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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1224**

State of Minnesota,
Respondent,

vs.

Paul Vang,
Appellant.

**Filed April 29, 2019
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-CR-16-2611

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Florey, Presiding Judge; Connolly, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges his controlled-substance conviction, arguing that the district court erred by denying his motion to suppress evidence discovered during the warrantless search of the vehicle he was driving. We affirm.

FACTS

During the summer of 2015, agents of the Ramsey County Violent Crime Task Force received reports from a concerned citizen informant that a man and woman were selling marijuana and Thai lottery tickets from the Hmongtown Marketplace (the market) in St. Paul. The informant met with a member of the task force. Using photographs, the informant identified the two people (N.T. and B.C.), and explained that they were importing marijuana from California and selling it at two booths at the market. The informant also provided a description and license-plate number of the white van they use to transport the marijuana.

Task force members performed surveillance at the market, observing the white van on multiple occasions. They did not witness activity consistent with narcotics trafficking. The informant called back on at least two occasions to report that N.T. and B.C. were “back selling the bags again.” Task force members completed a controlled purchase of Thai lottery tickets from N.T. and B.C., but did not attempt to purchase marijuana.

On January 7, 2016, the informant advised the task force that N.T. and B.C. were currently selling marijuana at the market. The informant reported multiple individuals had approached the van and left carrying objects wrapped in cellophane bags. Shortly

thereafter, Ramsey County Sheriff's Deputy Chris Tayson and White Bear Lake Police Officer Curtis Paipoovong arrived at the market in separate unmarked vehicles.

While watching the van, the officers saw a dark-colored Cadillac sedan enter and park in the lot. The male driver entered the market. A few minutes later, another male left the market and moved the van to a remote area of the parking lot with less lighting and activity. Shortly thereafter, the Cadillac's driver exited the market accompanied by a woman who was speaking on a cell phone and appeared to direct him to the same area where the van was parked.

The Cadillac drove over to the van and parked with its trunk adjacent to the back of the van. The two drivers moved two large cardboard boxes from the van into the Cadillac's trunk. The Cadillac left the lot, and the van returned to its original parking spot. Deputy Tayson estimated that the vehicles were parked together for no more than five minutes. Both officers believed that they had observed a narcotics transaction.

The officers followed the Cadillac out of the lot. A license-plate search revealed it was registered to D.V. at an address connected with previous narcotics transactions. Deputy Tayson had personally investigated D.V. for narcotics trafficking in the past. Based on the information provided by the informant, the officers' observations at the market, and Deputy Tayson's knowledge that the Cadillac's registered owner is a suspected narcotics dealer, the officers stopped the Cadillac.

Deputy Tayson immediately recognized the driver as appellant Paul Vang. Deputy Tayson knew that Vang is D.V.'s brother and had encountered Vang in the past. On one occasion, Vang was stopped while driving a vehicle registered to D.V. from which a large

quantity of methamphetamine was recovered. Deputy Tayson also knew that Vang had recently been released from prison after serving a sentence for drug possession. While speaking to Deputy Tayson, Vang said he was working at 1st Choice Auto. Deputy Tayson knew that a recent Crime Stoppers tip reported that the owner of 1st Choice Auto, C.V., had been selling marijuana from his home and business. Deputy Tayson also knew Vang was a passenger in C.V.'s vehicle during a recent traffic stop.

Over Vang's objection, the officers searched the Cadillac. The two large cardboard boxes in the trunk contained vacuum-sealed bags of marijuana with a total weight of 5.3 kilograms.

Respondent State of Minnesota charged Vang with third-degree sale of a controlled substance under Minn. Stat. § 152.023, subd. 1(5) (2016). Vang moved to suppress the drug evidence and dismiss all charges for lack of probable cause. At the evidentiary hearing, the district court heard testimony from the three law-enforcement officers, and received five photographs into evidence. The district court denied Vang's motion.

The parties agreed to submit the matter to the district court based on stipulated facts and evidence under Minn. R. Crim. P. 26.01, subd. 3. The district court found Vang guilty as charged. Vang appeals.

D E C I S I O N

When the facts are undisputed, we review de novo a district court's pretrial order on a motion to suppress evidence. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008).

I. The officers had reasonable, articulable suspicion to stop Vang’s vehicle.

The United States and Minnesota Constitutions protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. “Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a seizure” *Whren v. United States*, 517 U.S. 806, 809, 116 S. Ct. 1769, 1772 (1996) (quotation marks omitted).

A law-enforcement officer may initiate a limited, investigative stop without a warrant if the officer has reasonable, articulable suspicion of criminal activity. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999). The reasonable-suspicion standard is not high, *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011), but the investigatory stop may not be the result of “mere whim, caprice or idle curiosity,” *State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996). Rather, an officer must “have a particularized and objective basis” to suspect that the person is engaged in criminal activity. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997) (quotation omitted). In determining whether reasonable suspicion exists to justify a stop, Minnesota courts “consider the totality of the circumstances and acknowledge that trained law enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person.” *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001).

