch of a car accident involving an injury, and with the fleeing defendant having been identified as the responsible party, the police had probable cause to arrest defendant for leaving the scene of such an accident; under the hot-pursuit doctrine, the police were entitled to enter a house to complete the arrest, despite insignificant pauses in the pursuit.

The State appeals from an order of the circuit court of Kane County granting the motion of defendant, Juan C. Perez, to quash his arrest and suppress evidence in a prosecution for aggravated driving under the influence of alcohol (625 ILCS 5/11—501(a)(2), (d)(2)(D), (d)(2)(H) (West 2008)) and felony driving with a suspended or revoked license (625 ILCS 5/6—303(a), (d—3) (West

2008)). Defendant was arrested after being found inside a private residence that two police officers had entered without consent or a warrant. On appeal, the State argues that the warrantless entry was justified because the officers were in “hot pursuit” of defendant, and because there were exigent circumstances. Because we agree with the former argument, we reverse the trial court’s order and remand the cause.

At the hearing on defendant’s motion, Elgin police officer Katie Phillips testified that at about 4:20 a.m. on February 8, 2009, she received a dispatch concerning “a hit-and-run accident in which there was an injured subject lying in the roadway.” Phillips, who was in uniform and was driving a squad car, proceeded to the scene of the reported accident and observed a green Chevy Tahoe in the roadway. There were several people around the vehicle. Phillips did not testify that she observed anyone who appeared to be injured or that there were any signs that the vehicle had been in an accident. But as Phillips approached, she observed two men running from the vehicle into the backyard of a home adjacent to the street where the vehicle was standing.

Phillips pursued the men and ordered them to stop. Others at the scene were yelling “that’s them, that’s them.” One of the men stopped in the backyard and told Phillips, “it’s not me, it’s my brother.” Phillips searched him and then instructed him to return to the scene of the accident. This process consumed about two minutes, after which Phillips ran to the front of the house and saw defendant pounding on the door. Phillips said, “stop, police.” The door opened, and defendant went inside, shut the door, and locked it behind him. Phillips started knocking on the door, stating that she was a police officer. She continued knocking for about five minutes, but nobody came to the door. Phillips did not know whether defendant resided at the home, but because defendant knocked on the door to gain entry, she suspected that he did not live there. Phillips did not know if there were

any people inside the house other than defendant, and, if so, whether they were in any danger. She testified, however, that the possibility that occupants of the house might be in danger was a concern.

Phillips testified that another officer, Jason Barnard, had responded to the incident. Phillips used her radio to advise Barnard that she thought that the suspect was inside the residence. Barnard replied that he was himself inside the residence, having gained entry through an unsecured door to the basement. Phillips returned to the back of the house and entered through that door. Phillips found defendant in a bedroom on the first floor of the home. She and a third police officer placed defendant in custody because he had become “combative.”

The trial court initially denied the motion to quash and suppress, but later vacated the ruling *sua sponte* and heard testimony from Barnard. Barnard testified that, after Phillips advised him that a suspect had entered the house, he and another officer decided to establish a perimeter. Barnard noticed that a door was partly open. The other officer knocked on a window for a few seconds and, after waiting about 10 seconds longer, Barnard pushed the door open. Barnard observed a man coming around a corner. Barnard and the other officer then walked into the house. Barnard testified that they did so because they were concerned for the safety of the people inside the house. Finding no grounds for the warrantless entry into the house, the trial court granted defendant’s motion. The trial court stated:

“The State has argued that the police needed to go in to make sure that the people inside the house were all right. I don’t really think that’s the issue. They were really trying to find this person who was voluntarily admitted to the house.”

On appeal from a trial court’s ruling on a motion to quash and suppress, the reviewing court “will accord great deference to the trial court’s factual findings and will reverse those findings only

if they are against the manifest weight of the evidence.” *People v. Close*, 238 Ill. 2d 497, 504 (2010). However, the trial court’s ultimate decision to grant or deny the motion is subject to *de novo* review. *Id.*

We have observed that “[t]he chief evil against which the fourth amendment to the United States Constitution is directed is the physical entry of the home.” *People v. Davis*, 398 Ill. App. 3d 940, 948 (2010). Accordingly, “the fourth amendment ‘has drawn a firm line at the entrance to the house’ [citation] and warrantless searches and seizures inside a home are presumptively unreasonable [citations].” *Id.* However, the “hot pursuit” doctrine provides that “police *** may enter a private residence without a warrant to effectuate the arrest of a fleeing suspect of whom the police are in ‘hot pursuit.’ ” *Id.* at 951. The rationale for permitting a warrantless entry under such circumstances is that “a suspect may not defeat an arrest which has been set in motion in a public place *** by the expedient of escaping to a private place.” *United States v. Santana*, 427 U.S. 38, 43 (1976).

