

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
THOMAS GREGORY MAGEE	:	No. 1857 EDA 2025

Appeal from the Order Entered June 3, 2025
In the Court of Common Pleas of Delaware County
Criminal Division at No(s): CP-23-CR-0001227-2024

BEFORE: PANELLA, P.J.E., NICHOLS, J., and NEUMAN, J.

MEMORANDUM BY PANELLA, P.J.E.:

FILED SEPTEMBER 2, 2026

Thomas Gregory Magee filed a motion to suppress which was granted by the trial court. The Commonwealth appeals from the order which found the stop of Magee's vehicle to be unlawful and suppressed all subsequently obtained evidence. The Commonwealth asserts the trial court erred in granting Magee's motion to suppress based on its finding the police may not rely upon information from an identified third party and in holding the information possessed by the police did not amount to reasonable suspicion. After careful review, we reverse and remand for proceedings consistent with this memorandum.

On November 10, 2023, Trooper Ryan Reeves was dispatched to investigate a report of an erratic driver. The 911 caller remained on the phone with dispatchers and continued to follow the erratic driver. The 911 caller was

later identified by his name, which was confirmed as true. The 911 caller described the vehicle he was following as a gray Mitsubishi Outlander. He further continued to update dispatch with their location as he followed the Outlander. The 911 caller told dispatch, and later Trooper Reeves, that the Outlander was swerving all over the road.

Trooper Reeves caught up to the 911 caller and passed him. Trooper Reeves activated his overhead lights and stopped the Outlander. Magee was the driver and sole occupant of the Outlander. The 911 caller pulled over behind Trooper Reeves and talked to Trooper Reeves before Trooper Reeves removed Magee from the vehicle.

After Trooper Reeves removed Magee from the vehicle, he noticed signs of impairment. Trooper Reeves had Magee perform standardized field sobriety tests and subsequently placed him under arrest for driving under the influence ("DUI") and careless driving.¹

Magee filed an omnibus pretrial motion seeking, *inter alia*, to suppress evidence and statements obtained by the stop of his vehicle, asserting that the stop was unlawful. The court held a hearing on March 18, 2025. After the hearing, the court permitted the parties to file briefs in support of their positions. On June 3, 2025, the trial court granted Magee's motion and

¹ 75 Pa.C.S.A. §§3802(a)(1), (c) and 3714(a), respectively.

suppressed the evidence and statements resulting from the stop of Magee, effectively terminating the prosecution.²

The Commonwealth filed a timely appeal to this Court and complied with the trial court's order to file a Rule 1925(b) statement. **See** Pa.R.A.P. 1925(b). The trial court authored its Rule 1925(a) opinion on October 29, 2025. **See** Pa.R.A.P. 1925(a).

The Commonwealth raises one issue for our review:

Did the suppression court err and misapply the law by determining that Trooper Reeves did not possess reasonable suspicion to justify an investigatory detention where the trooper had information regarding [Magee's] erratic driving from a state police dispatch based on a report from an identified citizen who remained in contact with the dispatcher and remained on scene for the trooper to interview?

Appellant's Brief, at 7.

We begin with our standard and scope of review:

When the Commonwealth appeals from a suppression order, we follow a clearly defined standard of review and consider only the evidence from the defendant's witnesses together with the evidence of the prosecution that, when read in the context of the entire record, remains uncontradicted. The suppression court's findings of fact bind an appellate court if the record supports those findings. The suppression court's conclusions of law, however, are not binding on an appellate court, whose duty it is to determine if the suppression court properly applied the law to the facts.

Commonwealth v. Barber, 889 A.2d 587, 592 (Pa. Super. 2005) (citation omitted).

² The order granting suppression is dated May 15, 2025, however, the docket shows it was not filed until June 3, 2025.

The Commonwealth argues the trial court erred when it granted suppression because the 911 caller did not testify at the suppression hearing. **See** Appellant's Brief, at 13. At the time of the arrest, the 911 caller not only identified himself and stayed on the phone with 911 dispatchers, but he stopped behind Trooper Reeves and provided information to Trooper Reeves regarding Magee's driving behaviors. This, the Commonwealth submits, was sufficient to provide Trooper Reeves with reasonable suspicion to stop Magee and investigate further. **See id.** at 19. We agree.

The trial court held that "without [the 911 caller's] testimony, the information itself was not sufficient to serve as a basis for reasonable suspicion." Order, 6/3/25, at 6. The court considered the information "hearsay within hearsay" and found that "there were no specific facts presented to the court concerning ... Magee's driving" **Id.**

Both parties agree that this was an investigable stop and only reasonable suspicion was required to stop Magee. **See** Appellant's Brief, at 19; Appellee's Brief, at 8.

The appellate courts have mandated that law enforcement officers, prior to subjecting a citizen to an investigatory detention, must harbor at least a reasonable suspicion that the person seized is then engaged in unlawful activity. To meet this standard, the officer must point to specific and articulable facts which, together with the rational inferences therefrom, reasonably warrant the intrusion. In ascertaining the existence of reasonable suspicion, we must look to the totality of the circumstances to determine whether the officer had reasonable suspicion that criminal activity was afoot.

To have reasonable suspicion, police officers need not personally observe the illegal or suspicious conduct, but may rely upon the information of third parties, including tips from citizens. Naturally, if a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion than would be required if the tip were more reliable. This Court has examined the requirements surrounding reasonable suspicion for automobile stops emanating from information provided by a tipster and has explained:

Reasonable suspicion, like probable cause, is dependent upon both the content of information possessed by police and its degree of reliability. Both factors—quantity and quality—are considered in the totality of the circumstances—the whole picture, that must be taken into account when evaluating whether there is reasonable suspicion. Thus, if a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion that would be required if the tip were reliable.

