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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1411**

State of Minnesota,
Appellant,

vs.

Antoine Phillip Demry,
Respondent.

**Filed March 22, 2021
Reversed and remanded
Frisch, Judge**

Hennepin County District Court
File No. 27-CR-20-3002

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for appellant)

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Considered and decided by Florey, Presiding Judge; Reilly, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

The state challenges an order suppressing evidence of respondent's unlawful possession of a firearm, arguing that the district court erred by concluding that officers

lacked the requisite reasonable suspicion of criminal activity to stop and frisk respondent. We reverse and remand.

FACTS

On January 31, 2020, police responded to an initial report that numerous people at a church funeral possessed guns and a second report that one of the people at the funeral pointed a firearm at another person at the funeral. Within minutes, police located and stopped respondent Antoine Phillip Demry, who matched the physical description of the person described in the second report. Officers located a firearm on Demry's person and discovered that he was ineligible to possess firearms due to past convictions. The state charged Demry with one count of prohibited possession of a firearm in violation of Minn. Stat. § 624.713, subd. 1(2) (2018).

Demry moved to suppress the evidence against him, arguing that the evidence was obtained as the result of an illegal stop and that he gave certain statements after the stop under circumstances that violated his *Miranda* rights. At an August 2020 contested suppression hearing, the district court heard testimony from arresting officers and received body-camera video recordings into evidence.

The Suppression Hearing

A responding officer testified that on the morning of January 31, 2020, he and other officers learned during roll call that a funeral for a homicide victim was scheduled later that day at a local church. Officers were notified that the funeral might be associated with gang activity, and they were therefore “concerned about . . . retaliatory crimes.” That same afternoon, officers were dispatched to the funeral following a report that numerous

individuals were at the church with guns. Upon cross-examination, the officer described the nature of the initial report and response as follows:

Q: [T]here was the 911 call in this case, correct?

A: Correct.

Q: And that initial 911 call was made by an unknown woman at the church, correct?

A: It was not unknown. I saw her name as an employee of the church.

....

Q: Okay. And this woman had reported that there were multiple people in the basement of the church, correct?

A: Yes, ma'am.

Q: 200 to 300 people is what she told dispatch.

A: Correct.

Q: And she reported that there were a number of . . . guns there?

A: Correct.

Q: And she did not know the exact number of guns.

A: Correct.

Q: And she did not know who had the guns.

A: Correct.

Q: She was getting whatever information she was rel[a]ying to the 911 operator from someone else.

The state objected, arguing that the question called for speculation. The officer clarified he "would not know that," and the district court sustained the objection. The officer continued his testimony as follows:

Q: In her 911 call, she says, "They came and reported that there were guns."

A: I'm sorry. I can't testify to that, ma'am.

Q: I'm going to refresh your recollection to listen to the 911 call.

A: It would be my first time listening to the 911 call.

Q: Okay. Well, let's do it this way. She had no description of anyone with a gun.

A: Correct.

Q: She did not report that she had seen anyone with a gun.

The state objected, again arguing that the question called for speculation because the officer had not heard the 911 call but instead received his information from the dispatcher. The district court sustained the objection again. The testimony continued:

Q: The report that you received from dispatch did not indicate that the 911 caller had seen anyone with a gun. Would you like to review the incident report again?

A: No, ma'am. [I'm trying] to phrase the answer here. The . . . initial report was multiple people at the church with firearms, and that was our initial call. And then it was updated while we were en route as to the specific incident that occurred.

Q: The initial report says, "An unknown number of people have guns," correct?

A: Yes, ma'am.

Q: And the caller had no description of anyone with a gun.

. . . .

A: While we were en route, yes, ma'am.

Q: All right. And at the time you got this first information from the 911 call, just the first information, you didn't have any allegations of an assault.

A: Correct. Just people in the church with firearms.

Q: Okay. And aside from the information that you got from dispatch . . . you didn't have any information about the source of the information on the 911 call.

A: I checked the caller, who the caller was, and it said it was an employee of the church and gave her name.

