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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1747**

State of Minnesota,
Respondent,

vs.

Marguerita Elizabeth Abujobarah,
Appellant.

**Filed July 27, 2020
Reversed
Slieter, Judge**

Faribault County District Court
File No. 22-CR-18-841

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

Kathryn Karjala, Faribault County Attorney, Mindy Quittem. Assistant County Attorney,
Blue Earth, Minnesota (for respondent)

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

Considered and decided by Ross, Presiding Judge; Slieter, Judge; and Kalitowski,
Judge.*

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

UNPUBLISHED OPINION

SLIETER, Judge

In this direct appeal of the district court's order finding her guilty for the crimes of fifth-degree controlled-substance and driving while impaired, appellant argues we must reverse because the district court erred in concluding that the officer had a valid basis for expanding the scope of the traffic stop. We agree and reverse.

FACTS

In December 2018, Faribault County sheriff deputy Briar Bonin responded to a dispatch report of an erratic driver on Interstate 90 in Faribault County. Dispatch informed Deputy Bonin that a green Jeep was speeding and was "all over the road." Deputy Bonin located the Jeep on Interstate 90 approximately five minutes later. He initially observed the Jeep travelling at approximately 77 or 78 miles per hour in a 70-mile-per-hour zone and he followed it for three or four miles. During that time, he observed the vehicle weaving within its lane. Based on the speeding, weaving, and driving complaint, Deputy Bonin initiated a traffic stop.

Deputy Bonin identified appellant Marguerita Elizabeth Abujobarah as the driver. While speaking with her through the passenger-side window of the car, Deputy Bonin noticed a rolled-up paper towel near the gear shift on the center console. The deputy asked appellant what was in the towel, and she said it was a tube. Deputy Bonin asked her if he could see it, and she handed him the paper towel.

Deputy Bonin took the paper towel and unrolled it, and found a glass pipe inside with white and brown residue, indicating to him that it was used to smoke

methamphetamine. The contents of the pipe later tested positive for methamphetamine. Deputy Bonin then asked appellant to step out of the vehicle and he searched the vehicle and conducted field sobriety tests.

Appellant was charged with fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (2018) and fourth-degree driving while impaired, in violation of Minn. Stat. § 169A.27, subd. 1 (2018).

The district court denied appellant's motion to suppress evidence, finding that the deputy had a reasonable, articulable suspicion of criminal activity to expand the scope of the stop to question appellant about the contents of the paper towel. Following a stipulation to proceed pursuant to Minn. R. Crim. P. 26.01, subd. 4, the district court issued a judgment finding appellant guilty of both charged offenses, stayed adjudication of conviction for the fifth-degree controlled-substance crime and entered a conviction for driving while impaired and imposed a sentence for both offenses. This appeal follows.

D E C I S I O N

Appellant argues that, by questioning her about the contents of the rolled-up paper towel that ultimately lead to his seizure of the pipe, Deputy Bonin improperly expanded the scope of the stop without reasonable suspicion to do so. We agree.

“When facts are not in dispute . . . [appellate courts] 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.” *See State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted). “[E]ach incremental intrusion during a stop must be strictly tied to and justified by the circumstances which rendered the initiation of the stop permissible.”

State v. Askerooth, 681 N.W.2d 353, 364 (Minn. 2004) (quotation omitted). “An intrusion not closely related to the initial justification for the search or seizure is invalid under article I, section 10 unless there is independent probable cause or reasonableness to justify that particular intrusion.” *Id.* Evidence obtained as a result of a seizure without reasonable suspicion must be suppressed. *See State v. Harris*, 590 N.W.2d 90, 97 (Minn. 1999).

Reasonable suspicion must be “based on specific, articulable facts” that allow the officer “to articulate at the omnibus hearing that he or she had a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995). This “reasonable suspicion standard is not high,” but requires “more than an inchoate and unparticularized hunch of criminal activity.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). An officer must “articulate specific facts which, taken together with rational inferences from those facts, objectively support the officer’s suspicion.” *State v. Lugo*, 887 N.W.2d 476, 486 (Minn. 2016).

Deputy Bonin stopped appellant’s vehicle for weaving within its lane and speeding. He testified that he observed a “rolled-up paper towel” in appellant’s vehicle, and that he knew from his training and experience that paper towels were “sometimes” used to protect glass pipes. During cross examination, appellant’s trial counsel asked Deputy Bonin if he “had a guess” about what was in the paper towel at that time, and Deputy Bonin replied, “I had a guess as well, yes.” Appellant’s counsel then asked Deputy Bonin, “Um, maybe even a hunch?” and the deputy responded, “Due to its shape, yes.” Deputy Bonin also agreed that many other items could reasonably have been inside of the paper towel such as

food for the dog that was in the vehicle at the time, the dog's feces, or anything else that could be wrapped in a paper towel of that size.

Deputy Bonin presented no facts supplementing his guess and hunch sufficient to create objective support for his desire to search the rolled up paper towel. The district court therefore erred in concluding that Deputy Bonin had a particularized and objective basis for suspecting appellant of other criminal activity to warrant expansion of the stop beyond that of speeding.

Reversed.