

No. 127412

**IN THE
SUPREME COURT OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

GERMEL DOSSIE,

Defendant-Appellant.

On Appeal from the Appellate Court of Illinois, First Judicial District, No. 1-20-1050
There Heard on Appeal from the Circuit Court of Cook County, Criminal Division
No. 15 CR 10914
The Honorable William H. Hooks, Judge Presiding

**BRIEF OF *AMICUS CURIAE* CITY OF CHICAGO
IN SUPPORT OF PLAINTIFF-APPELLEE**

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INTEREST OF *AMICUS CURIAE*

In 2001, the Chicago Police Department (“CPD”) put into place an investigative alert system that allows law enforcement personnel to share critical investigatory information with their fellow officers. As pertinent here, the investigative alert system also has the capacity to indicate whether probable cause supports a person’s arrest. The City of Chicago has a direct interest in this case because defendant-appellant Germel Dossie contends that any arrest pursuant to an investigative alert is unconstitutional, even when the alert correctly indicates that probable cause exists. The City submits this brief to describe more fully the investigative alert system and to explain why the appellate court correctly decided that an arrest arising from an investigative alert is lawful when police have probable cause to believe the arrestee committed an offense.

ISSUE PRESENTED

The City addresses the following issue:

Whether this court should affirm the appellate court’s holding that an arrest pursuant to an investigative alert comports with constitutional requirements, where probable cause supports the arrest.

STATEMENT OF FACTS

A CPD special order governs the investigative alert system. It provides that an investigative alert is a notice “identifying a specific

individual that . . . investigative personnel are attempting to locate.” A-37.¹ To request that an investigative alert be entered, an officer must provide, among other things, the subject’s name, known aliases, and last known address, as well as a physical description and the “[j]ustification for the investigative alert request.” A-38. Supervisors are responsible for reviewing requests and deciding whether to approve them. A-38. Once an alert is entered, a name check on a person for whom an investigative alert exists will display the alert and include all the information that went into the request. A-38.

Supervisors in the Bureau of Detectives and the Bureau of Organized Crime are responsible for maintaining “investigative alert files,” which must “contain sufficient information relating to the subject of the alert to allow any member of the investigating unit to handle the investigation if the requesting member is not available.” A-38. To that end, “[c]opies of all reports, documents, etc. supporting the investigative alert request and a summary of how the subject was involved in the crime or incident” must be included in the file. A-38. The file must also include “a copy of the subject’s most recent photograph,” if one is available. A-38.

There are two types of investigative alerts. One is an “Investigative

¹ We cite the appendix to Dossie’s brief as “A-__.” A prior version of the special order governed investigative alerts at the time of Dossie’s arrest, but he does not allege that any differences between the versions are material to his case.

Alert/No Probable Cause to Arrest,” which identifies a person whom “investigative personnel seek to interview concerning a specific police matter,” where “there is no probable cause to arrest that person on the strength of the investigative alert alone.” A-37. If a name check reveals this kind of alert, the investigating officer will “be reminded that if no other crime was committed, an arrest is not authorized.” A-39 (emphasis omitted). Rather, the officer is to inform the subject of the alert that an “investigative member seeks to interview the individual about a specific police matter and request that the subject voluntarily accompany the officer(s) to the district station to speak with the investigating officer so that the matter may be resolved.” A-39 (emphasis omitted).

The other type of investigative alert is an “Investigative Alert/Probable Cause to Arrest,” which “identifies an individual that is wanted by . . . investigative personnel concerning a specific crime, and while an arrest warrant has not been issued, there is probable cause for an arrest.” A-37. If an officer conducts a name check that reveals an investigative alert indicating probable cause to arrest, the officer is to place the person in custody and notify the unit of the officer who requested the alert. A-39. The arrestee is then processed in accordance with CPD policies. A-39. CPD policies require, among other things, that any “person arrested without a warrant, who is not eligible to be released on bond or has not been released without charging, will appear in court, without unnecessary delay. Under no

circumstances will such a person appear in court any later than 48 hours from the time of arrest.” Chicago Police Department General Order G06-01, available at <http://directives.chicagopolice.org/#directive/public/6401> (emphasis omitted) (last visited May 16, 2022).

