

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ROBERT JAMES WHITE,

Defendant-Appellee.

UNPUBLISHED

May 17, 2005

No. 252245

Midland Circuit Court

LC No. 03-006121-AR

Before: Murphy, P.J., and White and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals by delayed leave granted the circuit court order reversing the district court's denial of defendant's motion to suppress. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's findings of fact regarding a motion to suppress evidence for clear error. *People v Oliver*, 464 Mich 184, 191; 627 NW2d 297 (2001); *People v Sobczak-Obetts*, 463 Mich 687, 694; 625 NW2d 764 (2001). To the extent that the trial court's decision on a motion to suppress involves interpretation of the law or application of a constitutional standard, review is de novo. *People v Attebury*, 463 Mich 662, 668; 624 NW2d 912 (2001); *People v Harrington*, 258 Mich App 703, 706; 672 NW2d 344 (2003).

“[A] police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possibly criminal behavior even though there is no probable cause to make an arrest.” *Terry v Ohio*, 392 U S 1, 22; 88 S Ct 1868; 20 L Ed 2d 889 (1968). Police officers may make a brief, investigatory stop if they possess a “reasonable suspicion” that criminal activity is afoot. *People v Custer*, 465 Mich 319, 326-327; 630 NW2d 870 (2001), quoting *People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996).

In *Oliver, supra*, our Supreme Court noted the requirements for a valid investigatory stop based on reasonable suspicion:

The brief detention of a person following an investigatory stop is considered a reasonable seizure if the officer has a reasonably articulable suspicion that the person is engaging in criminal activity. The reasonableness of an officer's suspicion is determined case by case on the basis of the totality of all the facts and circumstances. In determining whether the officer acted reasonably

in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or hunch, but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience.

Although this Court has indicated that fewer facts are needed to establish reasonable suspicion when a person is in a moving vehicle than in a house, some minimum threshold of reasonable suspicion must be established to justify an investigatory stop whether a person is in a vehicle or on the street.

Further, in determining whether the totality of the circumstances provide reasonable suspicion to support an investigatory stop, those circumstances must be viewed as understood and interpreted by law enforcement officers, not legal scholars Also, common sense and everyday life experiences predominate over uncompromising standards. [464 Mich at 192 (citations and internal quotation marks omitted).]

The totality of the circumstances must be evaluated in light of a law enforcement officer's knowledge of patterns of operation of certain kinds of lawbreakers. From this information, a trained officer draws inferences and makes deductions that might elude an untrained person. *Id.* at 196; *People v Nelson*, 443 Mich 626, 636; 505 NW2d 266 (1993).

In this case, the officer testified that, on the basis of his experience with persons leaving the scene of an accident, and in view of the lack of traffic on a residential road at approximately 2:00 a.m. on a Monday morning, there was a high probability that the person whose tracks he was following was in the car he stopped. His suspicions were also aroused by the fact that the person had been dropped off in the parking lot of a business that was closed for the night. In view of the fact that it was cold and snowing, a person would not be likely to walk very far. On these facts, police had a reasonable suspicion sufficient to justify the stop under *Terry, supra*. Consequently, the circuit court erred in reversing the district court's decision with regard to the motion to suppress.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Michael R. Smolenski