It is axiomatic that a warrantless arrest must be supported by probable cause, which exists “when the totality of the facts and circumstances known to the officer is such that a reasonably prudent person would believe that the suspect is committing or has committed a crime.” *People v. Geier*, 407 Ill. App. 3d 553, 557 (2011). It is true that where probable cause is absent a police officer may still effect a limited investigatory stop pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), where there exists a reasonable suspicion, based upon specific and articulable facts, that the person detained has committed or is about to commit a crime. *Id.* at 21-22. However, our supreme court has made it clear that the hot pursuit doctrine does not permit a warrantless entry for purposes of conducting a *Terry* stop. *People v. Wear*, 229 Ill. 2d 545, 566-67 (2008). Thus, in determining whether the

warrantless entry was constitutionally permissible here, a threshold question is whether there was probable cause to place defendant under arrest. Upon careful consideration of the record, we conclude that there was. In our view, a reasonably prudent person aware of the facts known to Phillips would believe that defendant violated section 11—401(a) of the Illinois Vehicle Code (Code) (625 ILCS 5/11—401(a) (West 2008)), which provides, in pertinent part, that “[t]he driver of any vehicle involved in a motor vehicle accident resulting in personal injury to *** any person shall *** remain at the scene of the accident until the requirements of [providing information and rendering aid pursuant to section 11—403 of the Code (625 ILCS 5/11—403 (West 2008))] have been fulfilled.”

Initially, we acknowledge that, although Phillips received a dispatch indicating that a hit-and-run accident resulting in a personal injury had occurred, *absent some corroborating facts* the dispatch would not suffice to establish probable cause that a crime had been committed (let alone that defendant committed it). When a person is detained based in whole or in part on information communicated to the officer by a third party, the State must establish that the information bears some indicia of reliability. See *People v. Linley*, 388 Ill. App. 3d 747, 750 (2009). And when the detention is based on information received through a dispatch, the State is “obliged to show that whoever ordered the dispatch acted based on reliable information.” *Id.* at 751. In *Linley*, a police officer responding to a report of “shots fired” detained an individual whom he encountered in the vicinity for investigatory purposes. In holding that the detention ran afoul of the fourth amendment, we emphasized that the officer had no personal knowledge that shots had been fired, and no evidence was presented showing that the dispatch was based on reliable information. *Id.* We noted that the State “offered no evidence whatsoever concerning the source or nature of the information underlying

the dispatch.” *Id.* We observed that it was likely that the dispatch was based on information from a civilian, but the record shed no light on the various factors relevant to determining its reliability such as “whether the informant was a concerned citizen or a member of the criminal milieu; whether the report was made in person or by telephone; whether the informant identified himself or herself; whether the informant had a history of providing reliable information or a reputation for giving false reports; whether the report, if made by telephone, was made to an emergency telephone number; whether the informant personally heard gunshots or was relaying secondhand information; and whether the report was contemporaneous with the gunfire.” *Id.* at 752.

In this case the State likewise failed to offer any evidence concerning the “source or nature of the information underlying the dispatch.” *Id.* at 752. However, a crucial difference between *Linley* and this case is that in *Linley* the officer personally observed nothing that would even remotely corroborate the report that shots had been fired. Here, in contrast, Phillips’s personal observations substantially corroborated the information she learned from the dispatcher. Phillips observed a vehicle in the roadway and two men running into the backyard of an adjacent home while others gathered near the vehicle yelled “that’s them.” It was reasonable for Phillips to infer that the disturbance she witnessed was related to a motor vehicle accident and that those running were involved and were attempting to avoid apprehension. These observations provided a large measure of confirmation of the information relayed by the dispatcher, even though Phillips did not testify that she observed any physical signs that an accident had taken place or that anyone had been injured. Phillips caught up with one of the men who had taken flight when she arrived at the scene. He said, “it’s not me, it’s my brother.” When Phillips proceeded to the front of the house she observed

defendant knocking on the door. It was reasonable for her to believe that defendant was the driver of the vehicle and that he had committed a crime by leaving the scene of the accident.

It is a venerable principle that “[i]n dealing with probable cause, *** as the very name implies, [courts] deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.” *Brinegar v. United States*, 338 U.S. 160, 175 (1949). Viewing all of the relevant circumstances from this perspective, we conclude that there was probable cause to arrest defendant for violating section 11—401(a) of the Code.

Defendant argues that, even if there was probable cause for his arrest, the hot pursuit doctrine is inapplicable because the pursuit was not immediate and continuous. See *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984) (“the claim of hot pursuit is unconvincing because there was no immediate or continuous pursuit of the petitioner from the scene of a crime”). We disagree. Phillips immediately gave chase to two men who took flight when she arrived at the scene of a reported hit-and-run accident. That she paused for about two minutes when she caught up with one of the men does not compel us to hold that she was no longer in pursuit of the other. Nor do we believe that Phillips can be said to have given up the chase simply because, when defendant entered the house, she did not immediately make a forcible entry, but instead knocked on the front door for about five minutes before learning that she could gain entry through an unlocked door at the back of the house.

For the foregoing reasons, the order of the circuit court of Kane County granting defendant’s motion to quash and suppress is reversed and the case is remanded.

Reversed and remanded.