

No. 1-08-0760

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 04 CR 8865
)	
SHERROD GUY,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.
Presiding Justice Hyman and Justice Neville concurred in the judgment.

ORDER

- ¶ 1 **Held:** The trial court properly denied defendant's motion to quash arrest and suppress statements when there was probable cause to arrest him after a police investigation corroborated certain details of an informant's tip.
- ¶ 2 Following a bench trial, defendant Sherrod Guy a/k/a Sherrod Taylor was convicted of felony murder and aggravated kidnapping. He was sentenced to consecutive prison terms of 21 and 6 years, respectively. On appeal, Guy contends that the trial court erred when it denied his motion to quash arrest and suppress statements because the results of an investigation provided officers only with sufficient reasons to talk to and question him rather than probable cause to arrest him. We affirm.

¶ 3 Guy's arrest and prosecution arose from the shooting death of the victim, Walter Gills, on February 17, 2002. The State's theory of the case was that Sherome Griffin (Sherome), his brother, Andre Griffin (Dre), Antonio Young, and Guy restrained the victim and took certain items from Gills' apartment and later drove Gills to his mother's home. As Gills attempted to flee in the alley behind his mother's garage, he was fatally shot. As described below, an individual by the name of Anthony Thomas learned the details of the incident from Sherome shortly after it occurred and contacted police nearly two years later while Thomas was incarcerated on unrelated charges. Thomas later wore a listening device and engaged Sherome in a conversation about Gills' death. Guy was subsequently arrested and, within an hour after his arrest, confessed to his role in the crimes. Guy's confession was later videotaped.

¶ 4 After he was indicted, Guy filed a motion to quash his arrest and suppress his confession on the ground that the police lacked probable cause to arrest him. The following evidence was adduced during the hearing.

¶ 5 Thomas first contacted a corrections officer in Cook County Jail in January 2004 regarding information he claimed to have about Gills' murder. At the time, Thomas, a gang member and convicted felon, was facing burglary, armed robbery and aggravated fleeing charges. Thomas' information was passed on to Detective Thomas McGreal, a detective with the Chicago Police Department Gang Intelligence Unit who was assigned to the jail. McGreal testified that he spoke with Thomas on January 18, 2004.

¶ 6 During the interview, Thomas gave McGreal the following information. Sherome, an individual Thomas had known since childhood, admitted to Thomas the evening of Gills' murder that he had committed the "hit." Thomas saw Sherome, Dre, and two other individuals known to him as "Slim" and "Tone" that evening as they all pulled up to his house in a Toyota Land Cruiser belonging to Slim's mother. Sherome was driving the vehicle and Slim was in the

passenger seat. In his conversation with McGreal, Thomas identified Gills by name, the location where he was shot, and certain of the items taken from Gills including a baby mink coat, an adult mink coat, video games, and certain firearms. Thomas informed McGreal that he had observed those items in the back of the Toyota and that Sherome inquired whether Thomas would be interested in selling some of them. Thomas stated that, according to what Sherome told him, 1) a white Lexus was involved, 2) Gills had been shot in the back, 3) Gills' infant son was left in a van during the incident, 4) duct tape and zip strips had been used, and 4) Slim and Tone were involved. Sherome told Thomas that Slim and the others were in the car with him at the time of the robbery. Although Thomas knew Slim and Tone from the neighborhood, he only knew their nicknames and where they lived.

¶ 7 McGreal then contacted a detective at Area 2. He learned that Sherome was the prime suspect in Gills' death, that Sherome had been interviewed regarding the murder and that Sherome's fingerprint was found on the van where Gills' child had been located. McGreal's further investigation corroborated Thomas' statement regarding the use of duct tape and zip strips, which were found in the van. Gills had, in fact, been shot in the back and a white Lexus in his mother's garage was found at the scene with its trunk open.

¶ 8 After speaking to Thomas a second time, McGreal drove Thomas around so that he could identify certain locations relevant to the case. Thomas identified 7542 South Prairie as the location where Slim lived and 8039 S. Martin Luther King Drive as the address where Tone lived with his girlfriend. Thomas also identified Sherome's mother's house, the location where Sherome worked.

¶ 9 During a subsequent interview, Thomas was shown approximately 50 photographs. He identified a photograph of Guy as the person known to him as Slim and who was present at Thomas' house the night of Gills' death with property taken in the robbery in the back of his

mother's car. Thomas also identified Dre and Young, who he knew as Tone, as well as "Ug" and "Nook", the people to whom he had sold certain of the property taken in the robbery. The police confirmed that Guy lived at 7542 South Prairie, where Thomas told them Slim lived. Thomas told the detectives that a .40 caliber gun was used to abduct Gills but that Gills was shot with his own .38 caliber revolver.

