2012 IL App (2d) 120576-U
No. 2-12-0576
Order filed December 14, 2012

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
Plaintiff-Appellant,	)	
v.	)	No. 12-DT-1094
PAUL D. ANDERSON,	)	Honorable Liam C. Brennan,
Defendant-Appellee.	)	Judge, Presiding.

JUSTICE McLAREN delivered the judgment of the court.
Justices Burke and Hudson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court erred in granting defendant's petition to rescind his summary suspension, as the arresting officer had reasonable grounds to believe that defendant had driven under the influence of alcohol: upon wrecking his car in an accident, defendant exhibited indicia of intoxication and admitted that he was drunk.

¶ 2 Following his arrest for driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(2) (West 2010)), defendant, Paul D. Anderson, petitioned the trial court to rescind his summary suspension on the basis that the police officer had no reasonable grounds to believe that he was driving under the influence. The trial court granted defendant's petition, and the State timely appealed. We reverse.

¶ 3 I. BACKGROUND

¶ 4 On May 8, 2012, the trial court conducted a hearing on defendant's petition and the following testimony was adduced. Aurora police officer Peter Briddell testified for the defense that on March 25, 2012, around 11:15 p.m., he reported to a call involving defendant near the intersection of Montgomery and Eola. Defendant was standing outside of his wrecked car. Officer Briddell admitted that defendant did not perform any field sobriety tests and did not undergo a preliminary breath test before he placed him under arrest. Officer Briddell also admitted that he did not witness the car accident. Officer Briddell asked defendant what had happened, and defendant said that his car stopped moving, and he did not know why.

¶ 5 On cross-examination, Officer Briddell explained that he spoke to one witness, Ted Stevens. Stevens told him that defendant was traveling westbound on Montgomery, made a wide left turn, struck the curb on Montgomery and Eola, and continued a short distance south on Eola. The suspension on defendant's car was broken, rendering the car immobile. Officer Briddell observed that defendant was swaying. He asked defendant if he had had anything to drink, and defendant said "too much." He asked defendant how much he had had to drink but did not remember if there was much more follow-up after that. Officer Briddell asked defendant to perform field sobriety tests, and defendant responded "why, I'm drunk." Officer Briddell asked defendant again if he would perform the field sobriety tests, and defendant responded a second time with "you know I'm drunk." Defendant never indicated that anyone else had been driving the vehicle.

¶ 6 The trial court found that defendant made a *prima facie* showing that Officer Briddell had no reasonable grounds for arrest and that the burden now shifted to the State. The State recalled Officer Briddell. Officer Briddell testified that, when asking defendant about his consumption of alcohol, he observed that the front of defendant's pants was wet, which he believed was abnormal.

He observed defendant's eyes to be glassy but did not recall noticing any odor of alcohol on defendant. Officer Briddell testified that these signs, coupled with defendant's admissions that he was drunk, led him to believe that defendant had been driving under the influence. On cross-examination, Officer Briddell admitted that his police report did not mention that defendant's eyes were glassy.

¶ 7 The trial court then granted defendant's petition to rescind the statutory summary suspension. The court stated that it had the following facts: an accident, which was suggestive of impairment; defendant's statements that he was drunk; and defendant was swaying and had glassy eyes. The court noted that it did not know whether defendant was swaying side to side or back to front or how severely he swayed. It heard nothing about whether defendant's speech was slurred, whether defendant was crying or belligerent, or whether defendant had an unsteady gait. It heard Officer Briddell testify that he did not recall an odor of alcohol and had no information regarding the cause of defendant's wet pants. For these reasons, the court rescinded the summary suspension pursuant to section 118.1(b)(2) of the Illinois Vehicle Code (625 ILCS 5/2-118.1(b)(2) (West 2010)).

¶ 8 II. ANALYSIS

¶ 9 A hearing on a petition to rescind a summary suspension is a civil proceeding in which the driver bears the burden of proof. *People v. Wear*, 229 Ill. 2d 545, 559-60 (2008). If the driver establishes a *prima facie* case for rescission, the burden then shifts to the State to present evidence justifying the suspension. *Id.* at 560. Four issues may be raised in a rescission hearing, but we are concerned only with the one issue that defendant pursued—whether the officer had reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol. 625 ILCS 5/2-118.1(b)(2) (West 2010). Courts have determined

