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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0236**

State of Minnesota,
Respondent,

vs.

Devon Dennis Carstensen,
Appellant.

**Filed November 4, 2019
Affirmed
Worke, Judge**

Beltrami County District Court
File No. 04-CR-18-2219

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

David Hanson, Beltrami County Attorney, River D. Thelen, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Blair W. Nelson, Blair W. Nelson, Ltd., Bemidji, Minnesota (for appellant)

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

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

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the district court's denial of his pretrial suppression motion, arguing that the stop of his vehicle was unreasonable because it was based on the officer's mistaken belief of the law. We affirm.

FACTS

While on patrol at approximately 2:45 a.m. on July 2, 2018, Deputy Birt observed a vehicle with an Iowa registration.¹ Deputy Birt ran the registration and discovered that the vehicle's registration expiration date was June 2018. Deputy Birt stopped the vehicle and eventually cited the driver, appellant Devon Dennis Carstensen, for fourth-degree driving while impaired (DWI).

Carstensen moved to suppress the evidence obtained from the traffic stop, arguing that the stop was unconstitutional because it was based upon Deputy Birt's mistake of law regarding the validity of his Iowa registration. The parties agreed that the sole basis for the stop was that the vehicle Carstensen was driving on July 2 had an Iowa registration with a June 2018 expiration date. The parties acknowledged that Deputy Birt made a mistake of law as Carstensen's registration was valid through July 2018 based on Iowa law and Minnesota's registration reciprocity statute. The district court denied Carstensen's motion to suppress and found that "Deputy Birt's mistake of law was reasonable" and he "had reasonable suspicion to justify the stop."

¹ It appears that the terms "registration" and "license plate" are used interchangeably in the record. For clarity, we refer to the two as registration.

Carstensen submitted the case to the district court on stipulated evidence, pursuant to Minn. R. Crim. P. 26.01, subd. 3. The district court found Carstensen guilty of fourth-degree DWI and sentenced him to 90 days in jail, stayed for two years. This appeal followed.

D E C I S I O N

Carstensen seeks reversal of the district court’s denial of his motion to suppress, arguing that the stop of his vehicle was unreasonable because it was premised on a mistake of law. “When facts are not in dispute . . . 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) (quotation omitted). This court relies on facts found by the district court unless they are clearly erroneous. *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007).

A warrantless search or seizure is presumptively unreasonable. U.S. Const. amend. IV; Minn. Const. art. I, § 10. An exception to the warrant requirement permits a police officer to “conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675 (2000)). Reasonable suspicion is “a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011). “The reasonable suspicion standard is not high.” *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (citation and quotation omitted). It is enough that an officer can articulate specific

facts, which, taken together with rational inferences drawn from those facts, objectively support the officer's suspicion. *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007).

Even an insignificant violation of a traffic law provides a basis for an investigatory stop. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). Reasonable suspicion justifies a stop “so long as the facts support at least one inference of the possibility of criminal activity,” *State v. Klamar*, 823 N.W.2d 687, 693 (Minn. App. 2012) (quotation omitted), and it is not “the product of mere whim, caprice, or idle curiosity.” *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (quotation omitted).

The district court found that Deputy Birt stopped Carstensen's vehicle because he discovered that the registration expired June 2018. Minnesota traffic regulations provide that

[n]o person shall operate, drive, or park a motor vehicle on any highway unless the vehicle is registered in accordance with the laws of this state and has the number plates or permit confirming that valid registration or operating authority has been obtained . . . as assigned to it by the commissioner of public safety, conspicuously displayed thereon

Minn. Stat. § 169.79, subd. 1 (2018). With respect to license plate registration stickers, “[l]icense plates issued to vehicles registered under [the monthly series registration system] must display the month of expiration in the lower left corner of each plate and the year of expiration in the lower right corner of each plate.” *Id.*, subd. 8(a) (2018). “A vehicle registered under the monthly series system of registration shall display the plates and

insignia issued within ten days of the first day of the month which commences the registration period.” Minn. Stat. § 168.09, subd. 4 (2018).²

The legislature has authorized the commissioner of public safety to enter into agreements with other states, which

shall provide that vehicles properly registered or licensed in this state, when operated upon highways of the other state, shall receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to vehicles properly registered or licensed in such state when operated in this state. Any such declaration shall contemplate and provide for mutual benefits, reciprocal privileges or equitable treatment of the owners of vehicles registered in this and the other state.

Minn. Stat. § 168.187, subd. 7 (2018).³

Iowa traffic code provides that,

[i]t is a simple misdemeanor . . . for any person to drive or move or for an owner knowingly to permit to be driven or moved upon the highway a vehicle of a type required to be registered under this chapter which is not registered, or for which the appropriate fees have not been paid.

