

01/31/2020 "See News Release 006 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 2020-KK-00124

STATE OF LOUISIANA

VERSUS

LEROY JACKSON

**ON SUPERVISORY WRIT TO THE CRIMINAL DISTRICT COURT,
PARISH OF ORLEANS**

PER CURIAM:

Writ Granted. Acting on information provided by a truck driver, who flagged down an officer and reported a silver-colored vehicle stopped on the Claiborne Avenue Bridge, officers conducted a search of the defendant's vehicle. The citizen informed the officer he encountered the vehicle, got out of his truck, walked up to the driver's side of the stopped vehicle, and behind the steering wheel saw an unresponsive male with a gun and extended magazine on his lap. The officer immediately responded, without getting the citizen informant's identity. But before she could arrive at the scene, an accident occurred involving the stopped vehicle.

At the scene, the investigation confirmed a driver encountered a silver vehicle stopped on the Claiborne Avenue Bridge and was unable to stop before striking it. The silver vehicle began to leave, but responding officers stopped it. The driver fit the description provided by the citizen informant and was later identified as the defendant herein. The defendant smelled of alcohol and was arrested for driving while intoxicated and leaving the scene of an accident. *See* La. 14:98 and 14:100.

After the DWI arrest and before any search of the vehicle, a search of the NCIC database revealed the defendant had a conviction for armed robbery. With that knowledge and the citizen's earlier report that the person behind the steering

wheel of the stopped vehicle had a weapon, the officers searched the vehicle and found a black, semi-automatic gun with an extended magazine wedged next to the driver's seat. The defendant was charged with being a felon in possession of a firearm. *See* La. R.S. 14:95.1.

The Fourth Amendment permits an automobile search if probable cause exists to believe it contains contraband or evidence of a crime. *See Maryland v. Dyson*, 527 U.S. 465, 467, 119 S. Ct. 2013, 2014, 144 L. Ed. 2d 442 (1999). Probable cause exists when the totality of circumstances gives rise to a “fair probability” that contraband or evidence of a crime will be found in a particular place. *See Illinois v. Gates*, 462 U.S. 213, 238, 103 S. Ct. 2317, 2332, 76 L. Ed. 2d 527 (1983); *State v. Pratt*, 08-1819 (La. 9/4/09), 16 So. 3d 1163, 1165 (*per curiam*).

The trial court characterized the truck driver as “anonymous,” which fails to distinguish an informant who intentionally withholds his identity from a citizen who witnesses and reports criminal conduct but whose name is not known because the officer failed to obtain it. The distinction is significant, because an anonymous informant carries little credibility and must be corroborated, while a citizen informer is presumed to be an inherently credible source. *See State v. Brown*, 09-2456 (La. 5/11/10), 35 So. 3d 1069, 1073; *see also Navarette v. California*, 572 U.S. 393, 398-400, 134 S. Ct. 1683, 1689-90, 188 L. Ed. 2d 680 (2014); *State v. Gates*, 13-1422 (La. 5/7/14), 145 So. 3d 288, 300; *State v. Elliott*, 09-1727 (La. 3/16/10), 35 So. 3d 247.

Here, the information from the citizen informant had all the earmarks of reliability: it was an eye witness account of a dangerous situation, volunteered and personally reported immediately after the conduct was observed, and the subsequent police investigation corroborated the information. The totality of the circumstances known to the officers prior to the search established a fair probability that the defendant's automobile contained evidence of a crime—a gun. The officers thus

had probable cause to search the vehicle. The trial court's judgment granting the motion to suppress is reversed, and this matter is remanded for further proceedings.

REVERSED AND REMANDED.