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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1636**

State of Minnesota,
Respondent,

vs.

Keenon Lamar Bowlds,
Appellant.

**Filed June 10, 2019
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CR-17-11517

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

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Steven J. Meshbesh, Meshbesh & Associates, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Worke, Judge; and Schellhas, Judge.

UNPUBLISHED OPINION

SLIETER, Judge

This appeal is from a final judgment of conviction following a stipulated facts trial under Minn. R. Crim. P. 26.01, subd. 4, preserving review of a motion to suppress evidence

following a narcotic-detection dog sniff. Appellant Keenon Lamar Bowlds argues the district court erred by denying his motion to suppress evidence obtained from a warrantless narcotic-detection dog sniff in the hallway of his secured apartment building. We affirm.

FACTS

In October 2016, law enforcement received information from a cooperating defendant (CD) that a male was dealing marijuana and marijuana derivatives. CD identified the male as K-Bo. CD provided K-Bo's physical description, address, and phone number. CD admitted he received marijuana oil or derivatives from K-Bo.

Law enforcement determined the phone number provided by CD was registered to appellant. Further, law enforcement accessed information from the Minnesota Department of Public Safety finding appellant's address and biographical data matched CD's information. CD also verified a booking photograph of appellant as K-Bo.

On October 24, 2016, a sergeant with the Northwest Metro Drug Taskforce (NWMDTF) instructed a Plymouth Police Department officer to perform a narcotic-detection dog sniff at appellant's residence in a secured apartment building. Once the officer reached appellant's apartment door, he conducted a narcotic-detection dog sniff with his canine partner, a dog certified in the detection of the odor of illegal narcotics. The dog positively alerted to the presence of narcotics at appellant's door. The sergeant with NWMDTF verified with the apartment complex management that appellant was the tenant of the apartment where the dog alerted.

On October 25, 2016, the NWMDTF submitted a search warrant application and affidavit to the district court to search appellant's residence, which the district court

granted. On November 1, 2016, members of the NWMDTF and Plymouth Police Department executed the search warrant. Law enforcement seized: (1) 19 individually-wrapped THC edibles containing 100 milligrams of THC for a total of 1,900 milligrams of THC, (2) 312.72 grams of raw marijuana, (3) six grams of THC oil, and (4) \$3,500 in U.S. Currency. Law enforcement found a handgun near the controlled substances.

The state filed a complaint charging appellant with two counts of fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (2016), with a firearm enhancement pursuant to section 609.11, subdivision 5(a) (2016). The state amended the complaint to include one count of fifth-degree sale of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 1(1) (2016), with a firearm enhancement pursuant to section 609.11, subdivision 5(a).

The district court denied appellant's motion seeking to suppress evidence from the search relying on this court's decision in *State v. Edstrom*, 901 N.W.2d 455 (Minn. App. 2017), while the matter was on review before the supreme court. On May 7, 2018, appellant agreed to a stipulated facts trial and also waived his right to a jury trial to address the aggravated sentence pursuant to Minn. R. Crim. P. 26.01, subds. 1, 4. On May 18, 2018, the district court found appellant guilty of the three counts in the amended complaint and the state proved the sentencing enhancement pursuant to section 609.11, subdivision 5(a). The district court sentenced appellant to 180 days in the workhouse with credit for one day served, but it stayed the sentence until resolution of this appeal.

DECISION

“When facts are not in dispute, as here, we review a pretrial order on a motion to suppress *de novo* and ‘determine whether the police articulated an adequate basis for the search or seizure at issue.’” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quoting *State v. Flowers*, 734 N.W.2d 239, 247-48 (Minn. 2007)). Appellant requests that we rule contrary to the supreme court’s decision in *State v. Edstrom*, 916 N.W.2d 512 (Minn. 2018)—despite no factual distinctions from that case—to conclude the use of the narcotic-detection dog sniff outside his apartment in a common hallway constituted a search under the Fourth Amendment.

Appellant’s request conflicts with this court’s authority under the Minnesota Constitution and case precedent. The Minnesota Constitution provides this court with appellate jurisdiction “over all courts, except the supreme court, and all other appellate jurisdiction as proscribed by law.” Minn. Const. art. VI, § 2. This court “is bound by supreme court precedent.” *State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018); *see also State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010) (“The district court, like [the court of appeals], is bound by supreme court precedent and the published opinions of the court of appeals . . .”), *review denied* (Minn. Sept. 21, 2010).

Appellant construes this court’s authority to reverse precedent when compelling reasons provide us with a basis to do so also applies to supreme court precedent. Appellant is mistaken. “We will only overrule *our* precedent if provided with a compelling reason to do so.” *Ariola v. City of Stillwater*, 889 N.W.2d 340, 356 (Minn. App. 2017) (emphasis

added), *review denied* (Minn. Apr. 18, 2017). For the reasons already noted, this authority extends only to our own precedent and not to the precedent of the supreme court.

The supreme court in *Edstrom* held a narcotic-detection dog sniff performed outside a person's apartment door in a common hallway constitutes a search under the Minnesota Constitution. 916 N.W.2d at 522-24. The lone ground for potential relief here is pursuant to the Minnesota Constitution, which requires reasonable, articulable suspicion of criminal activity to perform a narcotic-detection dog sniff—as long as law enforcement is lawfully present where the sniff occurred. *Id.* at 523. There is reasonable suspicion of criminal activity based on CD's report and law enforcement corroborated the information obtained from CD about appellant's criminal conduct before conducting the dog sniff. *State v. Timberlake*, 744 N.W.2d 390, 393-94 (Minn. 2008); *In re Welfare of G.M.*, 560 N.W.2d 687, 691 (Minn. 1997). Appellant failed to establish that law enforcement was not lawfully present where the sniff occurred. *Am. Family Life Ins. Co. v. Noruk*, 528 N.W.2d 921, 925 (Minn. App. 1995) (recognizing failure to provide a transcript on appeal limits this court's review), *review denied* (Minn. Apr. 27, 1997). Accordingly and consistent with *Edstrom*, the district court properly denied appellant's motion to suppress.

Affirmed.