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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0037**

State of Minnesota,
Respondent,

vs.

Jeffrey Patrick Sims,
Appellant.

**Filed November 23, 2020
Affirmed
Florey, Judge**

Winona County District Court
File No. 85-CR-19-620

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

Karin L. Sonneman, Winona County Attorney, Christina M. Galewski, Assistant County Attorney, Winona, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Lydia Maria Villalva Lijó, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Segal, Chief Judge; and Florey,
Judge.

UNPUBLISHED OPINION

FLOREY, Judge

Appellant challenges his conviction of first-degree controlled-substance possession, arguing that the district court erred by denying his suppression motion because law enforcement lacked probable cause to search his vehicle. We affirm.

FACTS

At around 2:00 a.m., an officer saw a driver sleeping in a running car in a parking lot in Winona, Minnesota. The officer ran the Wisconsin license plates and learned that the car's owner, appellant Jeffrey Patrick Sims, had outstanding warrants for failure to appear and pending felony charges for amphetamine and methamphetamine possession, felon in possession of a firearm, and carrying a concealed weapon.

The officer exited his vehicle and approached the sleeping driver, Sims. The officer saw a wallet in Sims's hand and two cell phones in the car. The officer knocked on the window and was able to wake Sims after about 40 seconds. He asked Sims for identification and saw a large amount of cash in the wallet, an amount later determined to be \$1,385. Sims had some difficulty locating identification in his wallet, and the officer assisted him. The officer saw that the dash behind the steering wheel and center console had been altered and noticed two bags in the back seat; the car was otherwise very clean. The officer asked Sims about his location and destination, and Sims answered the officer's questions.

After confirming with dispatch that Sims had an outstanding warrant, the officer ordered Sims out of the car. After exiting, Sims locked his door, which aroused the

officer's suspicions. The officer then handcuffed Sims, searched his vehicle, and discovered methamphetamine inside a locked container in a bag in the back seat of the car.

The state charged Sims with first-degree possession of methamphetamine. Sims moved to suppress the evidence, arguing that the officer lacked probable cause to search his vehicle under the automobile exception to the warrant requirement and that the search was not incident to arrest.

The district court held a contested omnibus hearing. The officer testified about his training and experience in investigating narcotics trafficking, including experience uncovering hidden drug compartments in vehicles. The officer testified that the dash in Sims's car had been manipulated, and part of the center console had been disassembled and "partially reassembled." The officer testified that these were the "types of things" he looked for when investigating narcotics trafficking. The officer also testified that having two cell phones and a large amount of cash can be an indication that a person sells narcotics.

The district court denied Sims's suppression motion. The court credited the officer's training and experience and concluded that the officer developed probable cause to search the vehicle under the automobile exception to the warrant requirement. Sims waived his trial rights and stipulated to the prosecution's case under Minn. R. Crim. P. 26.01, subd. 4, to obtain review of the district court's pretrial ruling. The district court found Sims guilty and sentenced him to serve 64 months in prison. Sims appeals.

D E C I S I O N

Sims argues that the district court erred by denying his suppression motion because the officer lacked probable cause to search his car. "When reviewing pretrial orders on

motions to suppress evidence, we may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence.” *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). We review the district court’s factual findings for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). In reviewing the district court’s factual findings, we defer to the district court’s credibility determinations. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003).

The United States Constitution and the Minnesota Constitution protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. A search conducted without a warrant is unreasonable unless it satisfies “one of the well-delineated exceptions to the warrant requirement.” *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999). “When probable cause exists to believe that a vehicle contains contraband, the Fourth Amendment permits the police to search the vehicle without a warrant.” *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). This includes closed containers in the vehicle. *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016).

“Probable cause exists when there are facts and circumstances sufficient to warrant a reasonably prudent person to believe that the vehicle contains contraband.” *Id.* (quotation omitted). “Probable cause is an objective inquiry that depends on the totality of the circumstances in each case.” *Id.* “[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.* “Therefore, an appellate court must 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).

The officer found Sims asleep in a running car. He had outstanding warrants for failure to appear, and pending charges for methamphetamine possession and unlawful possession of a firearm. He possessed a large amount of cash and two cell phones. His vehicle's dash and center console were altered. He was difficult to wake and showed signs of confusion in responding to the officer's request for identification. Lastly, he locked his door after exiting his vehicle.

Taken together, the totality of the circumstances provided probable cause to believe that Sims was transporting, selling, or using controlled substances, and that his car contained contraband, particularly when giving due deference to the reasonable inferences that the officer was able to draw from the cash, phones, and altered dash in plain view. Probable cause is a common-sense concept involving practical considerations. *Id.*

Sims relies on *Flowers* to argue that the officer lacked probable cause. In *Flowers*, the supreme court concluded that furtive movements, without other relevant circumstances, did not provide probable cause to search a vehicle. 734 N.W.2d at 249. This case is distinguishable. Unlike *Flowers*, this case contains numerous relevant circumstances and reasonable inferences supporting a probable-cause determination. Additionally, in *Flowers*, the officers did not know that the suspect had a criminal record. *Id.* Here, the officer was aware of Sims's outstanding warrants for failure to appear and pending charges for methamphetamine possession and unlawful possession of a firearm. Criminal history, including not only convictions but prior arrests, can be considered as one factor in the

totality of circumstances relevant to probable cause. *State v. Hochstein*, 623 N.W.2d 617, 623 (Minn. App. 2001); *State v. Lieberg*, 553 N.W.2d 51, 56 (Minn. App. 1996). The district court did not err by denying Sims's suppression motion.

Affirmed.