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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. 10-DT-4042
)	
SVEN CARLSON,)	Honorable
)	Richard D. Russo,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice Jorgensen and Justice McLaren concurred in the judgment.

ORDER

Held: The stop of defendant was justified by community caretaking, as an identified source had provided the police with information, which they had corroborated, indicating that defendant was contemplating harming himself.

¶ 1 Defendant, Sven Carlson, was arrested for driving under the influence of alcohol. The arresting officer, Du Page County deputy sheriff Eric Koty, served defendant with written notice of the statutory summary suspension of his driving privileges on the basis that he refused to submit to chemical testing to determine the drug or alcohol content of his blood, breath, or urine. See 625 ILCS 5/11-501.1 (West 2010)). Defendant later filed a petition to rescind the statutory summary

suspension, arguing, *inter alia*, that the traffic stop that led to his arrest was improper. The trial court denied the petition, and this appeal followed. We affirm.

¶ 2 Koty and a fellow officer, Corporal Vandevoorde of the Du Page County sheriff's office, were the only witnesses who testified at the hearing on defendant's petition. Koty indicated that on October 19, 2010, at about 5 p.m., he was dispatched to assist the Downers Grove police department with its efforts to locate defendant. (Vandevoorde testified that the first dispatch occurred at about 7:20 p.m.) According to Koty, defendant was reported to be missing and possibly suicidal. At some point, another officer spoke with a dispatcher from the Downers Grove police department, who indicated that a call had been received from an individual who identified himself as Matt Moore. Moore had placed the call from Puerto Rico. He stated that he had received a telephone call from his brother, John Moore. John told Matt that he had been with defendant, that defendant was upset, and that (in Koty's words) "[defendant] had cut himself and gotten in his car and taken off."

¶ 3 When Koty was initially dispatched to attempt to locate defendant, he was informed that the signal from defendant's cellular telephone had been traced to the area of Four Lakes. Koty proceeded to that location and searched the woods on foot. About 45 minutes to an hour later, Vandevoorde joined him. At about 6 p.m., Koty located defendant's cellular telephone in a wooded area about seven feet from a roadway. Other deputies tried to locate John Moore at his last known address, which was in Downers Grove. They discovered that the home at that address belonged to John's parents and that John did not reside there. Koty believed, however, that someone from the Downers Grove police department had been in contact with John.

¶ 4 Koty, Vandevoorde, and other law enforcement officers traveled to defendant's house in Woodridge. While there, Koty spoke with defendant's girlfriend. She indicated that defendant had

been arrested over the weekend for domestic battery—she was the victim—and she had not seen him since. However, she told Koty that she had spoken with defendant at about 7:30 that evening. She did not indicate that defendant had mentioned being suicidal. At about midnight, defendant drove by the house. Vandevoorde activated his squad car’s emergency lights, and defendant pulled his vehicle over.

¶ 5 Section 11-501.1 of the Illinois Vehicle Code (625 ILCS 5/11-501.1 (West 2010)), the so-called “implied consent law,” provides that a motorist operating a vehicle on a public highway in Illinois is deemed to have consented that, if arrested for DUI, he or she will submit to chemical testing to determine his or her blood alcohol level. If the motorist refuses to undergo testing, or submits to testing that reveals a blood alcohol level of 0.08 or more, his or her driving privileges will be summarily suspended. However, the motorist is entitled to rescission of the suspension if it resulted from an unconstitutional seizure of the motorist. See *People v. Crocker*, 267 Ill. App. 3d 343, 345 (1994). Where a motorist seeks rescission of the summary suspension of his or her driving privileges, the trial court is charged with assessing the credibility of the witnesses and the weight to be given their testimony. *People v. Feddor*, 355 Ill. App. 3d 325, 330 (2005). On review, the trial court’s findings of fact will not be disturbed unless they are against the manifest weight of the evidence. *People v. Rush*, 319 Ill. App. 3d 34, 38 (2001). However, the trial court’s ultimate conclusion as to the legality of the seizure is reviewed *de novo*. *Rush*, 319 Ill. App. 3d at 38-39.

¶ 6 The fourth amendment to the United States Constitution provides, in pertinent part, that “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]” U.S. Const., amend. IV. It is undisputed that defendant was seized when Vandevoorde activated his squad car’s emergency lights and defendant

pulled over. See *City of Highland Park v. Lee*, 291 Ill. App. 3d 48, 53-54 (1997). The sole issue on appeal is whether that seizure was reasonable within the meaning of the fourth amendment. The State insists that the seizure was reasonable because the officers who stopped defendant were engaged in a community-caretaking function. In *People v. Luedemann*, 222 Ill. 2d 530, 546 (2006), our supreme court explained that, under the community-caretaking doctrine, courts “uphold searches or seizures as reasonable under the fourth amendment when police are performing some function other than investigating the violation of a criminal statute.” Under *Luedemann*, the community-caretaking doctrine applies when (1) law enforcement officers—whose actions are viewed objectively—are engaged in some function other than investigation of a crime and (2) examination of the totality of the circumstances establishes that the seizure was objectively reasonable because it was undertaken to protect the safety of the general public. See *People v. McDonough*, 239 Ill. 2d 260, 272 (2010). In assessing reasonableness, courts “must balance a citizen’s interest in going about his or her business free from police interference against the public’s interest in having police officers perform services in addition to strictly law enforcement.” *Id.*

