

**NO. 01-24-00877-CR**

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**IN THE COURT OF APPEALS  
FIRST JUDICIAL DISTRICT  
HOUSTON, TEXAS**

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Clerk of The Court

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**CHARLES LEE POLLARD,  
APPELLANT**

**V.**

**THE STATE OF TEXAS,  
APPELLEE**

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**ON APPEAL FROM THE COUNTY COURT  
CHAMBERS COUNTY, TEXAS  
TRIAL COURT CAUSE No. 23CCR0715**

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**APPELLANT'S BRIEF**

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**ORAL ARGUMENT REQUESTED**

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### **Trial Judge**

Honorable Jimmy Sylvia  
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Chambers County, Texas

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## **TO THE HONORABLE JUSTICES OF THIS COURT:**

CHARLES LEE POLLARD, Appellant, under Texas Rule of Appellate Procedure 38, files this brief on appeal from the trial court judgment.

### **STATEMENT OF THE CASE**

This is an appeal from a misdemeanor driving while intoxicated conviction. Appellant was charged by information with driving while intoxicated. (CR 13). On October 18, 2024, a jury found Appellant guilty. (CR 253, 254). The trial court assessed punishment at 15 days confinement in the Chambers County Jail and a \$750 fine. (CR 254). On November 4, 2024, Appellant timely filed a notice of appeal. (CR 290). On April 8, 2025, the trial court certified Appellant's right to appeal. (SCR 14).

### **STATEMENT REGARDING ORAL ARGUMENT**

This appeal presents a unique fact pattern related to the reliability of a citizen-informant's tip. Appellant believes oral argument would assist this Court in its decision.

## **ISSUE PRESENTED**

The trial court erred by denying Appellant's motion to suppress the traffic stop.

## **STATEMENT OF FACTS**

On October 16, 2024, a jury was selected in this trial. (CR 215-19). On October 18, 2024, Pollard filed a written motion to suppress, specifically asking the trial court to suppress all evidence obtained as a result of an illegal traffic stop. (CR 220). On October 18, 2024, the trial court held a hearing on Appellant's motion to suppress. (RR 4, CR 220).

Baytown Police Officer Clayton Breeding was the only witness to testify at the motion to suppress hearing. Officer Breeding testified that, on June 5, 2022, he was dispatched to a mobile home park in reference to a group of females involved in an altercation. (RR 5, 10). When he arrived at the mobile home park, people began yelling at him that a vehicle had just been stolen and was leaving the scene. (RR 6, 10). He believed these people were involved in the altercation and lived at the mobile home park. (RR 11). Officer Breeding was given no description of the alleged stolen vehicle or who was alleged to have stolen it. (RR 6, 10). As he circled around the back of the mobile home park, he observed a line of four vehicles ahead of him leaving the park. (RR 6, 10) (State's Ex. 2). Officer Breeding planned to stop the first vehicle in line so that all four

vehicles would stop. (RR 10-11). As the vehicles approached a fork in the road, the first vehicle in line turned left and the remaining three vehicles all turned right. Officer Breeding followed the three vehicles to the right, activated his emergency lights, and conducted a traffic stop on the first vehicle that turned right, a red Honda driven by Appellant. (State's Ex. 2). Officer Breeding testified that he did not observe Appellant commit any traffic violation or engage in any suspicious behavior, and he had no specific information from dispatch to suggest Appellant's vehicle had been involved in any criminal activity. (RR 7-8). He did not have a warrant to seize Appellant. (RR 5). Once he stopped Appellant's vehicle, he approached Appellant and observed signs of intoxication. (RR 12). Appellant was arrested for driving while intoxicated. (CR 257, State's Ex. 3).

Appellant argued that Officer Breeding did not have reasonable suspicion to stop his vehicle and that the initial detention was unlawful. At the conclusion of the suppression hearing, the trial court denied Appellant's motion. (RR 23, CR 233). No written or oral findings of fact or conclusions of law were made.



## **SUMMARY OF THE ARGUMENT**

Officer Breeding lacked reasonable suspicion to detain Appellant. He testified that he did not observe Appellant commit any traffic violation or engage in any suspicious behavior prior to stopping him. The officer's sole reason for stopping Appellant's vehicle was based on an anonymous tip from an unidentified person that a vehicle had just been stolen. The tip provided no description of the stolen vehicle and gave no indication that Appellant was involved in the alleged crime. The officer stopped Appellant solely because he happened to be close to where a vehicle was allegedly stolen. This amounts to no more than a mere hunch and does not justify a detention.

