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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-Appellant,)	
)	
v.)	No. 08—CM—6214
)	
CHRISTOPHER M. DICKERSON,)	Honorable
)	Robert G. Kleeman,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Hutchinson and Hudson concurred in the judgment.

Held: The trial court erred in suppressing evidence, as the valid stop of defendant was not unreasonably prolonged; the officer had reasonable suspicion that defendant possessed or had recently possessed cannabis; and, although his initial searches and inquiries had failed to corroborate his suspicion, his continuing to investigate for another four minutes did not render the stop unreasonable.

ORDER

Defendant, Christopher M. Dickerson, was charged with unlawful possession of cannabis (720 ILCS 550/4(a) (West 2008)). He moved to quash his arrest and suppress evidence. The trial court granted the motion. The State appeals (see Ill. S. Ct. R. 604(a) (eff. July 1, 2006)). We reverse and remand.

The sole witness at the hearing on defendant's motion, police officer Donald Darby, testified as follows. On October 25, 2008, at about 7:28 p.m., he stopped a car because parts were hanging from the undercarriage and the muffler was too loud. Darby approached and spoke to the driver, Timothy Meijer. As he did so, he smelled a strong odor of burnt cannabis from inside the car. Meijer had three passengers—defendant, Jessica Bahrenburg, and Darla Manzie. Darby had Meijer exit the car. After learning that Meijer's driver's license had been suspended, Darby took him into custody and told him that the car would be towed and impounded. He asked Meijer whether he had any contraband in the car. Meijer said that he had about a quarter-pound of cannabis in the trunk. He also said that he had given two grams of cannabis to defendant.

Two other officers and a police dog arrived. Darby ordered the three passengers out of the car and had them stand on the sidewalk. A dog-search of the car revealed the quarter-pound of cannabis in the trunk but none elsewhere. Darby then personally searched the entire car but found no contraband. Pat-down searches of defendant, Bahrenburg, and Manzie turned up no contraband. Darby gave the passengers *Miranda* warnings and spoke to them individually. Defendant told Darby that he had been unaware of the cannabis in the trunk and had not known of any other cannabis in the vehicle. Bahrenburg said that they had gone to Lombard, where Meijer received the cannabis. She added that Manzie had been with Meijer when he received the cannabis; she did not say that defendant had been with Meijer. Manzie denied knowing about the cannabis in the trunk.

Because he had smelled burnt cannabis and Meijer had admitted giving defendant two grams of cannabis, Darby decided to continue investigating. He interviewed defendant and Manzie together. Defendant ended up admitting that "they did have a small amount of cannabis with them" and that, when the car was stopped, he gave the cannabis to Manzie. After defendant made his admission, Manzie reached into her pants and handed Darby the cannabis.

Darby testified that, when defendant initially said that he knew nothing about any cannabis in the car, Darby did not believe him. The reasons were that (1) Meijer had admitted giving defendant cannabis; (2) a strong odor of burnt cannabis came from inside the car; and (3) Meijer had told Darby that “they were smoking cannabis just prior to being stopped.” After speaking to defendant and Manzie separately for about a minute each, Darby still did not believe them. About a minute after the separate interviews, he spoke to them together for roughly two minutes. Thus, from when he first spoke to defendant until defendant made his admission, no more than four minutes passed. Darby decided to question Manzie and defendant together because he could not think of a less intrusive means to investigate whether there had been cannabis in the car or whether defendant and Manzie had known anything about the cannabis in the trunk. There was no female officer on the scene or even nearby, so finding one to pat down Manzie would probably have taken at least 5 or 10 minutes.

The trial court granted defendant’s motion. The judge explained his decision as follows. The initial traffic stop was proper, as were searching the car and detaining, patting down, and questioning the passengers. The issue was whether, after the foregoing actions turned up no evidence of a crime, the further questioning of defendant and Manzie was proper. The judge reasoned that, although Meijer had told Darby that he had given defendant two grams of cannabis, that information no longer supported prolonging the detention, because a full investigation had found nothing.

The State timely appealed. On appeal, the State argues that the trial court erred in holding that Darby unreasonably prolonged the stop by questioning defendant and Manzie together. The State reasons that the odor of burnt cannabis and Meijer’s admission to having given defendant two grams of cannabis gave Darby the reasonable suspicion that was required to continue investigating whether defendant possessed cannabis. The State argues that Darby chose the least intrusive means

available to address this suspicion. Defendant responds that Darby could not properly continue the detention even after a thorough investigation had turned up no further evidence of a crime. He reasons that, by the State's reasoning, Darby could have kept detaining defendant indefinitely.

The issue on appeal is narrow. In the trial court, defendant conceded that the initial stop, the questioning of Meijer, the searches of the car, and the detention and initial questioning of the passengers separately were all proper. He maintained, and the trial court held, that Darby violated defendant's rights by prolonging the detention even after the foregoing actions had failed to support any reasonable suspicion that defendant possessed cannabis. On appeal, the State contends that the trial court erred in this holding, because Darby's initial actions did not dissipate his reasonable suspicion that defendant possessed cannabis.

Because the parties agree on the pertinent facts, the issue is whether the trial court was ultimately correct in holding that Darby violated the fourth amendment by prolonging the detention of defendant in order to question him and Manzie together. We review this question of law *de novo*. See *People v. Harris*, 228 Ill. 2d 222, 230 (2008). For fourth amendment purposes, a passenger is seized when the police stop the vehicle in which he is riding. *Id.* at 231. A stop that is lawful at its inception will become unlawful if its duration is unreasonably prolonged. *Id.* at 244. Here, the trial court held that Darby properly detained defendant beyond the time needed to complete the initial traffic stop, because the officer had grounds for a reasonable suspicion that defendant possessed cannabis. The court concluded, however, that the reasonableness of Darby's suspicion had dissipated by the time that he spoke to defendant and Manzie together, because his considerable efforts to that point had failed to corroborate his suspicion.

We acknowledge that this is a close case, but we must disagree with the trial court's conclusion. Upon speaking to Meijer, Darby smelled a strong odor of burnt cannabis coming from

inside the car, and Meijer admitted having given defendant a small quantity of cannabis. These facts gave Darby more than a reasonable suspicion that defendant possessed, or had recently possessed, cannabis. To be sure, Darby's thorough search of the car did not reveal this small quantity of contraband, and his pat-downs and individual questioning of defendant and the other two passengers were also unavailing. However, the odor of burnt cannabis was inexplicable absent the recent use of contraband, and the passengers' unsurprising denials of criminal activity had to be balanced against Meijer's incriminating admission. Also, Darby could consider that the small amount of cannabis at issue could easily have been concealed on the person of one of the passengers.

Even after searching the car, patting down the passengers, and talking to them separately revealed nothing, Darby was left with the hard facts that he had smelled burnt cannabis from inside the car and that Meijer had admitted having given defendant two grams of cannabis. We conclude that these facts were sufficient to preserve Darby's reasonable suspicion that defendant, or another passenger, possessed cannabis. We note that, although reasonable suspicion requires more than a mere hunch, it is a less demanding standard than probable cause. *People v. Close*, 238 Ill. 2d 497, 505 (2010). Under the specific facts here, the decision to question defendant and Manzie together, which resulted in a further delay of only perhaps four minutes, was reasonable. While a police officer ought not be able to delay the conclusion of a traffic stop indefinitely in the hopes of finding something incriminating, that situation was simply not present here.

The order of the circuit court of Du Page County is reversed, and the cause is remanded.

Reversed and remanded.