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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3879-21**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

PEDRO G. SARKIS-
FARAH LAPORTE, a/k/a
PEDRO G. LAPORTE, and
PEDRO G. SARKIS FARAH,

Defendant-Appellant.

Argued October 23, 2023 – Decided November 2, 2023

Before Judges Mawla and Vinci.

On appeal from the Superior Court of New Jersey, Law
Division, Hudson County, Docket No. 20-11-0315.

Susan L. Romeo, Assistant Deputy Public Defender,
argued the cause for appellant (Joseph E. Krakora,
Public Defender, attorney; Susan L. Romeo, of counsel
and on the brief).

Meagan E. Free, Assistant Prosecutor, argued the cause
for respondent (Esther Suarez, Hudson County
Prosecutor, attorney; Meagan E. Free on the brief).

PER CURIAM

Defendant Pedro G. Sarkis-Farahlaporte appeals from a March 10, 2021 order denying his motion to suppress evidence from a warrantless search of a hotel room he was occupying. We affirm.

The undisputed facts were adduced from police reports prepared by members of the Secaucus Police Department who were involved in the incident. On March 2, 2020, a man named "Josh" called 9-1-1 claiming he saw three men fighting in the parking lot of a hotel. One of the men brandished a gun and then fled to room 220. The caller told the dispatcher he left the hotel and went to a nearby Wendy's parking lot.

A call for all available units was issued. Ten police officers responded to the hotel and set up a cordon around the building and parking lot. An officer went to the Wendy's parking lot and attempted to contact the caller but was unsuccessful. Police attempted several times to contact the caller to get more details about the situation, but he was uncooperative.

The hotel was in a high-crime area. During the preceding months there were "several robberies and aggravated assault incidents" at the hotel. Moreover, the hotel was "notoriously known for engagement and promotion of prostitution and incidents involving individuals with possession of a controlled

dangerous substance." A few months prior, police had arrested a person in the parking lot of the hotel "for possession of a firearm and a high[-]capacity magazine"

Police reviewed the guest registry for room 220, and learned it was registered to Vanessa Garrido. Meanwhile, officers who could see room 220 observed a woman open the door "and immediately close the door once she noticed police in the area." They also saw a shirtless man open the curtain in the room and "instantaneously closed the curtain once he noticed police in the area." The officers decided "to rapidly make contact with the occupants" of the room "[d]ue to the unknown welfare and safety of the registered guest and the peculiar behavior of the individuals observed . . . by officers"

Three officers went to the room and knocked on the door. Garrido answered the door, and defendant was also in the room. The officers detained both parties and handcuffed them "[f]or the safety of all involved." The officers searched for other parties in the room and found none. Garrido and defendant were separated and read Miranda¹ rights. Defendant confirmed he understood his rights and "would talk to [the] officers present."

¹ Miranda v. Arizona, 384 U.S. 436 (1966).

"In plain view was a grey men[']s jacket hanging on the wall, with a black handgun sticking out of the left pocket." Officers asked defendant if there were any weapons in the room. Defendant then looked toward his jacket and said, "[y]es[,] in the jacket."

Officers questioned Garrido in the bathroom. She stated she and defendant were not fighting, and "it was [her] ex-boyfriend who called" the police.² She consented to a search of the room, and defendant was arrested. Police recovered an unloaded handgun and a "[fifteen-]round capacity magazine loaded with [thirteen]40 caliber hollow nose bullets" from defendant's jacket. Police also found a folded twenty-dollar bill with "a white powdery substance believed to be cocaine" on it. Garrido was also arrested.

A Hudson County grand jury indicted defendant with: second-degree unlawful possession of a handgun without a permit, N.J.S.A. 2C:39-5(b)(1) (count one); fourth-degree possession of hollow nose bullets, N.J.S.A. 2C:39-3(f) (count two); fourth-degree possession of a prohibited device, N.J.S.A.

² Later, at police headquarters, Garrido said she asked defendant to come to the hotel because her ex-boyfriend was "calling all day stating he would hurt her" and she was scared. She owed the ex-boyfriend money and "he wanted her to prostitute herself to make money."

2C:39-3(j) (count three); and possession of ammunition without a permit, N.J.S.A. 2C:58-3.3(b) (count four).

Defendant moved to suppress the evidence seized from the hotel room. He argued police acted on an uncorroborated tip and lacked exigent circumstances to enter the room, handcuff its occupants, and search the room.

After hearing arguments and reviewing the police reports, the motion judge made oral findings and denied the motion. She found the emergency aid doctrine articulated in State v. Hathaway applied. 222 N.J. 453 (2015). Although the anonymous tip was not corroborated like it was in Hathaway, the judge found the totality of the circumstances from "the point of view of the officers [in] real time" warranted entering the room.

Defendant pled guilty to count one and the remaining charges were dismissed. He was sentenced to two years of probation conditioned on time served of 364 days in county jail and fines.

Defendant raises the following point on appeal:

THE DENIAL OF DEFENDANT'S SUPPRESSION MOTION MUST BE REVERSED BECAUSE THE TRIAL COURT IGNORED THE UTTER FAILURE OF THE POLICE TO CORROBORATE A SINGLE ONE OF THE ALLEGATIONS MADE BY AN ANONYMOUS, "UNCOOPERATIVE" CALLER, AND THAT FAILURE PRECLUDED ANY FINDING THAT THE POLICE HAD AN OBJECTIVELY

REASONABLE BASIS TO CONDUCT A
WARRANTLESS SEARCH OF THIS HOTEL ROOM
PURSUANT TO THE EMERGENCY
AID/COMMUNITY CARETAKING DOCTRINE.

