

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
January 21, 2016

v

LYNNE ANN HODGES,  
Defendant-Appellant.

No. 326419  
Branch Circuit Court  
LC No. 14-091318-FH

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

DUANE ROY HODGES,  
Defendant-Appellant.

No. 327233  
Branch Circuit Court  
LC No. 14-091320-FH

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Before: BECKERING, P.J., and GLEICHER and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated appeals, defendants, Lynne Ann Hodges and Duane Roy Hodges, appeal by leave granted the trial court's orders denying their separate motions to suppress the evidence obtained during a traffic stop and to dismiss the charges against them. We conclude that the trial court did not err when it determined that the officer had a reasonable suspicion sufficient to warrant an investigatory stop. Because the officer properly obtained the evidence after a lawful stop, the trial court did not err when it refused to suppress the evidence and denied the motions. Accordingly, we affirm in both dockets.

## I. BASIC FACTS

Todd Price testified that he was a sergeant with the Michigan State Police; he has been with the department for over 19 years.<sup>1</sup> Price said he received a call in May 2014 from a known person who had seen unusual traffic that he suspected was “narcotics related” at a neighboring residence. The informant told him that there was a woman—later identified as Lynne Hodges—who would periodically drive up to the residence, get out with a briefcase, go into the house for just a few moments, return to the car, put the briefcase away, and drive off. Almost “immediately afterwards,” the informant related, “vehicles would start coming”; people would “go in to the house for just a matter of moments, walk out, [and] leave . . . .” The informant indicated that “traffic would just increase exponentially” after the woman’s visits. Price passed the information on to the department’s narcotics unit, but did not receive a response.

Price testified that the informant again called in July 2014. The informant told Price that the woman sometimes drove a red Mustang and sometimes drove a blue Pontiac Vibe. The informant gave Price the plate information for both cars and, although Price could not specifically recall, he believed that the red Mustang was registered to Lynne Hodges’ father. The informant also identified the person who resided at the home and stated that he had been convicted of prior drug trafficking offenses. Price verified that Christopher Smith resided at the home where the suspicious activity occurred and confirmed that he had been convicted of prior drug trafficking offenses. Price admitted that the informant did not see the exchange of any drugs and agreed that the informant did not know what was going on in the house. Nevertheless, Price suspected—on the basis of his training and experience—that the visits were related to trafficking in narcotics.

In September 2014, the informant again called Price. The informant “inquired about [] the status” of his complaint “because the traffic had still been continuing with these vehicles . . . .” Price gave the informant the phone number for the narcotics unit, but also told him to call dispatch the next time he saw the woman arrive and “potentially we could get somebody out in that area to maybe catch whatever’s going on” or investigate further.

The next day the informant called dispatch and stated that the blue Pontiac Vibe had just arrived at the house. Price said that he proceeded to the area and placed a call to the informant as he was driving. The informant stated that the woman had just left and was headed northbound. Price intersected the woman’s path and began to follow her. He confirmed that the plate was for the car that the informant had previously identified. He followed the car onto the expressway. Price essentially conceded that he wanted to perform an investigatory stop and that he was looking for “any violations” that could “piggyback” as grounds for stopping the car. He noticed that the license plate had a dealer’s frame that obstructed the state’s web address. He also used his radar and determined that the car was travelling two miles per hour over the speed limit. Accordingly, he signaled the driver to stop.

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<sup>1</sup> The trial court held an evidentiary hearing in Lynne Hodges’ case in February 2015, and held a separate evidentiary hearing in Duane Hodges’ case in March 2015. We have used Price’s testimony from both hearings to provide the factual background.

As he approached the car, Price said he saw a briefcase or suitcase in its hatchback area. Lynne Hodges was sitting in the driver's seat and her husband, Duane Hodges, was sitting in the front passenger's seat. Price immediately smelled the odor of fresh marijuana. He asked Lynne Hodges to get out of the vehicle and interviewed her. She stated that had just sold 12 ounces of marijuana to Smith at his residence for \$2400. Duana Hodges told Price that he was just along for the ride, but knew that his wife was going to sell marijuana to Smith.

The prosecutor charged both Lynne and Duane Hodges with unlawfully delivering marijuana, MCL 333.7401(2)(d)(iii), and charged Lynne Hodges with the illegal sale of medical marijuana, MCL 333.26424.

