

**OCT 07 2004**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TOMMY CANFIELD,

Defendant - Appellant.

No. 03-10673

D.C. No. CR-02-00620-LRH

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Larry R. Hicks, District Judge, Presiding

Submitted October 5, 2004\*\*  
San Francisco, California

Before: RYMER, TALLMAN, and BEA, Circuit Judges.

Tommy Canfield appeals the district court's denial of his motion to suppress evidence of a firearm following his conditional plea to being a felon in possession

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Canfield argues that Officer Lowe lacked sufficient reliable information to support a finding of reasonable suspicion for an investigatory stop. “A temporary detention or seizure of a person is ‘justifiable under the fourth amendment if there is articulable suspicion that a person has committed or is about to commit a crime.’” *United States v. Woods*, 720 F.2d 1022, 1026 (9th Cir. 1983) (quoting *Florida v. Royer*, 460 U.S. 491, 498 (1983)). “Reasonable suspicion, like probable cause, is dependent upon both the content of information possessed by police and its degree of reliability.” *Alabama v. White*, 496 U.S. 325, 330 (1990). “To determine whether reasonable suspicion existed, the court must consider the totality of the circumstances surrounding the stop.” *United States v. Michael R.*, 90 F.3d 340, 346 (9th Cir. 1996).

Here, Gallegos called 311 and then reported directly to Officer Lowe that he had seen a stranger in the neighborhood wearing a Hostetler football jersey, black pants and a do-rag on his head two days earlier and again just before he called the police. Gallegos’s nephew had told him that on the prior occasion, the man in the jersey had told him and other neighborhood children that he was a gang member who had committed a drive-by shooting, and that the man had shown a 9mm pistol

and removed a clip containing ammunition. Gallegos identified himself to Officer Lowe. No more particularized basis was required for Officer Lowe to stop Canfield and inquire whether he had a gun. *See United States v. Terry-Crespo*, 356 F.3d 1170, 1172 (9th Cir. 2004). Nor was it unreasonable to pursue Gallegos's information because it failed to show criminal activity; the person Gallegos described had said he committed a drive-by shooting. *See Adams v. Williams*, 407 U.S. 143, 145-47 (1972).

AFFIRMED.