¶ 7 Defendant argues that the seizure in this case was unreasonable because the police were acting on information that was both unreliable and stale. Although a seizure must be objectively reasonable, it need not be based solely on the personal observations of law enforcement officers. *People v. Nitz*, 371 Ill. App. 3d 747, 751 (2007). A seizure may also be based on information obtained from members of the public (*id.*), so long as the information bears “ ‘some indicia of reliability’ ” (*id.* (quoting *Village of Mundelein v. Thompson*, 341 Ill. App. 3d 842, 850 (2003))). Although *Nitz* involved the lawfulness of a seizure under *Terry v. Ohio*, 392 U.S. 1 (1968), for questioning about possible criminal activity, these broad principles also guide the determination of

the reasonableness of seizures for community-caretaking purposes. Accord *State v. Deccio*, 34 P.3d 1125 (Idaho App. 2001) (principles regarding reliance on anonymous tips in cases involving seizures under *Terry* applied to the determination of the reasonableness of community-caretaking activity).

¶ 8 When police act on information received from a member of the public, “[t]he nature of the informant is relevant.” *People v. Linley*, 388 Ill. App. 3d 747, 750 (2009). Information from a concerned citizen is generally thought to be more credible than a tip from an informant who supplies information in exchange for money or other compensation or consideration. *Id.* An officer’s personal knowledge of facts tending to corroborate information received from a member of the public is a significant factor in determining the reliability of the information. *Id.* Although corroboration is especially important when the source of information is anonymous, “ ‘a minimum of corroboration or other verification of the reliability of the information is required,’ ” even when the individual supplying the information has revealed his or her identity. *Id.* at 751 (quoting *Thompson*, 341 Ill. App. 3d at 851). However, a comparatively lower standard of corroboration applies when the information concerns an imminent threat to public safety. *Id.*

¶ 9 Application of these principles here leads us to conclude that the police were engaged in a community-caretaking function. The police acted on information from an identified source, Matt Moore. Although Matt did not have firsthand knowledge of the facts he related to the police—he was conveying what his brother, John Moore, had told him—the basis of an informant’s knowledge is only one factor in determining the reliability of the information based on the totality of the circumstances. See generally *Illinois v. Gates*, 462 U.S. 213, 233-34 (1983). As such, there is no merit to defendant’s argument that “a person who simply relays hearsay information from someone else should be treated no differently than an anonymous caller.” Furthermore, Matt Moore did not

simply pass on a tip learned from a stranger; the information was from an immediate family member who had no apparent reason to lie to him about defendant's behavior.

¶ 10 Additionally, before defendant was stopped, the police were aware of facts that tended to confirm that he might be suicidal. The officers dispatched to locate defendant had learned that he had recently been arrested for domestic battery against his girlfriend. It was reasonable to believe that defendant might be despondent as a result of his apparent relationship troubles and that he might contemplate harming himself. This is true even though, when defendant spoke to his girlfriend, he evidently did not indicate that he was having such thoughts. In addition, the discovery of defendant's cellular phone by the side of the road suggested that he might have intentionally discarded it. Such an impetuous act could suggest that defendant was emotionally unstable. Given the risks of failing to act on the information provided by Matt and John Moore, these facts were sufficient verification of the reliability of the information.

¶ 11 Viewing the conduct of the police objectively yields the conclusion that they were engaged in a function other than the investigation of a crime. The police devoted considerable time and resources to finding defendant, having no particular reason to think that seizing him would yield evidence of a crime. Accordingly, there is no reason to believe that concern about defendant's well-being was a mere pretext to conduct a criminal investigation. Moreover, the balance between "a citizen's interest in going about his or her business free from police interference [and] the public's interest in having police officers perform services in addition to strictly law enforcement" (*McDonough*, 239 Ill. 2d at 272) tips in favor of permitting a traffic stop—a relatively minor intrusion—for the purpose ensuring the safety of an individual who might be at risk of suicide or self-injury.

¶ 12 Defendant argues that, given the time that had elapsed since it was reported that he might be suicidal, the information that the police relied on in seizing defendant was “stale” by the time the seizure occurred. To the contrary, we believe that it would have been irresponsible simply to assume that, during the several hours that had passed, defendant had done no harm to himself and that any thoughts that defendant had of doing so had subsided.

¶ 13 For the foregoing reasons, the judgment of the circuit court of Du Page County is affirmed.

¶ 14 Affirmed.