IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD DAVID ROST,

Appellant,

vs.

CITY OF HENDERSON,

Respondent.

No. 36556

FILED

OCT 12 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On September 20, 1999, appellant was convicted in municipal court of misdemeanor driving under the influence. The municipal court stayed imposition of the jail sentence pending appellant's appeal in the district court. On April 13, 2000, the district court affirmed the municipal court conviction. Appellant filed a notice of appeal from the district court's order affirming the municipal court conviction; however, this court dismissed the petition for lack of jurisdiction because the district courts have final appellate jurisdiction in cases arising in municipal courts. See Rost v. City of Henderson, Docket No. 36026 (Order Dismissing Appeal, June 15, 2000).

On June 20, 2000, appellant, represented by counsel, filed a post-conviction petition for a writ of habeas corpus

in the district court. Appellant claimed that his constitutional right to be free from unreasonable search and seizure was violated when he was stopped and seized pursuant to an anonymous tip that lacked sufficient indicia of reliability. The district court denied the petition, concluding that:

> [B]ased on information concerning the make, color, and license number of the vehicle driven by Petitioner, as well as information regarding Petitioner's erratic driving which was supplied by two (2) named citizens . . . who were following Petitioner, the traffic stop conducted by the Henderson police officers was reasonable, valid, and proper.

This timely appeal followed.[1]

Appellant contends that the district court erred in denying his petition. We disagree.

Appellant raised the same constitutional challenges to the traffic stop on direct appeal to the district court. The district court rejected the claim. "'The law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same.'" Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). In an apparent attempt to circumvent the doctrine of the law of the case, appellant indicated in his petition that he was raising this issue again because subsequent to the filing of the

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[1]The district court granted appellant's motion to stay the judgment of conviction pending appeal.

briefs on appeal, the United States Supreme Court decided Florida v. J.L., 529 U.S. ___, 120 S. Ct. 1375 (2000). According to appellant, the decision in J.L. supports his position that his constitutional rights were violated and warrants relitigation of this issue. We disagree.

First, the relevant portion of J.L. does not announce a new rule. In fact, the J.L. decision cites extensively to Alabama v. White, 496 U.S. 325 (1990), in support of the proposition that an anonymous tip must bear sufficient indicia of reliability before it can provide reasonable suspicion to make an investigatory stop. See J.L., 529 U.S. at ___, 120 S. Ct. at 1378-79. We therefore conclude that appellant's reliance on J.L. does not warrant deviation for the doctrine of the law of the case.

Moreover, it is clear that appellant's contention lacks merit. Contrary to appellant's assertions, the information that led to the investigatory stop of appellant came from two identified citizen-informants, not an anonymous tip.[2] The identified citizen-informants supplied sufficient detail to support a stop and detention, and the officer

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[2]The fact that the citizen-informants called the information into police dispatch and did not personally speak with the officers prior to the investigatory stop of appellant does not make it an anonymous tip. The key is that the citizen-informants identified themselves and thereby exposed themselves to possible civil and criminal prosecution if the report was false. See Kaysville City v. Mulcahy, 943 P.2d 231, 235 (Utah Ct. App. 1997).

satisfactorily corroborated the report.[3] See Mulcahy, 943 P.2d at 235-38. We therefore conclude that appellant failed to demonstrate that his Fourth Amendment rights were violated.

Having considered appellant's contention and concluded that it lacks merit, we affirm the district court's order denying appellant's post-conviction petition for a writ of habeas corpus.

It is so ORDERED.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Mark W. Gibbons, District Judge
Henderson City Attorney
Dempsey Roberts & Smith
Clark County Clerk

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[3]Because anonymous tips are on the low end of the reliability scale, more information is required to raise a reasonable suspicion than is required where, as here, the tip is provided by an identified citizen-informant. See J.L, 529 U.S. at ___, 120 S. Ct. at 1378; White, 496 U.S. at 330-31.