At the time of the stop, the officers were aware of the following circumstances. During the summer of 2015, a citizen informant reported that N.T. and B.C. were using a white van to sell Thai lottery tickets and marijuana at the market. Officers corroborated the identities of N.T. and B.C. and successfully completed a controlled purchase of lottery

tickets from them. On January 7, 2016, the same informant reported that N.T. and B.C. were again selling marijuana in cellophane bags from the white van at the market. Within minutes of receiving the report, officers observed the white van and the Cadillac park next to each other in a remote area of the market's parking lot, and saw the drivers move two large cardboard boxes from the van to the Cadillac. Based on the informant's tip, their experience, and their personal observations, the officers believed they had witnessed a narcotics transaction. Before initiating the stop, the officers also learned that the Cadillac was registered to D.V., who had previously been investigated for narcotics trafficking.

Vang argues that these circumstances do not create reasonable, articulable suspicion that he was involved in criminal activity because the officers did not corroborate the alleged sale of marijuana at the market in 2015 and the exchange of boxes the officers witnessed was dissimilar from the reported sale of marijuana in cellophane bags. We are not persuaded.

First, “[w]e presume that tips from private citizen informants are reliable.” *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007). Information provided to law enforcement by a reliable informant can establish reasonable, articulable suspicion as long as the information bears “indicia of reliability that make the alleged criminal conduct sufficiently likely to justify an investigatory stop by police.” *Timberlake*, 744 N.W.2d at 393-94. This informant was a private citizen, whose reliability is presumed. And the informant had provided information that led to the controlled purchase of Thai lottery tickets. Accordingly, the informant's tip provided reasonable suspicion of drug activity.

Second, the informant's report that the van's occupants were selling marijuana at the market was corroborated by the responding officers. The officers saw the van in its reported location shortly after the call. Although the officers did not observe individuals leaving the van with cellophane bags, they observed an exchange of large boxes under circumstances that appeared to be a narcotics transaction. This suspicion was heightened when officers learned the Cadillac was registered to a suspected drug trafficker. On this record, we conclude the officers had reasonable, articulable suspicion to stop Vang's vehicle.

II. The officers had probable cause to search Vang's vehicle.

As a general rule, warrantless searches are unreasonable unless they fall within an exception to the warrant requirement. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). One such exception is the automobile exception, under which an officer may search a vehicle if she has probable cause to believe it contains contraband. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). Probable cause exists when there is a "fair probability that contraband or evidence of a crime will be found in a particular place." *State v. Carter*, 697 N.W.2d 199, 204-05 (Minn. 2005) (quotation omitted).

Determining whether probable cause exists "is an objective inquiry that depends on the totality of the circumstances." *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016). "[T]he totality of the circumstances includes reasonable inferences that police officers draw from facts, based on their training and experience, because police officers may interpret circumstances differently than untrained persons." *Id.* On appeal, we "give due weight to

reasonable inferences drawn by police officers and to a district court's finding that the officer was credible and the inference was reasonable." *Id.* (quotations omitted).

Vang asserts that neither the information provided by the informant nor the officers' observations before and after they stopped Vang's vehicle establish probable cause to search the vehicle. We disagree.

Citing *Diede*, Vang argues that Deputy "Tayson's reliance on Vang's admission that he worked at a business where one of the employees was currently under investigation for selling marijuana does not support probable cause." But *Diede* does not stand for the proposition that an individual's association with persons engaged in criminal activity cannot be considered in a probable-cause determination. Rather, *Diede* holds that such association cannot be the *only* evidence supporting such a determination. *See Diede*, 795 N.W.2d at 844 ("Mere proximity to, or association with, a person who may have previously engaged in criminal activity is not enough to support reasonable suspicion of possession of a controlled substance."). Vang's association with 1st Choice Auto is not the only thing that supports probable cause.

All of the circumstances warranting the investigative stop support probable cause to believe there were drugs in the vehicle. The district court found credible Deputy Tayson's testimony that what he observed at the market "was suspicious and indicative of a drug transaction." Likewise, the court found credible Officer Paipoovang's testimony that he "witnessed a narcotics transaction between the drivers of the white van and the Cadillac." We defer to the district court's credibility determinations regarding the officers' observations and reasonable inferences. *See Lester*, 874 N.W.2d at 771.

Learning that Vang was driving the Cadillac provided further reason to believe drugs or other evidence of a crime would be found in the vehicle. Deputy Tayson was familiar with Vang from previous narcotics-related encounters, including stopping Vang in a different vehicle registered to D.V. that contained a large quantity of methamphetamine. He was also aware that Vang had recently been released from prison related to a narcotics-possession conviction. The totality of the circumstances—including Deputy Tayson’s knowledge of Vang’s prior convictions for narcotics-related offenses and his general involvement with persons and places associated with narcotics trafficking—persuades us that there was a fair probability that the large boxes the officers saw Vang take from the van and put into his trunk contained a controlled substance. *See State v. Munoz*, 385 N.W.2d 373, 376 (Minn. App. 1986) (stating that an officer’s knowledge of the defendant’s prior controlled-substance convictions corroborated an informant’s tip and authorized the warrantless search of a vehicle).

Considering the totality of the circumstances and giving deference to the officer’s reasonable inferences and the district court’s credibility determinations, we conclude that the officers had probable cause to search Vang’s vehicle without a warrant pursuant to the automobile exception.

Affirmed.