## ISSUE NUMBER ONE

The trial court erred by denying Appellant's motion to suppress the traffic stop.

### **Standard of Review**

An appellate court reviews a trial court's ruling on a motion to suppress evidence under a bifurcated standard of review. *Lerma v. State*, 543 S.W.3d 184, 189-90 (Tex. Crim. App. 2018). The appellate court affords almost total deference to the trial court's determination of historical facts but reviews de novo whether those facts are sufficient to give rise to reasonable suspicion in the case. *Id.*

### **Reasonableness of the Traffic Stop**

State and federal law both protect against unreasonable searches and seizures by government officials. TEX. CONST. art. I § 9; U.S. CONST. amend. IV. However, a police officer may stop and briefly detain a person for investigative purposes if the officer has reasonable suspicion supported by articulable facts that criminal activity may be afoot. *Terry v. Ohio*, 392 U.S. 1, 30 (1968). The reasonableness of a temporary detention must be examined in terms of the totality of the circumstances and will be justified when the detaining officer has specific articulable facts, which taken together with rational inferences from those facts, lead him to conclude that the person

detained actually is, has been, or soon will be engaged in criminal activity. *Woods v. State*, 956 S.W.2d 33, 38 (Tex. Crim. App. 1997). These facts must amount to something more than an inchoate and unparticularized suspicion or hunch. *Id.* at 35. When determining whether an officer had reasonable suspicion to conduct a traffic stop, a reviewing court looks only at those facts known to the officer at the inception of the traffic stop. *State v. Griffey*, 241 S.W.3d 700, 704 (Tex. App.—Austin 2007, pet. ref'd) (citing *Wong Sun v. United States*, 371 U.S. 471, 484 (1963)). The factual basis for stopping a vehicle need not arise from the officer's personal observation but may be supplied by information acquired from another person. *Brother v. State*, 166 S.W.3d 255, 257 (Tex. Crim. App. 2005).

In a suppression hearing on an alleged Fourth Amendment violation, the defendant bears the initial burden of producing evidence that rebuts the presumption of proper police conduct. *Ford v. State*, 158 S.W.3d 488, 492 (Tex. Crim. App. 2005). This burden is satisfied by establishing that a seizure occurred without a warrant. Once a defendant has made this showing, the burden of proof shifts to the State to establish that the seizure was reasonable. *Id.* Here, once Officer Breeding testified that he did not have a warrant to seize

Appellant, it became the State's burden to present sufficient evidence that the stop was reasonable.

**Was the citizen-informant's tip sufficiently reliable?**

Officer Breeding's sole basis for stopping Appellant came from information provided to him from a "group of people" who were present at the scene when he arrived. (RR 6, 10-11). Reasonable suspicion may be established based on information provided to police officers by citizen-informants if that information is adequately corroborated by the stopping officer. *Brother*, 166 S.W.3d at 259.

But how reliable is the "citizen-informant" in this case? The record contains very little information about how Officer Breeding received this tip about a stolen vehicle. He testified that the tip came from a "group of people" who he believed lived at the mobile home park and were involved in the altercation for which he was dispatched. (RR 6, 10-11). The record contains no additional identifying information about the citizen-informant. There was no evidence that Officer Breeding or any other law enforcement personnel spoke with the citizen-informant after the traffic stop or that the citizen-informant provided sufficient identifying information. Whoever provided Officer Breeding with the tip should be treated as an anonymous citizen informant for purposes

of determining whether reasonable suspicion to stop existed. *See Nacu v. State*, 373 S.W.3d 691, 694 (Tex. App.—San Antonio 2012, no pet.) (face-to-face citizen informant treated as anonymous because at the time of the incident, she did not identify herself by name); *Tyler v. State*, 491 S.W.3d 1, 4 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2016, no pet.) (citizen informant treated as anonymous because he did not give officer his name or other identifying information prior to the traffic stop even though he later testified at trial).

