

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES NORMAN ASTOR, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49620

**FILED**

JAN 30 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of driving under the influence of alcohol with two or more prior convictions. Ninth Judicial District Court, Douglas County; Michael P. Gibbons, Judge. The district court sentenced appellant James Norman Astor, Jr., to serve a prison term of 12 to 48 months.

Astor contends that the district court erred in denying his motion to suppress because the law enforcement officer did not have reasonable suspicion to justify the investigatory stop.<sup>1</sup> Specifically, Astor claims that the anonymous tip of an intoxicated driver was unreliable because it pertained to another passenger in the car who had driven previous to Astor. Alternatively, assuming that the tip came from an identified citizen informant, Astor argues that the tip was still unreliable because there is no indication the police officer knew the informant in order to judge his reliability and the officer did not corroborate the tip through independent investigation.

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<sup>1</sup>We note that Astor expressly reserved in the written plea agreement the right to appeal the district court's ruling denying his pretrial motion to suppress. See NRS 174.035(3).

NRS 171.123(1) authorizes a police officer to “detain any person whom the officer encounters under circumstances which reasonably indicate that the person has committed, is committing or is about to commit a crime.” “[T]he police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant th[e] intrusion.”<sup>2</sup> The articulable facts supporting reasonable suspicion may be based on an informant’s tip so long as the tip is sufficiently reliable.<sup>3</sup>

Here, we conclude that the district court did not err in finding that reasonable suspicion existed to support an investigatory stop of Astor’s vehicle. The tip in this case was not anonymous; the citizen informant provided police with his name and phone number, the telephone call was recorded, and the tip was purportedly based on the informant’s contemporaneous observation of ongoing criminal activity.<sup>4</sup> Additionally, the citizen tipster gave the license number and a description of the vehicle and later testified at the preliminary hearing.

Further, the citizen’s tip was reliable and was satisfactorily corroborated. The arresting officer testified at the preliminary hearing that he initiated an investigatory traffic stop and could smell alcohol coming from Astor. Astor acknowledged that he had consumed beer.

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<sup>2</sup>Terry v. Ohio, 392 U.S. 1, 21 (1968).

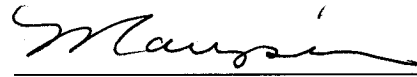
<sup>3</sup>See State v. Sonnenfeld, 114 Nev. 631, 958 P.2d 1215 (1998).

<sup>4</sup>See People v. Polander, 41 P.3d 698, 703-04 (Colo. 2001); see also Florida v. J.L., 529 U.S. 266, 276 (2000) (noting that “the ability of the police to trace the identity of anonymous telephone informants may be a factor which lends to reliability”) (Kennedy, J., concurring).

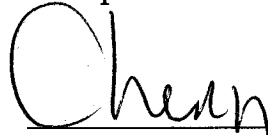
Astor subsequently failed field sobriety tests and his blood alcohol limit exceeded the legal limit. Because the identified citizen-informant supplied sufficient detail to support an investigatory stop and the officer satisfactorily corroborated the report, we conclude that the investigatory stop was supported by reasonable suspicion. Accordingly, the district court did not err in denying Astor's motion to suppress.

Having considered Astor's contention and concluded that it lacked merit, we


ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, J.

Maupin

 \_\_\_\_\_, J.

Cherry

 \_\_\_\_\_, J.

Saitta

cc: Hon. Michael P. Gibbons, District Judge  
Derrick M. Lopez  
Attorney General Catherine Cortez Masto/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk