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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0633**

State of Minnesota,
Respondent,

vs.

Michael Thomas Hesch,
Appellant.

**Filed December 31, 2018
Affirmed
Bjorkman, Judge**

Beltrami County District Court
File No. 04-CR-17-1421

Lori Swanson, Attorney General, St. Paul, Minnesota; and

David L. Hanson, Beltrami County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Bjorkman, Judge; and
Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges his conviction of third-degree sale of a controlled substance, arguing that the district court erred by denying his motion to suppress evidence because police unlawfully expanded the scope of the traffic stop. We affirm.

FACTS

On May 17, 2017, agents of the Paul Bunyan Drug Task Force received a tip from a confidential informant that S.N. was attempting to purchase heroin. The informant described S.N. and a vehicle associated with her, and the agents located the vehicle unoccupied in front of a Bemidji residence. They later observed a black Honda with two occupants pull up to the residence. A female matching the informant's description of S.N. walked out of the house and got into the back seat behind the passenger. She remained in the vehicle for only a few minutes then returned to the house, and the vehicle left. Based on the informant's tip and their observations, the agents believed they had witnessed a drug transaction. They contacted a city police officer and asked him to stop the vehicle based on "the fact that [they] observed a drug transaction."

The officer located the vehicle, saw it "roll through a stop sign," and then executed a traffic stop. The officer approached the passenger's side and noticed a "wad" of cash sticking out of the passenger's pocket. He recognized the driver as appellant Michael Hesch and informed Hesch that he stopped the vehicle because of the stop-sign violation and suspected drug transaction. The officer asked Hesch to step out of the car, and he conducted a pat-down search for weapons. Discovering none, he asked Hesch about the

drug transaction; Hesch denied being involved. When the officer asked about the passenger—whom Hesch said he knew only by a nickname—the passenger asked the officer to direct the questions to him. The officer noticed that the passenger was watching his interaction with Hesch in the side mirror, which he thought was odd. Then he observed the passenger make “a quick movement” to his left side. Thinking that he might be reaching for a weapon, the officer drew his service revolver. He ordered the passenger to place his hands on the dashboard and called for backup.

Additional officers arrived shortly thereafter, and they removed the passenger from the vehicle to pat him down for weapons. As they did so, they observed a small bag of marijuana on the floor between the passenger seat and the door. They searched the vehicle but found no other drugs. Then the officers received a call from the task-force agents. The agents indicated that S.N. confirmed she purchased one-half gram of heroin from Hesch and had relinquished it to them. The officers arrested Hesch and his passenger.

Hesch admitted to police that he sold heroin to S.N. and was charged with third-degree sale of a controlled substance. He moved to suppress his statement on the ground that police unlawfully expanded the scope of the traffic stop. The district court denied the motion. Hesch waived a jury trial and submitted the charge to the district court on stipulated facts pursuant to Minn. R. Crim. P. 26.01, subd. 3. The district court found Hesch guilty and imposed a stayed 33-month sentence. Hesch appeals.

D E C I S I O N

When reviewing a pretrial order on a motion to suppress evidence, we independently review the facts and determine whether, as a matter of law, the district court erred in

suppressing or not suppressing the evidence. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). We review the district court’s factual findings for clear error and its legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

The United States and Minnesota Constitutions protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may temporarily detain a person to investigate if the officer reasonably suspects, based on the totality of the circumstances, that the person is engaged in criminal activity. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011). Reasonable suspicion depends on the totality of the circumstances, *id.*, including not only those known to the officer who initiated the stop but also to the police force collectively, *Magnuson v. Comm’r of Pub. Safety*, 703 N.W.2d 557, 559 (Minn. App. 2005) (citing *State v. Riley*, 568 N.W.2d 518, 523 (Minn. 1997)).

The reasonable-suspicion standard is “not high” but requires at least a minimal level of objective justification for the stop. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008). The stop must be “justified at its inception” by specific, articulable facts, and the officer’s actions during the stop must be “reasonably related to and justified by the circumstances that gave rise to the stop in the first place.” *Diede*, 795 N.W.2d at 842-43. To expand a stop beyond its original purpose, an officer must have reasonable, articulable suspicion of other criminal activity. *State v. Wiegand*, 645 N.W.2d 125, 135 (Minn. 2002).

Hesch concedes that the officer had a valid basis to stop his vehicle long enough to issue a citation for the stop-sign violation. But he contends the officer impermissibly

expanded the scope of the stop because he did not have reasonable suspicion that Hesch was involved in drug activity. We disagree.

At the time of the stop, the officer and task-force agents were aware of the following circumstances. The agents received a tip about an anticipated drug transaction from a confidential informant. That tip was reliable because the informant previously provided “verif[ied]” information, and the agents corroborated elements of that tip, locating a vehicle and a person matching the descriptions the informant provided. *See State v. Luhm*, 880 N.W.2d 606, 621 (Minn. App. 2016) (identifying prior reliable reports and corroboration as indicative of informant’s reliability). The agents then observed an interaction in Hesch’s vehicle that they believed, in light of the tip and their training and experience, was a drug transaction. Police may rely on such trained inferences and deductions in establishing reasonable suspicion. *State v. Flowers*, 734 N.W.2d 239, 251-52 (Minn. 2007).

These circumstances provided an objective basis to suspect Hesch and his passenger were selling drugs. The officer’s observations during the 15-minute traffic stop only added to that suspicion—the wad of cash in the passenger’s pocket, the passenger’s monitoring and interjecting himself into the officer’s interaction with Hesch, the passenger’s sudden movements, and discovery of the marijuana. In short, reasonable suspicion of drug activity, together with the undisputed traffic violation, amply justified the initial stop and brief investigatory detention. The district court therefore did not err by denying Hesch’s motion to suppress.

Affirmed.