When the underlying source of the officer's information is an anonymous call, the tip should be treated with particular suspicion. However, a tip from an informer known to the police may carry enough indicia or reliability for the police to conduct an investigatory stop, even though the same tip from an anonymous informant would likely not have done so.

Indeed, identified citizens who report their observations of criminal activity to police are assumed to be trustworthy, in the absence of special circumstances, since a known informant places himself at risk of prosecution for filing a false claim if the tip is untrue, whereas an unknown informant faces no such risk.

When an identified third party provides information to the police, we must examine the specificity and reliability of the information provided. The information supplied by the informant must be specific enough to support reasonable suspicion that criminal activity is occurring. To determine whether the information provided is sufficient, we assess the information under the totality of the circumstances. The informer's

reliability, veracity, and basis of knowledge are all relevant factors in this analysis.

Barber, 889 A.2d at 593-94 (quotation marks and citations omitted).

In **Commonwealth v. Thran**, this Court upheld a finding of reasonable suspicion to stop a motorcycle driver based on substantially similar facts as those presented herein. **See Commonwealth v. Thran**, 185 A.3d 1041 (Pa. Super. 2018). There, a witness, Justin Baugherman, called police after observing a male riding a motorcycle “swerving all over the road and passing over the white line[.]” **Id.** at 1043. Officer Patrick McBreen was dispatched to the last reported location of the motorcycle. **See id.** Upon arrival, Officer McBreen located Thran, who matched the description provided by Baugherman, leaning against the motorcycle described by Baugherman. **See id.** Officer McBreen approached Thran and ultimately charged him with DUI. **See id.** Thran filed a motion to suppress the stop, arguing Officer McBreen did not have reasonable suspicion because the tip provided by Baugherman was insufficient. **See id.** at 1044.

This Court agreed that the stop was an investigatory detention and was required to be supported by reasonable suspicion. **See id.** at 1045. This Court found Officer McBreen had reasonable suspicion based upon Baugherman’s 911 call:

Here, the police received a phone tip from an identified caller. The caller reported that he was witnessing erratic driving that placed, minimally, that driver in jeopardy. Additionally, the description of the motorcycle’s actions provided ample suspicion of impaired driving. The caller provided a description of the driver and

specifically identified the type of motorcycle being operated. Finally, the caller informed the police where this erratic driving was taking place and where the motorcycle had driven. Upon arriving at the location identified by the caller a mere eight minutes following the call, Officer McBreen witnessed the identified brand of motorcycle and, there being no other people nearby, the presumed driver. The driver was wearing a leather jacket as described by the caller. The trial court noted that Officer McBreen corroborated all the information provided by the caller.

[W]e find that Officer McBreen possessed a reasonable suspicion of criminal activity that supported the investigative detention.

Id. at 1045-47 (footnote omitted).

The exact same scenario occurred in this case. Police received a 911 call from an identified caller. The 911 caller reported erratic driving, including that the vehicle was “swerving all over the road.” N.T. Suppression Hearing, 3/18/25, at 19-20; Order, 6/3/25, at 2 (setting forth trial court’s findings of fact). The 911 caller stayed on the phone with 911 dispatchers and provided updates regarding where the vehicle was traveling. The 911 caller described the vehicle as a gray Mitsubishi Outlander. Trooper Reeves confirmed the vehicle description before activating his emergency lights. The 911 caller then pulled over behind Trooper Reeves and Trooper Reeves talked with the 911 caller prior to pulling Magee out of his vehicle. Trooper Reeves testified that he was concerned, based upon the 911 caller’s description of the vehicle’s driving behaviors, that the driver was intoxicated. As he explained: “I was trying to conduct the traffic stop because of the erratic driving behavior to

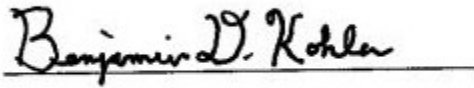
ensure they were safely operating [the] motor vehicle.” N.T. Suppression Hearing, 3/18/25, at 24.

The information provided by a known informant, who stayed on the scene to talk with the trooper, makes this information reliable. The 911 caller’s description of the vehicle and locations of travel were detailed and correct, providing Trooper Reeves the ability to catch up to both cars. Finally, the 911 caller’s basis of knowledge was because he was behind Magee, following him, and contemporaneously reporting the driving behavior and locations to 911 dispatchers. The descriptions of “erratic driv[ing]” and “swerving all over the road” provided Trooper Reeves with reasonable suspicion to stop Magee. N.T. Suppression Hearing, 3/18/25, at 8, 19-20.

We therefore find the trial court erred in its application of the law to the facts presented herein and reverse the order of the trial court. Our exhaustive research revealed that in most cases involving a known informant, the Commonwealth chooses to call the informant as a witness during the suppression hearing. However, that does not appear to be mandatory. **See *Thran***, 185 A.3d 1041. The informant was not called as a witness in ***Thran*** during the suppression hearing and this Court affirmed the trial court’s finding of reasonable suspicion. We find the same must apply here. Although the Commonwealth did not call the 911 caller as a witness, Trooper Reeves’ testimony under oath was sufficient evidence for the court to determine if the stop was supported by reasonable suspicion.

Order reversed. Case remanded. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/2/2026