Q: Sure. But you won't know where she was [getting] the information that she was providing to the police.

A: No, ma'am.

Officer testimony and body-camera footage detailed how the investigation evolved after the initial 911 call and report from dispatch. One officer's body camera captured audio of the dispatcher informing the officers that a police inspector was "calling the caller." Approximately 20 seconds later, dispatch identified the 911 caller by name and as an employee of the church. Approximately two minutes thereafter, the inspector aired additional information, notifying responding officers that a "[B]lack male with a black coat, blue hat and a Cadillac symbol on it" had pointed a gun at someone during the funeral, remained in possession of the firearm, and was walking westbound on North 26th Avenue from North Bryant Avenue toward North Emerson Avenue.

A responding officer testified that he understood that the police inspector had spoken to someone at the church. But the officer also testified that he did not know to whom the inspector spoke.

The officer explained that he and another responding officer traveled northbound on North Emerson Avenue and observed a Black male—later identified as Demry—wearing a blue hat and a black jacket with a Cadillac symbol and walking westward on North 26th Avenue approximately two blocks from the church. Officers approached Demry with guns drawn, ordered him to the ground, and asked whether he was in possession of a gun. Demry admitted that he did have a gun. Officers asked if he had a

permit for the weapon. Demry admitted that he did not. Officers asked if he was a convicted felon. Demry admitted that he was. Officers handcuffed Demry, restored him to his feet, and located a handgun and ammunition in Demry's pockets. Demry subsequently made incriminating statements regarding his possession of a firearm both before and after officers advised him of his *Miranda* rights.

Order Granting Motion to Suppress

The district court granted Demry's motion to suppress the state's evidence. It found, in part:

[A]n employee of the . . . [c]hurch, later identified [by name], called the Minneapolis Police Department and reported a black male, wearing a black coat and blue hat with a Cadillac insignia, pointed a gun at someone during a funeral for an alleged gang-affiliate. [The 911 caller] reported [s]he did not personally see the alleged altercation, but [s]he was made aware of the altercation by other individuals attending the funeral. [The 911 caller] stated the suspect left the funeral, headed westbound on Bryant Avenue North. [The 911 caller] never identified the individual from whom [s]he received the aforementioned information.

In considering whether the officers possessed the requisite reasonable suspicion to stop and frisk Demry, the district court determined that "under the totality of the circumstances, the police lacked reasonable articulable suspicion to believe criminal activity was afoot" because the caller "did not personally see [Demry's] alleged criminal conduct or any firearms at the funeral." The district court reasoned that the relevant information "originated from an unidentified third party" and found that the police "failed to take any action to identify the original source or corroborate [the employee's] tip." It concluded that "[t]he fact that the source of the tip was anonymous and the police failed to

corroborate the tip cuts directly at the core of [the employee's] reliability.” In considering whether the police were justified in frisking Demry, the district court emphasized that the employee “simply did not have any personal knowledge to support the claim [that Demry] was armed or dangerous,” and therefore the officers lacked an objective, articulable basis to search Demry’s person. The district court suppressed the evidence of Demry’s firearm possession based on the illegal stop, and it suppressed his statements as fruit of the poisonous tree. The district court did not consider Demry’s separate argument regarding violations of his *Miranda* rights.

This appeal follows.

DECISION

The state argues officers possessed reasonable suspicion of criminal activity to stop and frisk Demry because (1) the 911 caller was a presumptively reliable informant and (2) investigating officers sufficiently corroborated the tip. Demry urges us to affirm, arguing that the tip lacked sufficient indicia of reliability to form the basis for a valid stop because the source of the information was an anonymous third party and the officers failed to corroborate any meaningful details related to criminal behavior.

When reviewing a district court’s suppression order, we “accept the district court’s factual findings unless they are clearly erroneous” and “review de novo a district court’s determination of reasonable suspicion of illegal activity.” *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012). “Findings of fact are clearly erroneous if, on the entire evidence, we are left with the definite and firm conviction that a mistake occurred.” *State v. Diede*, 795 N.W.2d 836, 846-47 (Minn. 2011).