In January 2015, Lynne Hodges moved to suppress the evidence obtained during the stop and asked the trial court to dismiss the charges against her. She argued that Price had no justification for the investigatory stop because he did not have probable cause to believe that she violated the law. Specifically, the dealer's frame did not obstruct any registration information on her license plate in violation of MCL 257.225(2), and the margins of error for Price's radar gun was such that he could not say whether Lynne Hodges was actually speeding.

The trial court denied Lynne Hodges' motion in an opinion and order entered in February 2015. The court determined that the dealer's frame on the license plate partially obstructed the "S" logo for Michigan State University that was on the plate, which was part of the registration information. It also determined that the margin of error for the radar was not a sufficient basis to challenge Price's determination that Lynne Hodges was speeding.

In March 2015, Duane Hodges moved to suppress the evidence and dismiss the charge against him on substantially the same grounds. At a hearing on the motion, the parties agreed that the trial court had already resolved whether the stop was lawful in Lynne Hodges' case and the court indicated that that ruling would also apply to Duane Hodges' case. However, in the interests of judicial efficiency, the trial court determined that it would address whether Price had grounds to stop Lynne Hodges on the basis of the information provided by the informant. At the close of the hearing, the trial court determined that Price had a reasonable suspicion that the woman identified by the informant was involved in drug trafficking at Smith's residence. When the informant called and stated that the woman had returned to Smith's residence, Price could reasonably conclude that she might be involved in a criminal activity and, on that basis, stop her to investigate further. Consequently, it denied the motions to suppress for that reason as well as the previously stated reasons.

Lynne and Duane Hodges now appeal by leave granted in this Court.

## II. MOTION TO SUPPRESS

### A. STANDARDS OF REVIEW

On appeal, Lynne and Duane Hodges both argue that the trial court erred when it determined that Price had probable cause to stop Lynne Hodges and, for that reason, erred when it denied their motions to suppress the evidence obtained after the stop. This Court reviews de novo a trial court's decision on a motion to suppress. *People v Reese*, 281 Mich App 290, 294;

761 NW2d 405 (2008). However, this Court reviews the factual findings underlying the trial court's decision for clear error. *Id.*

## B. THE INVESTIGATORY STOP

A police officer may briefly detain a person without a warrant and without probable cause to make an arrest. See *Terry v Ohio*, 392 US 1, 22; 88 S Ct 1868; 20 L Ed 2d 889 (1968). Under the decision in *Terry*, “if a police officer has a reasonable, articulable suspicion to believe a person has committed or is committing a crime given the totality of the circumstances, the officer may briefly stop that person for further investigation.” *People v Barbarich*, 291 Mich App 468, 473; 807 NW2d 56 (2011).

The reasonable suspicion necessary to justify such a stop is dependent upon both the content of information possessed by police and its degree of reliability. The standard takes into account the totality of the circumstances—the whole picture. Although a mere hunch does not create reasonable suspicion, the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause. [*Navarette v California*, 572 US \_\_\_, \_\_\_; 134 S Ct 1683, 1687; 188 L Ed 2d 680 (2014) (quotation marks and citations omitted).]

When considering the propriety of a *Terry* stop, courts “should view the totality of the circumstances in light of commonsense judgments and inferences about human behavior, and should be careful not to apply overly technical reviews of a police officer’s assessment of whether criminal activity is afoot.” *Barbarich*, 291 Mich App at 474 (citations omitted). “Further, when the circumstances involve an informant’s tip, courts must examine whether the tipster’s information contained sufficient indicia of reliability to provide law enforcement with a reasonable suspicion that would justify the stop.” *Id.* Courts consider the reliability of the particular informant, the nature of the information given, and the reasonability of the suspicion in light of the totality of the circumstances. *Id.*

In this case, the informant called Price about activities that were occurring at a neighboring residence. The informant described a specific person—a woman—who would periodically drive up to the neighbor’s house, bring a briefcase into the house, and leave with the briefcase within a few minutes. The informant supplied Price with the license plate information for both cars used by the woman. The specificity of the details about the woman and the cars she used strongly suggested that the informant actually witnessed the woman’s conduct. Further, Price verified the registration information and learned that the vehicles were associated in some way with Lynne Hodges.

