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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	No. 09-CF-2697
	)	
KURT E. DOPORCYK,	)	Honorable
	)	Timothy Q. Sheldon,
Defendant-Appellee.	)	Judge, Presiding.

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JUSTICE BIRKETT delivered the judgment of the court.  
Justices McLaren and Hutchinson concurred in the judgment.

**ORDER**

*Held:* The trial court erred in granting defendant's motion to quash his arrest and suppress evidence: because the police minimally corroborated a known informant's tip, they had the reasonable suspicion necessary to stop defendant and investigate a report that he had attempted to sell drugs, and by searching the trunk of defendant's vehicle the police did not exceed the scope of defendant's unlimited consent to search during that investigation.

¶ 1 Defendant, Kurt E. Doporcyk, was charged with unlawful possession of a controlled substance with the intent to deliver (720 ILCS 570/401(c)(2) (West 2008)), attempt (unlawful delivery of a controlled substance) (720 ILCS 5/8-4(a) (West 2008)), and unlawful possession of a

controlled substance (720 ILCS 570/402(c) (West 2008)). Defendant successfully moved to quash his arrest and suppress evidence found during a search of his vehicle. The State appeals. For the reasons that follow, we reverse and remand.

¶ 2

## BACKGROUND

¶ 3 A hearing on defendant's motion to quash and suppress was held simultaneously with his bench trial. At the hearing/trial, Jared Prom testified as follows. He was a 17-year-old senior in high school and lived in East Dundee, Illinois. On the evening of September 19, 2009, he was driving down Barrington Avenue in East Dundee. His friend Adam Collingbourne was riding in the passenger seat of the vehicle. As they were driving down Barrington Avenue, they observed a black Lamborghini driving down the road. Because it was a fast, expensive car, it caught Prom's attention, and the boys decided to follow it. The Lamborghini turned onto Guth Street and parked in front of a house. Prom parked next to it. The driver of the Lamborghini got out of the vehicle and walked into the house. Prom then got out of his vehicle to take a picture of the Lamborghini. As Prom was standing by the Lamborghini, two men came out of the house, one of whom was the driver of the Lamborghini. The driver approached Prom and asked what he was doing. Prom asked if he could take a picture of the Lamborghini, and the driver said that he could. After Prom took the picture, the driver said "crack" to Prom. From his tone, Prom understood the driver to be offering Prom some crack. Prom did not answer the driver's question, instead asking the driver another question about the Lamborghini. Prom then got back into his vehicle, and the boys headed to Collingbourne's house. Prom told Collingbourne that the driver had offered him crack. When asked to identify the man who offered him crack, Prom identified an attorney in the courtroom, but stated that he was not 100% sure.

¶ 4 Collingbourne gave the following testimony. He was an 18-year-old senior in high school and lived in East Dundee. On September 19, 2009, he was riding as a passenger in Prom's car. As they were driving, they observed a black Lamborghini, which is not a car often seen in that area. Because Prom wanted to take a picture of the Lamborghini, the boys followed it until it parked at the dead end of Guth Street. The driver of the Lamborghini got out of the vehicle and went into a nearby house. Prom got out of his car to take a picture. Collingbourne remained in Prom's car the entire time. A man came out of the house and began to converse with Prom. Collingbourne did not know whether it was the same man who had been driving the Lamborghini. Because he had the car windows up, Collingbourne was unable to hear the conversation between the man and Prom. When asked to identify the man he observed talking to Prom, Collingbourne identified the same attorney whom Prom identified. Prom got back into his vehicle and told Collingbourne what happened. Once they arrived at Collingbourne's house, Collingbourne called 911.

¶ 5 Officer Daniel Duda of the East Dundee police department testified as follows. On the evening of September 19, 2009, he was dispatched to the area of 22 Guth Street. The dispatch stated that a boy called saying that a man attempted to sell him crack on Guth Street and that the man was driving a Lamborghini. Duda proceeded to the area and observed a black Lamborghini driving west on Barrington Avenue. The Lamborghini did not have a front license plate. It was uncommon to see a Lamborghini in East Dundee. Duda stopped the vehicle, which defendant was driving. At that point, they were approximately one-quarter of a mile from Guth Street.

¶ 6 Duda asked defendant for his driver's license and proof of insurance. Defendant provided Duda with his driver's license. Duda informed defendant that his vehicle fit the description of a vehicle in a recent incident and asked defendant if he had anything illegal on him or in the vehicle.

Defendant replied that he did not. Duda then observed that defendant's eyes were glassy and that he had the slight odor of alcohol about him. Duda asked if defendant had been drinking, and defendant said that he had not. Duda asked where defendant was coming from, and defendant said that he was coming from his friend's house. When asked if his friend's house was on Guth Street, defendant said that he did not know. Duda then asked if defendant's friend lived on a dead-end street, and defendant said that he did. Again, Duda asked if defendant had anything illegal on him or in the vehicle, and again defendant said that he did not. Defendant asked Duda if he (defendant) had tried selling crack to a kid. Duda had not mentioned crack or an incident involving an attempt to sell crack to a kid on Guth Street. Duda then asked if he could search defendant's vehicle. Defendant told Duda that he could search the vehicle but that he would not find anything.

¶ 7 By this point, Sergeant Michael Seyller had arrived at the scene. Duda removed defendant from the vehicle, patted him down, and had him stand with Seyller. Duda searched the passenger compartment of the Lamborghini and did not find any contraband. Duda could not find the lever to open the trunk and so he asked defendant how to open the trunk. Defendant stated that the lever was on the driver's side by the leg area. Duda was then able to open the trunk. In the trunk, Duda found a zipper pouch. When Duda opened the pouch, he found a baggie containing a white powdery substance. Defendant never stated that he did not want Duda to search the vehicle, nor did defendant put any limits on the scope of Duda's search of the vehicle. Defendant was then placed under arrest. Approximately 5 to 10 minutes elapsed from the time Duda stopped defendant to the time defendant consented to the search of the vehicle, and the entire process took approximately 20 to 40 minutes from the time Duda stopped defendant to the time defendant was taken to the police department.

¶ 8 On cross-examination, Duda acknowledged that his report stated that he had informed defendant that his vehicle matched the description of a vehicle involved in an incident related to selling crack cocaine. He also acknowledged that the synopsis he prepared shortly after defendant's arrest stated that he told defendant that his vehicle matched the description of a vehicle involved in an incident related to selling crack cocaine to a juvenile. He further testified, however, that those statements were inaccurate.

¶ 9 The parties stipulated that the white powdery substance found in defendant's vehicle was seven grams of cocaine.

¶ 10 Seyller gave the following testimony. On the evening of September 19, 2009, he went to assist Duda with his stop of defendant. When Seyller arrived at the scene, Duda was removing defendant from the Lamborghini. Defendant stood with Seyller near the curb while Duda searched the Lamborghini. At one point during the search, Duda asked defendant where the trunk was located. Defendant told Duda that it was at the front of the vehicle. Duda then asked defendant how to open the trunk, and defendant gave Duda instructions on how to do so. Duda was not able to find the correct lever initially and so he asked defendant to be more specific as to which lever opened the trunk. Defendant then provided more specific instructions and Duda was able to open the trunk. During his search of the trunk, Duda located a baggie containing a white powdery substance. Defendant was then placed under arrest. During the search, defendant never complained about the search or indicated that he wanted to terminate the search. Nor did defendant ever limit the areas of the vehicle that could be searched.

¶ 11 For purposes of the motion to quash and suppress, the parties stipulated to the admission into evidence of a recording of Collingbourne's 911 call and a transcript of the call. In the call,

Collingbourne informed the 911 dispatcher that a man driving a black Lamborghini with black rims attempted to sell Collingbourne and his friend crack at the dead end of Guth Street. Collingbourne described the man as Caucasian, between the ages of 20 and 35, and wearing a black shirt and pants. Collingbourne gave his full name, his phone number, and the name of the street on which he lived to the dispatcher.

¶ 12 The trial court granted defendant's motion to quash and suppress. In its written order, the trial court stated that it found all of the witnesses to be credible. The trial court concluded that Duda had probable cause to stop defendant's vehicle for the lack of a front license plate but that Duda's questioning of defendant about the incident on Guth Street was unrelated to the license plate violation and unduly prolonged the stop, thus converting the stop into an unlawful detention. The trial court further concluded that defendant's consent to search the vehicle was tainted by the unlawful detention and that by searching the trunk Duda exceeded "permissible bounds."

¶ 13 Following an unsuccessful motion to reconsider, the State brought this timely appeal.

¶ 14 ANALYSIS

¶ 15 On appeal, the State argues that the trial court erred in granting defendant's motion to quash and suppress, because Duda's stop of defendant was independently justified by Collingbourne's tip and Duda's search of defendant's trunk was proper. We agree with the State.

¶ 16 In reviewing a trial court's decision on a motion to suppress, we apply a two-part standard of review. First, the trial court's factual findings are given great deference and will be disturbed only if they are against the manifest weight of the evidence. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). Second, the ultimate legal conclusion as to whether suppression is warranted is reviewed *de novo*. *Luedemann*, 222 Ill. 2d at 542.