¶ 10 McGreal then went before a judge to request an "overhear order" on Sherome, which was granted. In a conversation with Thomas on March 11, 2004, Sherome admitted that he had "murked" (killed) Gills. Sherome confirmed that Gills was shot with a .38 caliber revolver. Sherome also stated that "Dre and them had the 40." Sherome and Thomas discussed the fact that Tone (Young) was currently in prison.¹ Sherome did not mention Guy's involvement during this conversation.

¶ 11 On March 15, 2004, police interviewed Tamika Turner, with whom Gills was living at the time of his death, and confirmed that the items identified by Thomas as being in the back of the Toyota had been taken from their apartment on the night Gills was murdered. Guy was arrested on March 18, 2004, at the South Prairie residence.

¶ 12 Private detective John Byrne testified on Guy's behalf. When Byrne interviewed Thomas, Thomas confirmed that he initiated contact with the police and that no threats or promises had been made to him in connection with his cooperation in the investigation of Gills' murder. Thomas stated that Sherome came to his house with merchandise to sell. According to Byrne, Thomas told him that although he looked at this merchandise, he did not take any. However, he did obtain a gun that he passed on to a friend. Thomas did not know Guy, but he did identify Guy as one of the men in Sherome's car that night. Thomas "volunteered" that the police showed

¹Although police later interviewed Young in prison, he denied his involvement and has not been charged in Gills' robbery or murder.

him a photograph of a "dude" he had seen on the street once or twice, but that he was not sure that "it was him." When Byrne asked Thomas whether Sherome told him "Sherrod Guy" was involved in the robbery and murder, Thomas said no. Byrne did not ask whether Sherome told Thomas that Slim was involved.

¶ 13 After hearing argument, the trial court stated that the question before the court was whether the police had a right to take Guy to the police station and talk to him about Gills' robbery and murder based on the information they had. In other words, was the information from Thomas "enough to start talking to [defendant] and see where it went." At the conclusion of the hearing, the court characterized this as a "close case" and took the matter under advisement. In its oral ruling denying Guy's motion, the court concluded that the police took Thomas' information seriously and attempted to corroborate it. The police also obtained photographs in order to identify the offenders and conducted an investigation in order to learn Guy's identity. The trial court concluded that considering the totality of the circumstances, it could not say that the police acted without probable cause when they arrested Guy. Accordingly, the motion to suppress was denied.

¶ 14 Guy's case was severed from that of his codefendants and the matter proceeded to a bench trial. The parties stipulated to certain testimony presented at Sherome's jury trial. However, the transcripts from Sherome's trial are not included in the record on appeal. The parties also stipulated to the testimony given at the hearing on Guy's motion to suppress. Guy's inculpatory statement, memorialized on videotape, was published to the court. A transcript of the statement was placed in the record.

¶ 15 On appeal, Guy contends that the trial court erred as a matter of law when it denied his motion to quash arrest and suppress statements because the court asked the wrong question, *i.e.*, whether the police had a reason to talk to Guy regarding the victim's death, rather than whether

the police had probable cause to arrest him. Guy argues that because the court asked the wrong question, it came to the wrong answer, and improperly denied the motion to suppress.

¶ 16 Although Guy contends that the trial court applied the wrong standard in its analysis of the motion to suppress, this court reviews a trial court's ultimate ruling on a motion to suppress involving probable cause *de novo*. *People v. Grant*, 2013 IL 112734, ¶ 12. Therefore, regardless of the trial court's explanation for its denial of Guy's motion, we will review *de novo* the ultimate issue of whether the motion to quash arrest and suppress statements was properly denied.

¶ 17 In reviewing a ruling on a motion to quash arrest and suppress evidence, this court applies a two-part standard of review. *Grant*, 2013 IL 112734, ¶ 12. While we accord deference to the trial court's factual findings and will reverse those findings only if they are against the manifest weight of the evidence, we review *de novo* the court's ultimate ruling that probable cause existed. *Grant*, 2013 IL 112734, ¶ 12.

¶ 18 An arrest executed without a warrant is valid only if supported by probable cause. *People v. Jackson*, 232 Ill. 2d 246, 274-75 (2009). "Probable cause 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 arrestee has committed a crime." *People v. Wear*, 229 Ill. 2d 545, 563-64 (2008), citing *People v. Love*, 199 Ill. 2d 269, 279 (2002). The existence of probable cause depends upon the totality of the circumstances at the time of the arrest. *Wear*, 229 Ill. 2d at 564. Although probable cause requires more than mere suspicion, it does not require proof beyond a reasonable doubt. *People v. Arnold*, 349 Ill. App. 3d 668, 671-72 (2004). Whether probable cause exists is governed by "commonsense considerations." and the calculation concerns the probability of criminal activity, not proof beyond a reasonable doubt. *Jackson*, 232 Ill. 2d at 275; see also *Wear*, 229 Ill. 2d at 564 (probable cause does not require a showing that the belief that the defendant has committed a crime be more likely true than false).

¶ 19 When police officers work together, probable cause may be established "from all the information collectively received" even if that information is not known by the officer who actually performs the arrest. *People v. Bascom*, 286 Ill. App. 3d 124, 127 (1997). An arresting officer can rely on the knowledge of fellow officers. *People v. Crowell*, 94 Ill. App. 3d 48, 50 (1981).

¶ 20 Probable cause for a warrantless arrest can be based on information from a third party. *Arnold*, 349 Ill. App. 3d at 672. Information received from a third party is reliable when a police investigation yields facts that independently verify a substantial part of the information learned from the third party. *Arnold*, 349 Ill. App. 3d at 672. Even though the subsequent investigation does not yield independent verification of a defendant's involvement in a crime, when a substantial portion of a third party's story had been corroborated through police investigation, "the corroboration lends credence to the remaining unverified portion." *People v. James*, 118 Ill. 2d 214, 225 (1987).

¶ 21 Here, considering the totality of the circumstances, probable cause to arrest Guy existed at the time of his arrest. Thomas contacted police with information regarding Gills' death. He identified Gills by name, Sherome as the shooter, the location of the incident, and certain proceeds of the crime. He also indicated that Sherome told him that Sherome's brother Dre and individuals known to Thomas as Slim and Tone were involved, that Gills' son was in the van during the incident, and that duct tape and zip strips had been used. McGreal then contacted a detective at Area 2 and confirmed many of these details. Thus, McGreal's investigation independently corroborated details from his initial conversation with Thomas. See *Arnold*, 349 Ill. App. 3d at 672 (sufficient reliability exists when a police investigation yields facts that independently verify a substantial part of the informant's information). McGreal further corroborated Thomas's story when he had Thomas identify locations relevant to the case,

including where Slim lived. Thomas later identified Guy from a photograph as the person who 1) he knew as Slim, 2) was at his house the night of Gills' death with items taken from Gills' apartment and 3) lived at the location identified by Thomas. The conversation between Thomas and Sherome, during which Sherome admitted that he had shot Gills with a .38 caliber revolver and that others were involved, further corroborated Thomas' information and its reliability.

Arnold, 349 Ill. App. 3d at 672 (probable cause for a warrantless arrest can be based on information from a third party).

¶ 22 Thus, at the time of Guy's arrest, officers had corroborated Thomas' statement that Sherome was the shooter through the "overhear" conversation during which Sherome admitted that he had "murk[ed]" Gills' with a .38 caliber revolver and McGreal's investigation revealed that Sherome's fingerprint had been found on the van where the Gills' son was located. Sherome had also indicated to Thomas that he did not act alone when he said, "Dre and them had the 40." Thomas had identified Guy as being with Sherome and proceeds of the robbery on the night of the Gills' death in a car belonging to Guy's mother. The investigation had corroborated Thomas' statement regarding the property in the vehicle as having been taken from Gills' apartment and that Guy, whom Thomas identified as Slim, lived at the same address previously identified by Thomas as Slim's address. Based on the totality of the circumstances, the facts known to the officers at the time of Guy's arrest were sufficient to lead a reasonably cautious person to believe that Guy had committed a crime, *i.e.*, been involved, at a minimum, in the robbery of Gills. See *Wear*, 229 Ill. 2d at 563-64.

¶ 23 Although Guy argues, based on the fact that Sherome did not specifically identify him as involved during the overhear conversation, that he could have merely been present as an eyewitness while Sherome committed the offenses at issue, probable cause does not require proof beyond a reasonable doubt. *Arnold*, 349 Ill. App. 3d at 671-72; see also *People v. Rodriguez-*

Chavez, 405 Ill. App. 3d 872, 876 (2010) ("possible innocent explanations for the individual circumstances or even for the totality of the circumstances does not necessarily negate probable cause"). Rather, common sense indicates that if the police investigation was able to corroborate so many of the details provided by Thomas regarding Gills' robbery and death, the police had probable cause to believe that Guy was involved in the criminal activity. See *Jackson*, 232 Ill. 2d at 275. Because the facts at the time of Guy's arrest would have led a reasonably cautious person to believe that Guy had committed a crime, probable cause to arrest Guy existed (*Wear*, 229 Ill. 2d at 563-64), and the trial court did not err when it denied the motion to quash arrest and suppress statements (*Grant*, 2013 IL 112734, ¶ 12).

¶ 24 For the reasons stated above, the judgment of the circuit court of Cook County is affirmed.

¶ 25 Affirmed.