"reasonable grounds" by applying a probable cause analysis. *Wear,* 229 Ill. 2d at 560. "Reasonable grounds" and "probable cause" have been used interchangeably by courts dealing with summary suspension proceedings because the issues raised in a petition to rescind are the same as the issues raised in a motion to suppress. *Id.* Thus, the standard of review applied to rulings made on petitions to rescind is the same two-part standard of review used in rulings made on motions to suppress. *Id.* at 561. In that two-part standard of review, a reviewing court will reverse a trial court's factual findings only if they are against the manifest weight of the evidence, but it will review *de novo* the trial court's ultimate legal ruling as to whether the petition to rescind should have been granted or denied. *Id.* at 561-62. This standard allows for great deference to the fact finder, whose duty it is to draw inferences and weigh the facts, but allows the reviewing court to assess those facts in relation to the legal issues. *Id.* In this case, the parties do not dispute the trial court's factual findings and thus our review focuses solely upon the trial court's ultimate legal conclusion, which we review *de novo*.

¶ 10 Probable cause[1] to arrest exists when the facts known to the officer at the time of the arrest are sufficient to lead a reasonably cautious person to believe that the defendant has committed a crime. *Id.* at 563. The existence of probable cause depends upon the totality of the circumstances at the time of the arrest. *Id.* at 564. When dealing with probable cause, the court deals with probabilities, not technicalities, in terms of a reasonably prudent man, not a legal technician. *Id.*

¶ 11 In *People v. Brodeur*, 189 Ill. App. 3d 936, 940-41 (1989), the appellate court determined that the officer had reasonable grounds to arrest the defendant for DUI where the defendant had rear-

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[1] As stated, we will use the terms "reasonable grounds" and "probable cause" interchangeably.

ended a truck and had red, bloodshot eyes, slurred speech, and a strong odor of alcohol on her breath. The dissenting justice argued that the indicia of alcohol consumption were insufficient without additional evidence "in the nature of admissions and/or observations of the defendant or observations of defendant's vehicle" that established that the defendant was "under the influence." *Id.* at 944 (McLaren, J., dissenting). This dissent is consistent with the decision in *People v. Boomer*, 325 Ill. App. 3d 206, 208-10 (2001), where the court noted that the details of the defendant's motorcycle accident were unknown, the defendant suffered a severe injury to his mouth and could not communicate other than by blinking, and there was an odor of alcohol on the defendant. While the defendant acknowledged to the officer that he had been drinking, the quantity was unknown, and because of the defendant's injuries there were no other indicia such as swaying, stumbling, slurred speech, or failed field sobriety tests. *Id.*

¶ 12 The case at bar is distinguishable from *Boomer* and satisfies the dissent's concerns in *Brodeur* in that, in addition to defendant's glassy eyes and swaying, the details of his accident were known and he admitted not just to consuming alcohol, but that he was intoxicated and thus was guilty of the offense. Officer Briddell was told by Stevens that defendant turned widely, striking the curb, and continued on until his car stopped. Defendant told Officer Briddell that he did not know why his car stopped moving. Officer Briddell further observed that defendant's eyes were glassy, his pants were wet in the front, and he was swaying. When asked if he had had anything to drink, defendant stated that he had had "too much" to drink. Defendant further refused to take the field sobriety tests on two occasions, indicating that they were unnecessary because he admitted to being drunk. The facts presented here are in line with *People v. Cortez*, 361 Ill. App. 3d 456, 464 (2005), which held that the officer had probable cause where the defendant had rolled his car over, exhibited

bloodshot eyes and slurred speech, smelled of alcohol, swayed as he spoke, and admitted to having consumed beer before driving. Probable cause is not guilt beyond a reasonable doubt. *People v. Davis*, 2012 IL App (2d) 110581, ¶ 50 (holding reasonable grounds existed for DUI arrest where there was a strong odor of cannabis coming from the car, the defendant admitted there were rolling papers in the car, and the defendant admitted that she smoked cannabis earlier in the day). The facts known to Officer Briddell at the time of defendant's arrest (glassy eyes, swaying, a one-car, inexplicable accident, defendant's statement that he did not know why his car stopped, defendant's refusal to take the field sobriety tests because he admitted that he had had "too much" to drink and was "drunk," and his wet pants) were sufficient to lead a reasonably prudent man to conclude that defendant had committed the offense of DUI.

¶ 13 III. CONCLUSION

¶ 14 Based on the foregoing reasons, we reverse the judgment of the circuit court of Du Page County.

¶ 15 Reversed.