Our review of a decision on a motion to suppress is limited. State v. Robinson, 200 N.J. 1, 15 (2009). We must defer to the motion judge's factual findings, provided those "findings are supported by sufficient credible evidence in the record." State v. Watts, 223 N.J. 503, 516 (2015) (internal citations omitted) (quoting State v. Elders, 192 N.J. 224, 243-44 (2007)). We owe no deference to a judge's legal conclusions or interpretation of the legal consequences that flow from established facts. State v. Goodwin, 224 N.J. 102, 110 (2016).

The Fourth Amendment of the United States Constitution, as well as Article I, Paragraph 7 of the New Jersey Constitution, guarantee "[t]he right of the people to be secure . . . against unreasonable searches and seizures." U.S. Const. amend. IV; N.J. Const. art. I, ¶ 7. A guest in a hotel room enjoys the same constitutional protections against unreasonable searches and seizures as a person in their home. Stoner v. California, 376 U.S. 483, 490 (1964). See also State v. Mollica, 114 N.J. 329, 342 (1989).

A warrantless search is presumed to be unreasonable and therefore invalid. State v. Valencia, 93 N.J. 126, 133 (1983). "Warrantless searches are

'permissible only if justified by one of the few specifically established and well-delineated exceptions to the warrant requirement.'" State v. Robinson, 228 N.J. 529, 544 (2017) (quoting State v. Witt, 223 N.J. 409, 422 (2015) (internal quotation marks and citation omitted)). The same principle applies to the search of a hotel room. State v. Rose, 357 N.J. Super. 100, 103 (App. Div. 2003). The scope of the search may not exceed what is permissible under a particular exception to the warrant requirement merely because the location of the search is a hotel room. Id. at 103-04.

The emergency aid doctrine allows police to enter a dwelling without a warrant if: (1) there is "'an objectively reasonable basis to believe that an emergency requires that [police] provide immediate assistance to protect or preserve life, or to prevent serious injury' and (2) there is a 'reasonable nexus between the emergency and the area or places to be searched.'" State v. Vargas, 213 N.J. 301, 323-24 (2013) (quoting State v. Edmonds, 211 N.J. 117, 132 (2012)). "The reasonableness of a decision to act in response to a perceived danger in real time does not depend on whether it is later determined that the danger actually existed." Hathaway, 222 N.J. at 470. The doctrine requires an officer have an "objectively reasonable basis" for believing there is a danger and need for quick action, "not certitude." Ibid.

Under the emergency aid exception, "[t]he scope of the search under the emergency aid exception is limited to the reasons and objectives that prompted the search in the first place." Ibid. (internal citation omitted). For example, police officers looking for an injured person may not extend their search to small compartments such as "drawers, cupboards, or wastepaper baskets." Ibid. "If, however, contraband is observed in plain view by a public safety official who is lawfully on the premises and is not exceeding the scope of the search, that evidence will be admissible." Ibid. (internal quotation marks and citation omitted).

"Police officers oftentimes must rely on information provided by others in assessing whether . . . there is an objectively reasonable basis to believe an ongoing emergency threatens public safety." Hathaway, 222 N.J. at 470-71. "Information related by informants may constitute a basis for probable cause, provided that a substantial basis for crediting that information is presented." State v. Jones, 179 N.J. 377, 389 (2004) (citing State v. Sullivan, 169 N.J. 204, 212 (2001)). A court must consider the totality of the circumstances in determining whether an informant's tip establishes probable cause or exigent circumstances, including the informant's "veracity and basis of knowledge." Ibid. (internal quotations omitted) (citing State v. Novembrino, 105 N.J. 95, 123

(1987)); see also Illinois v. Gates, 462 U.S. 213, 238-39 (1983). A deficiency in one factor may be compensated "by a strong showing as to the other, or by some other indicia of reliability." State v. Zutic, 155 N.J. 103, 110-11 (1998).

"[T]he police may assume that an 'ordinary citizen' reporting a crime does not have suspect motives." Hathaway, 222 N.J. at 471 (quoting State v. Davis, 104 N.J. 490, 506 (1986)). Thus, "[a]n ordinary citizen 'may be regarded as trustworthy and information imparted by him . . . would not especially entail further exploration or verification of his personal credibility or reliability before appropriate police action is taken.'" Ibid.

Here, although police called Josh back and searched for him in the Wendy's parking lot, they could not corroborate the information he reported because he refused to cooperate following the initial call. Regardless, the totality of the circumstances showed there was an objective basis for police to believe there was an emergency requiring them to enter the room. Indeed, police were operating with the following information: following an altercation, a man was seen headed with a gun to a room occupied by a woman; a woman and then a man in that room were acting suspiciously; and the hotel was not only in a high-crime area, but police had responded there to interdict various crimes, including gun offenses.

There was also a sufficient nexus between the emergency and the area searched. Given the facts in the record, it was reasonable for police to do more than just knock on the door and speak with Garrido. Under the totality of the circumstances, police acted reasonably by entering the room, securing its occupants for safety reasons, and searching for confederates.

As our Supreme Court related in Hathaway, "[a] court must examine the conduct of [] officials [acting under the exigency exception,] in light of what was reasonable under the fast-breaking and potentially life-threatening circumstances that were faced at the time." Id. at 469 (internal quotation marks and citation omitted); see also Edmonds, 211 N.J. at 133-34. The motion judge's ruling was in accord with these principles. Police entered the hotel room lawfully.

Finally, because we have affirmed the motion judge's exigent circumstances finding, defendant's challenge to the gun seizure ruling as fruit of the poisonous tree must also fail. State v. Hemenway, 239 N.J. 111, 139 (2019).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION