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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1913**

State of Minnesota,
Respondent,

vs.

Jose Luis Ramirez,
Appellant.

**Filed December 18, 2017
Affirmed
Ross, Judge**

Freeborn County District Court
File No. 24-CR-14-1628

Lori Swanson, Attorney General, Edwin W. Stockmeyer, Assistant Attorney General,
St. Paul, Minnesota; and

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Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

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Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Ross, Judge; and Schellhas,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

A state trooper found 24 pounds of cocaine hidden in the front bumper of Jose Ramirez's car during a traffic stop after Ramirez gave his consent to search the car and the trooper's drug-detecting dog alerted on the bumper. We reject Ramirez's contention that the trooper violated his Fourth Amendment search-and-seizure rights and affirm his conviction of first-degree controlled substance crime because the trooper's stop, questioning, and request for consent to search were supported by reasonable suspicion of criminal activity.

FACTS

Minnesota State Trooper Douglas Rauenhorst was waiting at the junction of Interstates 35 and 90 for a recreational vehicle reportedly carrying drugs just after midnight in September 2014. The trooper said he became bored and decided to "stop some cars" in the meantime. He positioned his squad car in the median of Interstate 35 and watched for the "first violation." The trooper noticed that a car merging from the cloverleaf ramp had a license-plate light that was not illuminated. He initiated a traffic stop.

The trooper walked to the rear of the car and cupped his hand under the license-plate light to verify that it was not functioning. He then told the driver, Rogelio Rocha, that the license-plate light was out and asked him for his driver's license. Rocha asked if he could step out to see the light, and he exited the car. The car had other occupants, all of whom remained inside. Standing with Rocha at the rear of the car, Trooper Rauenhorst saw that Rocha had an Arizona driver's license while the car had a Minnesota license plate. The

trooper asked Rocha who owned the car. Rocha said that his uncle, who was in Arizona, owned it. The trooper asked if Rocha's uncle lived in Minnesota, and Rocha said that he did.

The trooper then asked Rocha the purpose of his trip, and Rocha said, "I came, I came up here in a plane, and then we were in 'See-ox.'" Trooper Rauenhorst figured that Rocha was referring to "Sioux Falls" and that he did not know how to pronounce "Sioux." The trooper went to the rear passenger window and asked the passengers, "Whose car is this?" Backseat passenger Jose Ramirez answered, saying that the car was his. The trooper asked Ramirez if he lived in Minnesota, and Ramirez answered that he did not. Trooper Rauenhorst returned to his squad car. By then, Ramirez's car had been stopped for fewer than five minutes.

Trooper Rauenhorst later testified that several factors aroused his suspicion during the stop. Among other things, he pointed to the discrepancy between Rocha's Arizona license and the car's Minnesota plate; conflicting answers as to who the owner was and where the owner lived; Rocha's mispronunciation of the word "Sioux" and omission of the word "Falls"; Rocha's hesitation in answering simple questions; the twitching of Rocha's lip and his evasive glancing; one of the passenger's lengthy pinkie fingernail; a single key in the ignition; and three cell phones in plain sight.

While Trooper Rauenhorst sat in his squad car, he contacted the El Paso Information Center to determine if Ramirez's car had recently been in Arizona, which the trooper believed to be a launching point for narcotics trafficking. He learned that the car had been in Arizona two-and-a-half weeks earlier. The trooper drafted a warning for the equipment

violation and approached Ramirez's car again. He asked Ramirez if the car had ever been in Arizona. Ramirez answered, "No." He asked Ramirez for permission to search the car, and Ramirez consented. The trooper brought his drug-detection canine, Diesel, around the car, and Diesel sniffed intensely and scratched at the front bumper, indicating narcotics. The trooper searched the bumper and discovered 24.04 pounds of cocaine.

The state charged Ramirez with first-degree controlled substance crime. Ramirez moved the district court to suppress evidence of the cocaine, arguing that the stop and search violated his constitutional rights. The district court denied the motion. Ramirez waived his right to a jury trial and stipulated to the state's case under Minnesota Rule of Criminal Procedure 26.01, subdivision 2 (2016). The district court found Ramirez guilty and sentenced him to 80 months in prison.

Ramirez appeals.

D E C I S I O N

Ramirez contends that Trooper Rauenhorst violated his constitutional rights when he stopped his car and expanded the duration and scope of the stop. The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may stop a car without violating this prohibition if the officer can identify specific and articulable facts that create a reasonable suspicion of illegal activity. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). We review de novo a district court's reasonable-suspicion determination. *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016).