An anonymous tip alone will rarely establish the level of suspicion required to justify a detention. *Hawes v. State*, 125 S.W.3d 535, 538 (Tex. App.—Houston [1<sup>st</sup> Dist.] 2002, no pet.) (citing *Florida v. J.L.*, 529 U.S. 266, 270 (2000)). But there are situations in which an anonymous tip exhibits sufficient indicia of reliability to justify a detention. *Hawes*, 125 S.W.3d at 538. A tip is entitled to greater weight when the informant gives a detailed description of the wrongdoing, along with a statement that the informant observed the event firsthand. *Taflinger v. State*, 414 S.W.3d 881, 886 (Tex. App.—Houston [1<sup>st</sup> Dist.] 2013, no pet.). Additionally, reliability significantly improves when a citizen-informant provides self-identifying information that makes himself accountable for the intervention. *Id.* (citing *Martinez v. State*, 348 S.W.3d 919, 923 (Tex. Crim. App. 2011)).

Based on the record in this case, the anonymous tip did not exhibit sufficient indicia of reliability to justify a detention. It wasn't simply that the informant failed to provide any self-identifying information, though that does hurt the overall reliability of the tip. Perhaps more importantly, the informant failed to provide any sort of description of the stolen vehicle that would allow a police officer to corroborate in any way. The only information Officer Breeding received was that a vehicle had just been stolen. The informant failed to identify a single descriptor of the vehicle – make, model, color, license plate number. The informant failed to identify which direction the stolen vehicle went. The informant failed to identify any of the four vehicles Officer Breeding attempted to stop as the stolen vehicle. The informant's tip was not sufficiently reliable to justify Appellant's detention.

**Did the officer properly corroborate the tip?**

Even a reliable tip from an eyewitness must be properly corroborated by the police officer for the traffic stop to be considered reasonable. *See Brother*, 166 S.W.3d at 259. Corroboration refers to whether the police officer, in light of the circumstances, confirms enough facts to reasonably conclude that the information given to him is reliable enough to justify a temporary detention. *Id.* at 259 n.5. Under Texas law, there is an inverse relationship between the

reliability of the informant and the amount of corroboration needed to justify the stop – the less reliable the tip, the more corroborating information is needed. *Taflinger*, 414 S.W.3d at 886. Here, where the informant’s tip was not particularly reliable, Officer Breeding needed significant corroboration before he could justify stopping Appellant.

Officer Breeding failed to appropriately corroborate the informant’s tip in order to justify the stop. Specifically, there was not appropriate corroboration that Appellant was involved in any criminal activity. When Officer Breeding arrived at the mobile home park, he was informed that a vehicle had just been stolen. He was given no additional information about the stolen vehicle, but he observed a line of four vehicles leaving the park. He acknowledged during the suppression hearing that he actually “wanted to stop the first vehicle to get them all to stop and hopefully determine at that point if a vehicle was stolen.” (RR 12). Officer Breeding did not have any information linking Appellant or his vehicle to any criminal activity. (RR 7). Appellant was stopped simply for being in the area where a vehicle was said to have been stolen. This amounts to no more than a mere hunch that Appellant was involved in the reported criminal activity.

Under the totality of the circumstances, Officer Breeding's independent observations coupled with the informant's tip did not establish reasonable suspicion that Appellant was involved in criminal activity. Under both the Texas Constitution and the United States Constitution, this was an illegal seizure. *See* TEX. CONST. art. I § 9; U.S. CONST. amend. IV. The trial court erred by denying Appellant's motion to suppress. Any evidence obtained as a result of the illegal traffic stop should have been suppressed. *See* TEX. CODE CRIM. PROC. art. 38.23.(a).

### **PRAYER**

Appellant asks this Court to reverse the judgment of the trial court and remand the cause to that court for further proceedings.

Respectfully submitted,

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## **CERTIFICATE OF COMPLIANCE**

I certify that this document contains 2,172 words, and is in compliance with Texas Rule of Appellate Procedure 9.4.

/s/ Matt DeLuca  
Matt DeLuca

## **CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on Ashley Cain Land, Chambers County Attorney's Office, at [acland@chamberstx.gov](mailto:acland@chamberstx.gov) through [efile.txcourts.gov](http://efile.txcourts.gov) on the same date it was filed with this Court.

/s/ Matt DeLuca  
Matt DeLuca

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