Iowa Code § 321.17 (2018). “Every motor vehicle . . . when driven or moved upon a highway shall be subject to the registration provisions of this chapter except [the listed exceptions].” Iowa Code § 321.18 (2018). Iowa can refuse to register a vehicle when “the

² In *Carter v. State*, this court noted that the ten-day grace period to display plates and insignia in the registration statute did not “allow[] an unregistered vehicle to be operated during the first ten days following the expiration of the former registration period.” 787 N.W.2d 675, 679 (Minn. App. 2010). In other words, under the statute an individual has a ten-day grace period to display a valid registration but does not have a ten-day grace period to operate an unregistered vehicle.

³ For purposes of our analysis, we assume that Minnesota and Iowa have such an agreement.

vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.” Iowa Code § 321.30(1)(b) (2018). Iowa’s registration-expiration statute provides, “[a] person shall not be considered to be driving a motor vehicle with an expired registration for a period of one month following the expiration date of the vehicle registration.” Iowa Code § 321.39(1) (2018).

Based on the Minnesota reciprocity statute and the Iowa registration-expiration statute, a vehicle properly registered in Iowa will be treated as properly registered in Minnesota even if the Iowa requirements are different. *See* Minn. Stat. § 645.26, subd. 1 (2018) (stating that when general provision in law conflicts with special provision in the same or another law and conflict is irreconcilable, special provision prevails and is construed as exception to general provision unless it is manifest intention of legislature that general provision prevails). When a vehicle is properly registered in Iowa, the Iowa registration-expiration statute is an exception to the Minnesota registration requirement.

Two decisions from our supreme court establish precedent on mistake of law in Minnesota. First, in *George*, the supreme court held that an officer’s mistaken belief as to Minnesota law cannot support an objective basis for an investigatory stop. 557 N.W.2d at 578-79. There, an officer stopped a motorcycle believing that the motorcycle’s headlight configuration was illegal. *Id.* at 576. But the officer was mistaken as to the applicable Minnesota law, and the headlight configuration was legal. *Id.* at 579. The supreme court concluded that there was no legal basis for the stop because the officer did not have an objective legal basis for suspecting that George was driving his motorcycle in violation of the law. *Id.*

Next, in *State v. Anderson*, an officer believed that a Minnesota statute required a driver to move far enough away from a stopped emergency vehicle so that there was an entire free “buffer lane” between the driver’s car and the emergency vehicle. 683 N.W.2d 818, 821 (Minn. 2004). Based on this interpretation of the statute, the officer stopped a car that had not moved far enough away from his stopped squad car and eventually arrested the driver for a DWI. *Id.* The supreme court concluded that the officer had incorrectly interpreted the Minnesota statute and held “that an officer’s mistaken interpretation of a statute may not form the particularized and objective basis for suspecting criminal activity necessary to justify a traffic stop.” *Id.* at 822, 824.

We conclude that this case is distinguishable from *George* and *Anderson*. In *George* and *Anderson*, the circumstances that the officers observed could not have constituted violations of Minnesota law and were premised on the officers’ mistaken belief as to the meaning of a Minnesota statute. Here, Deputy Birt’s discovery of the registration with a June 2018 expiration could have been a violation of the general Minnesota statute. Only by way of the reciprocity statute was Carstensen’s registration valid. While the record is admittedly sparse, nothing indicates that Deputy Birt was mistaken as to the meaning of a Minnesota statute in this case.

Based on Deputy Birt’s discovery of the registration’s expiration date, he could rationally have inferred that Carstensen’s vehicle registration may have been invalid,⁴

⁴ While Deputy Birt was unable to enforce Iowa law, *see State v. Smith*, 421 N.W.2d 315, 318 (Minn. 1988), operation of a vehicle in either Minnesota or Iowa requires a valid registration. Deputy Birt could have suspected that Carstensen’s registration was invalid through expiration or due to Iowa’s refusal to register the vehicle on other grounds—thus

which provided him with an articulable and objective basis for the investigative stop. Because Deputy Birt was unaware that the Iowa vehicle registration was not expired for one month beyond the Minnesota requirements, it was not unreasonable for him to stop Carstensen's vehicle for violating Minnesota law. Therefore, the stop was reasonable as it was not the product of mere whim, caprice, or idle curiosity and the district court did not err by denying Carstensen's suppression motion.

As a final matter, the parties make arguments as to whether *George and Anderson* survived the Supreme Court's holding in *Heien v. North Carolina*, 574 U.S. 54, 135 S. Ct. 530, 536 (2014) (holding that reasonable suspicion for a traffic stop can be based on a reasonable mistake of law). Because we concluded that Deputy Birt did not make a mistake of law when he stopped Carstensen's vehicle, we need not decide the continuing validity of *George and Anderson* in light of *Heien*. As we are not abrogating Minnesota precedent on mistake of law and our supreme court has not overruled *George and Anderson*, they remain binding precedent.

Affirmed.

making it inoperable in Minnesota. See, e.g., Iowa Code § 321.30 (2018) (listing grounds for refusing registration or title).