¶ 17 In *Terry v. Ohio*, 392 U.S. 1 (1968), the United States Supreme Court held that the public interest in effective law enforcement makes it reasonable in some situations for law enforcement officers to temporarily detain and question individuals even though probable cause for an arrest is lacking. *Terry* authorizes a police officer to effect a limited investigatory stop 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. The facts need not be personally known to the officer conducting the stop; a tip from a member of the public may suffice if, in view of the totality of the circumstances, including the informant's veracity, reliability, and basis of knowledge, there are some indicia of the tip's reliability. *People v. Linley*, 388 Ill. App. 3d 747, 750 (2009). Where the informant has identified himself to authorities, minimal corroboration or verification of the informant's reliability is necessary, because the informant has exposed himself to criminal liability if the report is later proved to be false. *Village of Mundelein v. Thompson*, 341 Ill. App. 3d 842, 851 (2003).

¶ 18 Collingbourne's tip was sufficiently reliable to provide Duda with the reasonable suspicion necessary to conduct a *Terry* stop of defendant's vehicle and question him regarding the incident on Guth Street. Based on our review of the trial court's order and the trial court's use of caselaw involving anonymous informants, it appears that the trial court may have confused the facts of the present case with a case involving an anonymous informant. Collingbourne, however, was not an anonymous informant, as he gave his full name, phone number, and street to the dispatcher when he provided the tip. Accordingly, only minimal corroboration of the tip or verification of Collingbourne's reliability was necessary. That minimal level of corroboration or verification was easily met in this case. Prior to stopping defendant, Duda was able to corroborate the facts that

defendant was driving a black Lamborghini (a car not commonly seen in East Dundee) as described by Collingbourne and was approximately one-quarter of a mile from the location where, Collingbourne reported, the incident had taken place. In addition, Collingbourne was an ordinary citizen and not a paid informant or someone seeking to reap a personal benefit from providing information to the authorities. See *Linley*, 388 Ill. App. 3d at 750 (“All other things being equal, information from a concerned citizen is ordinarily considered more credible than a tip from an informant who provides information for payment or other personal gain.”).

¶ 19 Given that Collingbourne’s tip was sufficiently reliable to serve as an independent basis for temporarily detaining defendant to investigate the tip, defendant’s consent to search the vehicle was not tainted by an unlawful expansion of the scope of the detention or unlawful questioning. The trial court also ruled, however, that the search of the Lamborghini’s trunk exceeded “permissible bounds.” The State argues that Duda’s search of the Lamborghini’s trunk did not exceed the scope of defendant’s consent. We agree, and defendant does not contend that, even if defendant’s consent was not tainted, Duda exceeded the scope of defendant’s consent.

¶ 20 A defendant is entitled to place limitations on the scope of his consent to search and may withdraw his consent to search at any time before incriminating evidence is found. *People v. Baltazar*, 295 Ill. App. 3d 146, 151 (1998). Where, however, a defendant consents to a search of his vehicle for drugs, the right to search extends to closed containers found in the vehicle. *People v. Phillips*, 264 Ill. App. 3d 213, 222 (1994). After being made aware that Duda suspected that he might have drugs on him or in his vehicle, defendant consented to a search of the Lamborghini. Defendant did not place any limits on the scope of the search, nor did he object to any part of the search or withdraw his consent at any time. In fact, when it became apparent that Duda intended to

search the trunk of the Lamborghini but could not figure out how to open the trunk, defendant provided him with instructions on where to find the lever to open the trunk. Under these circumstances, Duda's search of the Lamborghini's trunk and its contents did not exceed "permissible bounds." See *Phillips*, 264 Ill. App. 3d at 224 (the officer did not exceed the scope of the defendant's consent to search by searching the pockets of a jacket found in the trunk of the defendant's motorcycle where the defendant did not place any limitations on his consent, did not object or withdraw his consent, and knew that the officer was looking for drugs).

¶ 21 In sum, Collingbourne's tip provided an independent basis for Duda to conduct an investigatory stop of defendant and to investigate the alleged incident on Guth Street. Because the detention of defendant was proper, his consent to search the Lamborghini was not coerced or tainted. Nor did Duda exceed the scope of that consent.

¶ 22 CONCLUSION

¶ 23 For the reasons stated, the judgment of the circuit court of Kane County is reversed and the matter remanded for further proceedings.

¶ 24 Reversed and remanded.