The United States and Minnesota Constitutions protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. An officer may conduct “a brief, investigatory stop,” commonly referenced as a *Terry* stop, “when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675 (2000) (citing *Terry v. Ohio*, 392 U.S. 1, 30, 88 S. Ct. 1868, 1884 (1968)); *see also Diede*, 795 N.W.2d at 842-43. “[T]he police may stop and frisk a person when (1) they have a reasonable, articulable suspicion that a suspect might be engaged in criminal activity and (2) the officer reasonably believes the suspect might be armed and dangerous.” *State v. Flowers*, 734 N.W.2d 239, 250 (Minn. 2007) (quotation omitted).

I. The district court erred by concluding that the officers lacked the requisite reasonable suspicion of criminal activity to stop Demry.

Reasonable suspicion is not a high standard. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008). “While the standard is less demanding than probable cause or a preponderance of the evidence, it requires at least a minimal level of objective justification for making the stop.” *Id.* (quotation omitted). Reasonable suspicion is an “elusive concept,” but it demands that “the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *United States v. Cortez*, 449 U.S. 411, 417-18, 101 S. Ct. 690, 695 (1981). “Of course, an officer may stop and question a person if there are reasonable grounds to believe that person is wanted for past criminal conduct.” *Id.* at 417 n.2, 101 S. Ct. at 695 n.2. We must allow “officers to draw on their own experience and specialized training to make inferences from

and deductions about the cumulative information available to them that might well elude an untrained person.” *United States v. Arvizu*, 534 U.S. 266, 273, 122 S. Ct. 744, 750-51 (2002) (quotation omitted).

“We consider the totality of the circumstances when determining whether reasonable suspicion exists, and seemingly innocent factors may weigh into the analysis.” *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007). “[T]he totality of circumstances—the whole picture—must be taken into account. Based upon that whole picture the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *Cortez*, 449 U.S. at 417-18, 101 S. Ct. at 695.

We now consider the whole picture surrounding the *Terry* stop.

The Informant’s Tip

The information leading officers to stop Demry originated from a police inspector’s follow-up call to the 911 caller. The state contends that the district court erred by failing to presume the information from the 911 caller, an identified citizen informant, was reliable. Demry contends that the presumption of reliability does not apply and that the police had no information regarding the basis of the caller’s knowledge.

An informant’s tip may support reasonable suspicion of criminal activity. *In re Welfare of G.M.*, 560 N.W.2d 687, 691 (Minn. 1997). “But information given by an informant must bear indicia of reliability that make the alleged criminal conduct sufficiently likely to justify an investigatory stop by police.” *Timberlake*, 744 N.W.2d at 393-94. In considering the reliability of an informant, “we look both at the informant and

the informant's source of the information and judge them against all of the circumstances.” *G.M.*, 560 N.W.2d at 691 (quotation omitted).

We presume that tips from private citizens are reliable. *Davis*, 732 N.W.2d at 182. “This is particularly the case when informants give information about their identity so that the police can locate them if necessary.” *Id.* at 183. The Minnesota Supreme Court has explained that “[o]ne who voluntarily comes forward and identifies herself is more likely to be telling the truth because she presumably knows that the police could arrest her for making a false report.” *State v. Lindquist*, 205 N.W.2d 333, 335 (Minn. 1973). Anonymous tips are typically less reliable than tips provided by identifiable citizen informants. *See Florida v. J.L.*, 529 U.S. 266, 269, 120 S. Ct. 1375, 1378 (2000). “Unlike a tip from a known informant whose reputation can be assessed and who can be held responsible if her allegations turn out to be fabricated . . . an anonymous tip alone seldom demonstrates the informant's basis of knowledge or veracity.” *Id.* at 270, 120 S. Ct. at 1378.