The informant also told Price that traffic to the neighboring house would increase immediately after the woman’s visit. The informant related that the visitors would enter the neighboring residence for a short time and then leave. Finally, the informant identified the principal resident of the neighboring house by his first name and indicated that he knew that the neighbor had twice been convicted of drug trafficking. Price was able to verify that Smith lived at the residence identified by the informant and that Smith had indeed been convicted of two

prior drug trafficking offenses. The totality of the information supplied by the informant along with Price's efforts to verify details demonstrated that the informant was highly credible. *Id.*

Examining the informant's description of the events that occurred on multiple occasions, a reasonable officer could infer that the woman was involved in criminal conduct. The woman's visits were regular and each time she visited she brought a suitcase into the neighbor's residence, but only stayed for a few minutes. Using a common sense understanding of human behavior, a reasonable officer could infer from this that the woman was delivering something to the residence, which she brought in the briefcase. *Id.* The informant also stated that immediately after the suspected delivery, other persons would drive up to the neighbor's residence and make brief visits. A reasonable officer confronted with this information would naturally suspect that the fact that the visitors only seem to arrive after the woman visits is because they have driven there to acquire a portion of whatever the woman delivered to the residence. And, as Price testified at the hearing, the events described by the informant were consistent with his training and experience concerning the delivery and distribution of illegal drugs. Finally, the evidence that Smith had already twice been convicted of drug trafficking bolstered the inference that Smith might be redistributing drugs, which were delivered by the woman. The inferences were more than a mere hunch. *Navarette*, 134 S Ct at 1687. Rather, commonsense judgments and inferences about human behavior establish a significant probability that the events described by the informant involved drug trafficking, as opposed to some innocuous conduct that might give rise to the same behaviors. *Barbarich*, 291 Mich App at 474.

Price had a reasonable suspicion that the woman who made the prior deliveries was involved in drug trafficking. When the informant called and reported that the woman had returned, Price was able to intercept her shortly after she left Smith's residence using contemporaneous information supplied by the informant. The contemporaneous information from the informant, when coupled with Price's confirmation that the vehicle matched the make, model, and registration of the vehicle involved in the previous visits, allowed Price to infer that the woman driving the car was the same woman that had been involved in the prior visits. Thus, under the totality of the circumstances, Price could reasonably suspect that she might have just delivered illegal narcotics to Smith on the basis of his suspicion that the prior visits involved the delivery and redistribution of illegal narcotics.

The fact that one might be able to conceive of an innocent explanation for the events that the informant described does not alter the reasonableness of Price's suspicion that the events involved the illegal delivery and distribution of narcotics. Courts have "consistently recognized that reasonable suspicion 'need not rule out the possibility of innocent conduct.'" *Navarette*, 134 S Ct at 1691, quoting *United States v Arvizu*, 534 US 266, 277; 122 S Ct 744; 151 L Ed 2d 740 (2002); see also *People v Oliver*, 464 Mich 184, 202; 627 NW2d 297 (2001) ("Rather, as we have acknowledged, while the degree of suspicion from each of the factors in isolation may have fallen short of providing reasonable particularized suspicion to support the present traffic stop, that does not mean that these factors properly considered in the aggregate would not provide reasonable suspicion to support the stop under the totality of the circumstances."). For that reason, courts will not "second-guess the officer's reasonable suspicion." *Navarette*, 134 S Ct at 1691. Under the totality of the circumstances, Price had a reasonable suspicion that Lynne Hodges had just engaged in criminal conduct. Consequently, he could properly stop her to investigate.

### III. CONCLUSION

The trial court did not err when it determined that Price had a reasonable suspicion that the driver of the Pontiac Vibe was involved in criminal activity, which justified a limited investigatory stop. Because Price could lawfully stop Lynne Hodges on that basis alone, we need not address whether the other grounds proffered by Price to justify his stop were proper.<sup>2</sup> See *People v Jones*, 260 Mich App 424, 429; 678 NW2d 627 (2004) (noting that an officer need only have an articulable and reasonable suspicion to perform an investigatory stop). The trial court did not err when it denied Lynne and Duane Hodges' motions to suppress the evidence discovered during the stop and did not err when it refused to dismiss the charges against them.

Affirmed in both dockets.

/s/ Jane M. Beckering  
/s/ Elizabeth L. Gleicher  
/s/ Michael J. Kelly

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<sup>2</sup> For similar reasons, we decline to address whether Duane Hodges had a lower expectation of privacy given his status as a federal probationer.