ARGUMENT

ARRESTS ARISING FROM AN INVESTIGATIVE ALERT SUPPORTED BY PROBABLE CAUSE ARE CONSTITUTIONAL.

The federal and Illinois Constitutions prohibit unreasonable seizures, and an arrest is reasonable under both when an officer has probable cause to believe the arrestee committed an offense. People v. Tisler, 103 Ill. 2d 226, 236-37 (1984). When an investigative alert correctly conveys that probable cause supports a person’s arrest, an arrest pursuant to that investigative alert is therefore constitutional. Moreover, an otherwise proper warrantless arrest does not become unreasonable simply because it was based on an investigative alert, as the appellate court correctly decided.

Dossie’s argument to the contrary asks this court to “reconsider[r]” longstanding precedent that a warrantless arrest is constitutional when it is based on probable cause. Dossie Br. 47. This court should decline that invitation and adhere to its prior holdings. To the extent Dossie’s challenge to his arrest rests on the notion that a warrantless arrest pursuant to an investigative alert is especially problematic, this court should reject that contention because it is based on a misunderstanding of investigative alerts.

Dossie contends that the investigative alert system is a “warrant system,” Dossie Br. 35, that is unconstitutional because an investigative alert does not share the attributes of a warrant, id. at 37. But an investigative alert is not a warrant, and the differences between alerts and warrants provide no basis for finding the investigative alert system unconstitutional. Rather, an investigative alert is simply a means of sharing investigatory information among officers. If that information establishes probable cause, the alert includes an instruction to place the suspect under arrest. An investigative alert is thus akin to a wanted flyer or an all-points bulletin, which are well established law-enforcement tools that direct officers to make an arrest based on the information their fellow officers have gathered. See Gordon v. Degelmann, 29 F.3d 295, 300 (7th Cir. 1994). The lawfulness of an arrest arising from such a bulletin or flyer “depends on the information available to the police collectively; if the person issuing the radio bulletin or authorizing the wanted poster had probable cause to do so, the facts need not be present to the mind of the person making the arrest.” Id. And indeed, regardless of the precise means that officers use to share information with each other, “[w]hen the officers are working together . . . the knowledge of each is the knowledge of all and the arresting officer ha[s] the right to rely on the knowledge of the officer giving the command together with his own personal knowledge.” People v. Peak, 29 Ill. 2d 343, 349 (1963). Thus, where the facts underlying an investigative alert establish probable cause, an officer

may rely on the collective knowledge of the officers responsible for the alert and effectuate a constitutional arrest.

If anything, an arrest pursuant to an investigative alert that correctly identifies the existence of probable cause should be even less objectionable than other kinds of warrantless arrests that are based on officers' collective knowledge. In general, the collective knowledge doctrine merely imputes the knowledge of one officer to her fellow officers. E.g., People v. Ewing, 377 Ill. App. 3d 585, 594-95 (4th Dist. 2007). By contrast, an officer who acts pursuant to an investigative alert can also review the justification for the alert and knows the probable cause determination has been approved by a supervisor. As the appellate court in People v. Bass, on which Dossie principally relies, observed, investigative alerts require "deliberation" and the approval of a supervising officer. 2019 IL App (1st) 160640, ¶ 68, vacated in relevant part, 2021 IL 125434, ¶ 31. The Bass majority found these safeguards problematic, 2019 IL App (1st) 160640, ¶ 68, but they only serve to strengthen the basis upon which one officer relies on another's probable cause determination. They are not grounds for declaring the investigative alert system unconstitutional.

Moreover, "the mere use of alerts to disseminate information among officers does not eliminate judicial evaluations of probable cause," People v. Harris, 2022 IL App (3d) 200234, ¶ 13, and thus Dossie's theory that investigative alerts violate the Illinois Constitution's separation of powers

clause, Dossie Br. 53, fails as well. CPD policy requires that any person arrested without a warrant be brought to court “without unnecessary delay,” and no later than 48 hours after the arrest. Chicago Police Department General Order G06-01. Accordingly, persons arrested pursuant to an investigative alert, just like other warrantless arrestees, promptly appear before a judge for a determination of probable cause.