We begin our analysis by identifying certain clearly erroneous findings by the district court. The district court found that the 911 caller “called the Minneapolis Police Department and reported a [B]lack male, wearing a black coat and blue hat with a Cadillac insignia, pointed a gun at someone during a funeral for an alleged gang-affiliate.” This finding is clearly erroneous in part, because it conflates the evidence of two separate contacts with the 911 caller. The first contact was the 911 call itself. An officer testified that the information he received from dispatch originating from the 911 call concerned “multiple people at the church with firearms,” and he clarified that dispatch did *not* relay

any information originating from the initial call regarding an assault by any specific individual. The second contact was between the 911 caller and the police inspector. During *that* contact, the inspector called the 911 caller. The 911 caller informed the inspector that a Black male with a black coat and blue hat traveling west from the church had pointed a gun at someone at the funeral. The district court clearly erred by finding that the crime- and suspect-specific information was relayed during the initial 911 call.¹

More importantly, the district court found that the 911 caller “reported [s]he did not personally see the alleged altercation”² and “was made aware of the altercation by other individuals attending the funeral.” These findings are also unsupported by the record and are clearly erroneous.

We note that the parties did not introduce direct evidence of the information relayed during either the 911 call itself or the inspector’s follow-up call. The absence of this evidence presents significant challenges in reviewing the totality of the circumstances. The record contains no direct evidence of the 911 caller’s basis of knowledge for the information supplied during the 911 call. The parties did not submit the 911 call as evidence during the hearing, and the officer confirmed during his testimony that he “didn’t have any information about the source of the information on the 911 call.” Likewise, the

¹ The district court’s finding that the 911 caller reported identifying information to police is *not* clearly erroneous; body-camera footage indicated that the police inspector was “calling the caller” and the inspector aired the crime- and suspect-specific information shortly thereafter.

² The district court used the word “altercation” to refer to a man having “pointed a gun at someone.”

record contains no direct evidence of the 911 caller's basis of knowledge regarding the information she later gave to the police inspector. The inspector did not testify, and the testifying officers claimed they did not know who provided the information to the inspector.

Our review of the record shows that the suggestion that the 911 caller relayed secondhand information originated with defense counsel. During cross-examination of one officer, defense counsel asked the officer to affirm that the 911 caller "was getting whatever information she was rel[a]ying to the 911 operator from someone else" and that the 911 caller said during her call that "[t]hey came and reported that there were guns." (Emphasis added.) Both questions drew objections from the state, and the district court sustained both objections. Yet the district court in its findings apparently relied on the information embedded in the questions.

Further, both questions concerned the 911 caller's basis of knowledge for the information reported *during the 911 call*. The questions did not address the basis of knowledge for the information later communicated to the inspector in the *second call*. And as Demry himself argued to the district court, "The entire basis for stopping [him] . . . came from the *second* piece of information" (Emphasis added.)

Because the district court clearly erred by finding that the 911 caller reported that she was relaying secondhand information, we are left with the findings supported by the record: the 911 caller identified herself by name and as an employee of the church, and she provided police with a description of a crime, a suspect, the suspect's location, and the suspect's direction of travel. On this record, we conclude that the presumption of reliability

applied to the 911 caller as an identified citizen informant. The 911 caller could have been held accountable for any false information she provided to the police. By identifying herself in the initial 911 call, she rendered herself available to follow-up questioning; indeed, that is how the police inspector contacted her. *See, e.g., City of Minnetonka v. Shepherd*, 420 N.W.2d 887, 890 n.1 (Minn. 1988) (reasoning that police could have called gas station to verify caller's employment and noting that officers subsequently identified caller); *Magnuson v. Comm'r of Pub. Safety*, 703 N.W.2d 557, 560 (Minn. App. 2005) (concluding that tip carried sufficient indicia of reliability where caller provided name and telephone number "with which the police could locate the informant and hold her accountable"); *Rose v. Comm'r of Pub. Safety*, 637 N.W.2d 326, 328-29 (Minn. App. 2001) (concluding that reliability was established where caller identified himself as employee of specific business and dispatcher informed officer that caller provided full complainant information), *review denied* (Minn. Mar. 19, 2002); *Playle v. Comm'r of Pub. Safety*, 439 N.W.2d 747, 748 (Minn. App. 1989) (concluding presumption of reliability applied to identified restaurant employee and noting that officer identified informant after seizure).

We next consider the basis of knowledge for the information relayed by the 911 caller during the second call. Even though the district court clearly erred by finding that the caller reported that she was relaying second-hand information from an unidentified source, the fact remains that the state failed to provide any direct evidence regarding the basis of knowledge for the information communicated to the inspector. *See, e.g., G.M.*, 560 N.W.2d at 691 ("Any weakness in the state's knowledge of the tipster's identity is

overcome by the state's extraordinarily strong knowledge of the circumstances forming the basis for the tipster's information.”).

Although there is no direct evidence of the 911 caller's basis of knowledge, the United States Supreme Court and the Minnesota Supreme Court have inferred that observation forms a basis of knowledge when it is clear from the circumstances of the reporting. *See, e.g., Navarette v. California*, 572 U.S. 393, 399, 134 S. Ct. 1683, 1689 (2014) (“By reporting that she had been run off the road by a specific vehicle . . . the caller necessarily claimed eyewitness knowledge of the alleged dangerous driving.”); *Shepherd*, 420 N.W.2d at 888-89 (reasoning that attendant's report of observing an intoxicated driver leave gas station “suggested that the driver had been in the station and that the caller's information was based on personal observation of the driver himself”); *State v. Davis*, 393 N.W.2d 179, 180-81 (Minn. 1986) (reasoning that passenger's report that nearby car ran red light indicated she “had obtained her information in a reliable way” because “[c]learly, either the informant or the driver had seen the car in question drive through the red light”).

Here, the 911 caller reported (1) an observable, recent incident of criminal activity; (2) observable physical characteristics of the suspect; and (3) observable details regarding the suspect's location and direction of travel. Such circumstances are distinguishable from those in which a stronger basis of knowledge is required to establish the reliability of a tip regarding *future* criminality. *See, e.g., Illinois v. Gates*, 462 U.S. 213, 227, 103 S. Ct. 2317, 2326 (1983) (involving matter where “the letter gives absolutely no indication of the basis for the writer's predictions regarding the Gateses' criminal activities”). The nature of the allegation here—that someone had pointed a gun at a person attending a funeral ceremony

at a church—indicates that the act was *observed*. See *id.* at 233-34, 103 S. Ct. at 2330 (explaining that “if an unquestionably honest citizen comes forward with a report of criminal activity—which if fabricated would subject him to criminal liability—we have found rigorous scrutiny of the basis of his knowledge unnecessary”).

The context and timing of the 911 caller’s reports are also relevant in determining reliability. The United States Supreme Court has explained that contemporaneous reports have “long been treated as especially reliable.” *Navarette*, 572 U.S. at 399, 134 S. Ct. at 1689. Here, the inspector’s follow-up call to the 911 caller occurred minutes after police were dispatched on the initial 911 call. Accordingly, officers could reasonably infer that the information given to the inspector was reasonably contemporaneous with the alleged assault. See *id.* at 400, 134 S. Ct. at 1689 (explaining that tips relayed contemporaneously with the observation of criminal activity or made under the stress of excitement caused by a startling event weigh in favor of a tipster’s veracity).

Even if we were to accept the premise that the 911 caller relayed secondhand information to the inspector, the tip carried other indicia of reliability. The situation developed quickly; the officers’ initial response, the inspector’s follow-up contact, and the *Terry* stop spanned mere minutes. Nothing indicates that the information was stale, and the 911 caller presumably could have either identified the source of any secondhand information to the inspector or provided identifying information if asked. See *G.M.*, 560 N.W.2d at 691 (“It is highly likely the confidential reliable informant knows the identity of this unknown person, and that the BCA agent conceivably could contact this unknown person through the confidential reliable informant.”); *United States v. Vandergroen*, 964

F.3d 876, 880 (9th Cir. 2020) (explaining that “the fact that the anonymous tipsters were [the bar’s] patrons who were still at the bar when the 911 call was being made narrowed the likely class of informants, making their reports more reliable” (quotation omitted)). And the nature of the tip itself underscores that the described events were observed. In other words, regardless of the *source* of the information, the information itself indicates the knowledge was based on observation.

