

Recent Case Report

People v. Dolly

(2007) __ Cal.4th __ [2007 WL 269449]

ISSUE

Under what circumstances may officers detain a suspect based on an anonymous 911 call?

FACTS

At about 3:15 p.m., LAPD dispatchers received an anonymous 911 call from a man who reported that a “light-skinned African-American” man had “just pulled a gun” on him. He also said the man had a cast on his left arm and that he was now sitting inside a black Nissan Maxima that was parked on the north side of Jefferson Boulevard at Ninth Avenue. When the operator asked if he wanted to talk to officers when they arrived, he said, “I sure don’t. Because if they find out I’m snitching, they’re going to kill me around here.”

When officers arrived about two minutes later, they saw a black Maxima parked there with three people inside. The driver, Dolly, matched the description given by the caller. The officers detained him and searched his car for the handgun, which they found under the front passenger seat.

Dolly was convicted of being a felon in possession of a firearm.

DISCUSSION

Dolly contended the gun should have been suppressed on grounds that an anonymous 911 caller can never provide officers with reasonable suspicion to detain a suspect or conduct a protective search of his car. The California Supreme Court disagreed.

It is settled that information cannot support a detention unless there was some reason to believe it was reliable. Thus, it used to be the general rule that information from an anonymous caller could *never* establish reasonable suspicion.

But that changed somewhat in recent years, thanks mainly to the national 911 system. Because most people who phone 911 know that their calls are automatically recorded and traced, California courts view these callers as somewhat more reliable than people who phone non-emergency lines. As the court in *Dolly* observed, “[M]erely calling 911 and having a recorded telephone conversation risks the possibility that police could trace the call or identify the caller by his voice.”¹

Still, the courts in California have been unwilling to rule that *all* anonymous 911 callers are sufficiently reliable to justify detentions. Instead, they require some additional

¹ Quoting from *U.S. v. Terry-Crespo* (9th Cir. 2004) 356 F.3d 1170, 1176.

indication of reliability. Furthermore, they have been unwilling to permit detentions based on anonymous 911 calls unless there was reason to believe that an immediate detention was necessary.

So, what additional showing of reliability is required? Not much. In fact it may be enough that the caller gave a fairly detailed description of the suspect and his location, along with an indication that he was reporting something he had seen himself.

For example, in *People v. Wells*² the California Supreme Court ruled that CHP officers could detain a motorist for suspicion of DUI based on a report from an anonymous 911 caller when, (1) the caller provided a fairly precise information as to the appearance and location of the vehicle, (2) officers located a vehicle in the area that matched this description, (3) the caller indicated he had witnessed the erratic driving, and (4) his description of the erratic driving indicated the driver presented a threat to other motorists.

In contrast, the United States Supreme Court ruled in *Florida v. J.L.* that officers lacked sufficient reason to believe an anonymous caller was reliable when he phoned a non-emergency Miami-Dade police line and reported only that a young African-American man in a plaid shirt at a certain bus stop was carrying a concealed weapon.³ Said the Court, “[A]ll the police had to go on in this case was a bare report of an unknown, unaccountable informant who neither explained how he knew about the gun nor supplied any basis for believing he had inside information about J.L.”

While Dolly argued that the facts in his case were akin to *J.L.*—not *Wells*—the court disagreed, noting:

911 line: The man had called on a 911 line.

Firsthand information and confirmation: The man “provided a firsthand, contemporaneous description of the crime as well as an accurate and complete description of the perpetrator and his location, the details of which were confirmed within minutes by the police when they arrived.”

Immediate danger: The crime in *Dolly* (Pen. C. §§ 417 or 245) presented a much greater and immediate threat than that in *J.L.* (Pen. C. § 12031).

The court also pointed out that the caller gave the 911 operator a “plausible explanation” for wanting to remain anonymous—“If they find out I’m snitching, they’re going to kill me around here.”

For these reasons, the court ruled that the information known to the officers who detained Dolly and searched his car was sufficiently reliable to justify their actions. Said the court:

In this case, the 911 call was a firsthand report of violent criminal conduct requiring an immediate response to protect public safety. The call was recorded, eliminating the possibility of after-the-fact fabrication and allowing after-the-fact review (albeit limited) of the caller’s sincerity. The report was fresh, detailed, and accurate, and its description of defendant and his location was corroborated by the police within minutes.

Dolly’s conviction was affirmed. POV

² (2006) 38 Cal.4th 1078.

³ (2000) 529 U.S. 266. **NOTE:** The Court seemed to infer that the call was made to a non-emergency line, having noted, “So far as the record reveals, there is no audio recording of the tip, and nothing is known about the informant.”