Ramirez contends that Trooper Rauenhorst's statement that he was bored and therefore decided to "stop some cars" means that the stop was motivated by whim rather than reasonable suspicion of a violation. While the reasonable-suspicion standard is "not high," *id.*, a stop may not be "the product of mere whim, caprice, or idle curiosity." *Marben v. State, Dept. of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980) (quotation omitted); see also *Terry v. Ohio*, 392 U.S. 1, 21 (1968). Fairly construed, the trooper's testimony does not suggest that he stopped Ramirez's car merely because he was bored; it establishes instead that his boredom inspired him to look for the opportunity to stop cars. The Constitution is generally not concerned with why an officer chose to look for cars to stop. Because the officer's subjective motivation is constitutionally irrelevant, our only question is whether an objective justification supports the stop. *Whren v. United States*, 517 U.S. 806, 812–13, 116 S. Ct. 1769, 1774 (1996); *State v. Askerooth*, 681 N.W.2d 353, 374–75 (Minn. 2004) (Anderson, J., concurring specially). And if an officer observes a violation of any traffic law, however insignificant, he has reasonable suspicion to stop the violator. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). The relevant reason the trooper stopped Ramirez's car was the license-plate-light violation, not the trooper's boredom.

Ramirez argues that we should set aside the district court's finding that Trooper Rauenhorst stopped the car after he saw that its rear plates were not illuminated. He asserts that the squad-car video recording shows that the trooper could not have seen any malfunction. We give the trial court's findings of fact great deference, setting them aside only if they are clearly erroneous in light of the evidence. *State v. Gomez*, 721 N.W.2d 871, 883 (Minn. 2006). The district court found Trooper Rauenhorst's testimony about seeing

the faulty light “specific and credible.” The squad-car video recorder was oriented directly forward, and so it captured only the view through the squad car’s windshield. It does not capture what Trooper Rauenhorst may have seen when Ramirez’s car passed behind or beside him. The trooper said that he saw things not recorded on video, and Ramirez identifies no evidence calling in serious doubt the trooper’s description. The district court found that the video footage of Trooper Rauenhorst’s cupping his hand under the license-plate light to confirm his suspicion corroborated his credible testimony that he suspected an equipment violation. That the trooper was not certain of the violation until after the stop does not raise any concern; an officer can effect a traffic stop when he has a particularized and objective basis for suspecting a violation. *Berge v. Comm’r of Pub. Safety*, 374 N.W.2d 730, 732 (Minn. 1985). Because reasonable evidence in the record supports the district court’s finding that Trooper Rauenhorst reasonably suspected a license-plate malfunction, we will not disturb the finding.

Ramirez argues that Trooper Rauenhorst lacked reasonable suspicion to expand the duration and scope of the stop. “A traffic stop does not violate the right to be free from unreasonable searches and seizures as long as each incremental intrusion during a stop is strictly tied to and justified by the circumstances which rendered the initiation of the stop permissible.” *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012) (quotations omitted). An intrusion that drifts from the circumstances justifying the stop must be supported by reasonable suspicion of additional criminal activity. *Id.* We must decide whether Trooper Rauenhorst impermissibly expanded the stop.

Ramirez does not pinpoint when Trooper Rauenhorst's questioning of the driver and passengers allegedly became unlawful. During any traffic stop, an officer may "ask for the driver's license and registration and ask the driver about his destination and reason for the trip." *State v. Syhavong*, 661 N.W.2d 278, 281 (Minn. App. 2003). We are therefore not troubled by Trooper Rauenhorst's asking Rocha who owned the car and where the group had come from. The trooper reasonably sought to reconcile Rocha's Arizona driver's license and the car's Minnesota plates based on his reasonable, articulated concern that stolen vehicles are not always immediately reported. Rocha's answer that his uncle owned the car and lived in Minnesota but was currently in Arizona could be corroborated or undermined by a records search and by speaking with the occupants. An officer may question a car's occupants to confirm the driver's representations. *United States v. Linkous*, 285 F.3d 716, 719 (8th Cir. 2002). So we are also not troubled by the trooper's asking the occupants who owned the car.

Ramirez's answer that he owned the car contradicted Rocha's story, elevating Trooper Rauenhorst's suspicion and justifying his decision to conduct further investigation from his squad car. And the approximately 15 minutes he took to learn that Ramirez's car had been in Arizona two-and-a-half weeks earlier was also reasonable under the circumstances. After the trooper next asked Ramirez whether the car had ever been in Arizona, and Ramirez falsely denied it, the trooper could be confident that Ramirez and Rocha were attempting to deceive him. Based on this, he could reasonably infer that the occupants may be concealing some type of criminal behavior.

A snapshot of the extant circumstances from Trooper Rauenhorst's perspective informs us that he had reasonable suspicion of criminal activity to ask Ramirez to consent to a vehicle search. We consider these circumstances with the understanding that police officers have unique insight from their training and experience, allowing them to draw inferences that may be unperceived by others. *Smith*, 814 N.W.2d at 352. An objectively reasonable officer would find suspicious the occupants' apparent dishonesty about who owned the car and the trip's origination point. And the trooper's stated impression from his experience informed him that drug users or traffickers often overgrow their pinkie fingernails, transport drugs from Arizona, and maintain multiple cellular phones. It was therefore not unreasonable to suspect that the occupants' dishonest responses concealed drug trafficking. The trooper's next step in the investigation—asking Ramirez whether he would consent to a search—followed reasonably from these circumstances.

Because the stop, the investigation, and the request for consent to search were all based on reasonable suspicion and undertaken within a reasonable period, we affirm the district court's order denying Ramirez's motion to suppress and we affirm his conviction.

Affirmed.