This is a close case. The state failed to introduce the 911 recording into evidence. It failed to call the police inspector to testify regarding his conversation with the 911 caller. And the witnesses the state did produce lacked any information regarding the 911 caller’s basis of knowledge. Although the better practice would be to produce direct evidence of the relevant communications, the absence of such evidence does not preclude our ability to decide the issue. Given the presumptive reliability of the identified citizen informant and the nature of the information, we are satisfied that the tip carried sufficient indicia of reliability to support a reasonable suspicion of criminal activity and that the *Terry* stop was justified.

Although the presumptive reliability of the information relayed in the second call was sufficient by itself to support the *Terry* stop, we observe that information corroborated by or otherwise known to the officers—the whole picture—demonstrates that officers possessed reasonable, articulable suspicion to stop Demry.

Investigation and Corroboration

The investigation and corroboration of the tip by authorities further contributes to officers’ reasonable, articulable suspicion to stop Demry. Even assuming the information

in the tip originated from an unidentified source, such a tip may exhibit sufficient indicia of reliability if the tip is appropriately corroborated by the police. *J.L.*, 529 U.S. at 270, 120 S. Ct. at 1378. The corroboration of key details is preferable but even the corroboration of minor details will “lend credence to the informant’s tip.” *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985).

We are guided by two United States Supreme Court cases in assessing the quality of investigative and corroborative efforts upon receipt of an informant’s tip. The state likens Demry’s case to *Alabama v. White*, in which police received an anonymous tip

stating that [the defendant] would be leaving 235–C Lynwood Terrace Apartments at a particular time in a brown Plymouth station wagon with the right taillight lens broken, that she would be going to Dobey’s Motel, and that she would be in possession of about an ounce of cocaine inside a brown attaché case.

496 U.S. 325, 327, 110 S. Ct. 2412, 2414 (1990). Officers observed a matching vehicle at the apartment complex and saw the defendant enter the vehicle and proceed toward the motel. *Id.* Officers stopped the defendant, informed her of their suspicion that she was transporting drugs, asked to search her vehicle, located the brown attaché case, discovered marijuana inside it, and found cocaine inside her purse. *Id.* at 327, 110 S. Ct. at 2414-15. The Supreme Court concluded “that when the officers stopped [the defendant], the anonymous tip had been sufficiently corroborated to furnish reasonable suspicion that [the defendant] was engaged in criminal activity.” *Id.* at 331, 110 S. Ct. at 2416. The Supreme Court explained that the officers corroborated most of the informant’s information and

emphasized that the informant’s “ability to predict [the defendant’s] future behavior” indicated that the informant was well informed. *Id.* at 332, 110 S. Ct. at 2417.

Demry meanwhile contends that his case is comparable to *J.L.*, in which “an anonymous caller reported to the Miami–Dade Police that a young [B]lack male standing at a particular bus stop and wearing a plaid shirt was carrying a gun.” 529 U.S. at 268, 120 S. Ct. at 1377. The Supreme Court distinguished *J.L.*’s case from *White*, explaining that “[t]he tip in the instant case lacked the moderate indicia of reliability present in *White* and essential to the Court’s decision in that case. The anonymous call concerning *J.L.* provided no predictive information and therefore left the police without means to test the informant’s knowledge or credibility.” *Id.* at 271, 120 S. Ct. at 1379. The Supreme Court rejected the contention that the tip was reliable because officers corroborated the description “of the suspect’s visible attributes.” *Id.* at 271-72, 120 S. Ct. at 1379. The Court explained:

An accurate description of a subject’s readily observable location and appearance is of course reliable in this limited sense: It will help the police correctly identify the person whom the tipster means to accuse. Such a tip, however, does not show that the tipster has knowledge of concealed criminal activity. The reasonable suspicion here at issue requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person.

Id. at 272, 120 S. Ct. at 1379.

Neither case aligns directly with the circumstances here. Demry’s physical description, his general location, and his direction of travel are “easily obtained facts and conditions existing at the time of the tip” and are not predictive in the sense described by the Supreme Court. *White*, 496 U.S. at 332, 110 S. Ct. at 2417 (quotation omitted). The

officers' corroboration of these details demonstrates the "limited" reliability of the identity of "the person whom the tipster mean[t] to accuse" as described in *J.L.* 529 U.S. at 272, 120 S. Ct. at 1379.

But the circumstances here differ from the "bare-boned" and anonymous tip presented in *J.L.* insofar as officers here received information that the identified suspect had just engaged in the criminal act of pointing a gun at someone at the funeral. *See id.* at 273-74, 120 S. Ct. at 1380. The distinction is critical, because the Supreme Court rejected "an automatic firearm exception" to the "established reliability analysis" because it "would enable any person seeking to harass another to set in motion an intrusive, embarrassing police search of the targeted person simply by placing an anonymous call falsely reporting the target's unlawful *carriage* of a gun." *Id.* at 272, 120 S. Ct. at 1379-80 (emphasis added). But the Supreme Court also expressly limited its holding, explaining:

The facts of this case do not require us to speculate about the circumstances under which the danger alleged in an anonymous tip might be so great as to justify a search even without a showing of reliability. We do not say, for example, that a report of a person carrying a bomb need bear the indicia of reliability we demand for a report of a person carrying a firearm before the police can constitutionally conduct a frisk.

Id. at 273-74, 120 S. Ct. at 1380. Numerous courts have distinguished *J.L.* on this basis and considered emergent situations as relevant in assessing reliability under the totality of the circumstances. *See, e.g., United States v. Simmons*, 560 F.3d 98, 105 (2d Cir. 2009) (noting that "an anonymous 911 call reporting an ongoing emergency is entitled to a higher degree of reliability and requires a lesser showing of corroboration"); *United States v. Elston*, 479 F.3d 314, 319 (4th Cir. 2007) ("Of additional significance is the fact that Taylor

was reporting an imminent threat to public safety—an individual who had expressly threatened to shoot someone in the very near future. No such emergency was presented in . . . *J.L.*”).

We observe that the district court’s finding that “the investigating police officers failed to . . . corroborate [the 911 caller’s] tip” and “none of the officers took any action to corroborate [the] tip” is not accurate. This determination is inconsistent with the district court’s accurate finding that officers “located an individual, wearing a black jacket with a Cadillac insignia and a blue hat, walking westbound on Bryant Avenue North,” a finding directly corresponding with the information the identified caller provided to the police inspector. Even if we construe the district court’s order as concluding that the corroborative efforts were insufficient, we disagree with that conclusion.³

Police corroborated each piece of information originating from the second call. As the state argues, “[t]he male stopped by [the officer] was a [B]lack male, on foot, walking west away from the direction of the Church on 26th between Bryant Avenue and Emerson Avenue, wearing a blue hat and black jacket with a unique Cadillac Symbol on it.”⁴

Other circumstances known to the officers at the time afforded additional corroborative information to support the reliability of the tip. The officers received

³ The state rightly emphasizes that the district court failed to conduct any meaningful analysis regarding corroboration. But because the district court made findings about the officers’ observations of Demry, we may consider the sufficiency of corroboration as a matter of law. See *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016).