Properly understood, then, investigative alerts give law enforcement officers a useful tool for sharing vital investigatory information. And they improve the administration of criminal justice in at least three ways. First, they protect the residents of Chicago by providing law enforcement a means for more readily identifying and apprehending criminal suspects. Second, investigative alerts help improve the accuracy of probable cause determinations by requiring a contemporaneous, written record of the factual basis for probable cause, rather than only in those cases in which a warrant is sought in advance. They also improve judicial evaluations of probable cause by providing the court a written record supporting the justification for an arrest before it occurs, rather than just providing information after the fact. See Derik T. Fettig, *Who Knew What When? A Critical Analysis of the Expanding Collective Knowledge Doctrine*, 82 UMKC L. Rev. 663, 693-94 (2014).

Third, investigative alerts promote officer safety. An officer conducting an investigation is at a distinct “disadvantage when not given information

known to fellow law enforcement officers,” as compared to an officer who possesses “all the pertinent information about a suspect” and can “conduct himself more carefully” in accordance with that information. *Fettig*, supra, at 697. For example, an officer who learns from an investigative alert that the person he has stopped for a minor traffic offense is suspected of a violent crime knows to conduct himself more carefully, whether by calling for backup or taking other protective measures such as asking the suspect to exit his vehicle. Without the information provided in the investigative alert, the officer is left to rely on nothing but “assumptions and conjecture,” id., putting him at greater risk of harm.

In light of these benefits, courts should not interpret the state or federal constitutions in a way that would inhibit the flow of valuable investigatory information among police officers. Yet that would have been one of the perverse effects of the appellate court’s decision in Bass, as subsequent cases have recognized. As one opinion aptly put it, Bass “creates the somewhat paradoxical situation where police may arrest an individual without a warrant and without an investigative alert if they have probable cause to do so, but that same arrest becomes unconstitutional if police issue an investigative alert based on the same facts that gave rise to the probable cause.” People v. Braswell, 2019 IL App (1st) 172810, ¶ 39. A case illustrating that paradox is People v. Thornton, 2020 IL App (1st) 170753, in which officers stopped the defendant pursuant to information from a 911 call,

id. ¶ 30, and then arrested him when they discovered an investigative alert indicating he was wanted for sexual assault, id. ¶ 41. The panel majority held that the arrest pursuant to the investigative alert was constitutional because the facts supporting the alert gave rise to probable cause. Id. ¶ 44.

But a concurring member of the panel, who was also a member of the majority in Bass, concluded that the arrest was constitutional only because the arrest took place before the arresting officer learned that the investigative alert existed. Thornton, 2020 IL App (1st) 170753, ¶ 69 (Pucinski, J., specially concurring). In other words, had the officer known of the investigative alert – and thus gained *more* information about the suspect – before effecting the arrest, the otherwise lawful arrest would have become unconstitutional. That rationale, however, would only discourage the dissemination of useful and pertinent information between police officers. This court should reject that approach.

In sum, an investigative alert is an important law enforcement tool that neither supplants judicial determinations of probable cause nor acts as a substitute for warrants. Instead, it provides for the sharing of vital information among law enforcement officers, which in turn advances the efficient and safe administration of criminal justice. Accordingly, this court should affirm the appellate court’s decision that an arrest pursuant to an investigative alert that is supported by probable cause is constitutional.

CONCLUSION

For the foregoing reasons, this court should affirm the judgment of the appellate court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 10 pages.

/s/ Stephen G. Collins
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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of law as provided in 735 ILCS 5/1-109 that the statements in this instrument are true and correct and that the foregoing Brief of *Amicus Curia* City of Chicago in Support of Plaintiff-Appellee was served on all counsel of record via File & Serve Illinois on May 16, 2022.

/s/ Stephen G. Collins
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