⁴ The state also cites the fact that Demry possessed a gun, but that fact is not a corroborative circumstance, as his firearm possession was discovered *after* the stop. See *J.L.*, 529 U.S. at 271, 120 S. Ct. at 1379.

information first that 200 to 300 people were present at a funeral and that multiple people at the funeral had guns. Shortly thereafter, they learned that an individual matching Demry's description had just pointed a gun at someone and left the funeral on foot, traveling in the same area and direction in which officers observed Demry. Police located and stopped Demry within two blocks of the church. Given the emergent nature of the report, Demry's presence in the vicinity of the incident, and the ongoing threat of an armed and dangerous suspect, the need for additional corroboration was diminished. *See, e.g., Robinson v. Howes*, 663 F.3d 819, 830 (6th Cir. 2011) ("We . . . find that the emergency nature of the call in this case adds to the totality of the circumstances comprising reasonable suspicion."); *Simmons*, 560 F.3d at 105 (explaining that "higher degree of reliability" of 911 callers is rooted in "special reliability inherent in reports of ongoing emergencies" and therefore "the requisite level of corroboration is lower" (quotation omitted)); *United States v. Wooden*, 551 F.3d 647, 650 (7th Cir. 2008) (reasoning that "a need for dispatch can make reasonable a stop that would not be reasonable if the police had time to investigate at leisure"); *United States v. Hicks*, 531 F.3d 555, 560 (7th Cir. 2008) ("[W]hen an officer relies on an emergency report in making a stop, a lower level of corroboration is required."); *Elston*, 479 F.3d at 319 (recognizing presence of "imminent threat" as carrying "substantial weight in assessing reasonableness" of officers' actions); *United States v. Terry-Crespo*, 356 F.3d 1170, 1176 (9th Cir. 2004) ("Police delay while attempting to verify an identity or seek corroboration of a reported emergency may prove costly to public safety").

Further, responding officers testified that they were anticipating the possibility of retaliation at the funeral, a circumstance consistent with the informant's report of a gun-pointing incident. We agree that the officers' knowledge regarding the funeral's gang affiliation and the possibility of retaliation further factors into the totality of the circumstances. See *United States v. Pelusio*, 725 F.2d 161, 166 (2d Cir. 1983) (considering officers' knowledge of defendants' brother's murder and likelihood of retaliation as motive for earlier crime under totality of circumstances); *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992) (noting that presence in high-crime area is independently insufficient to justify a stop but that "departure from a building with a history of drug activity" factored into totality of circumstances).

The Totality of the Circumstances

In light of the foregoing, the totality of the circumstances establishes that the officers had the requisite reasonable suspicion of criminal activity to stop Demry. The officers were aware that the funeral was affiliated with gang activity, and they were on heightened alert of the possibility of retaliation. They received information from an identified citizen informant—an identified employee of the church at which the funeral took place—that a man had pointed a gun at someone. The church employee gave a detailed description of the suspect, his general location, and his mode and direction of travel. Officers located Demry—who matched the physical description—walking in the reported location and direction within minutes of the police inspector airing the information. Under the totality of the circumstances, the tip bore sufficient indicia of reliability.

II. The district court erred by concluding that the officers lacked reasonable suspicion that Demry was armed and dangerous.

The district court concluded that the officers lacked the requisite reasonable suspicion that Demry was armed and dangerous to frisk him because the 911 caller did not observe the alleged assault. “[A]n officer may conduct a protective search of the passenger compartment of the vehicle, limited to those areas in which a weapon may be placed or hidden, if the officer has a particularized and objective basis for suspecting the particular person stopped of criminal activity and the officer possesses a reasonable belief, based on specific and articulable facts, that the suspect is dangerous and may gain immediate control of a weapon.” *Flowers*, 734 N.W.2d at 251 (quotations omitted). Here, the officers had information that the suspect had just pointed a gun at someone at a church funeral, still had the gun, and was walking down the street just outside of the church. For the same reasons that the officers had the requisite reasonable suspicion to justify stopping Demry, they were justified in conducting a protective frisk of his person.

III. The district court erred by suppressing the evidence on the basis of an illegal stop and frisk.

Because the district court erred by concluding that the stop and frisk were unsupported by reasonable suspicion, the district court also erred by suppressing the state’s evidence on the basis of an illegal stop and frisk. The district court did not consider Demry’s *Miranda* arguments, and we do not address them here. We reverse the district court’s suppression order and remand for further proceedings.

Reversed and remanded.