

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0178**

State of Minnesota,
Respondent,

vs.

Jesse Lane Urrutia,
Appellant.

**Filed March 1, 2021
Affirmed
Ross, Judge**

Beltrami County District Court
File No. 04-CR-19-339

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

David L. Hanson, Beltrami County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

A deputy sergeant stopped a car driven by Jesse Urrutia and arrested him for driving while drunk and with a cancelled license. Urrutia challenges his resulting conviction, arguing that the district court should have suppressed the evidence of his crimes because the sergeant used excessive force while seizing him by immediately drawing his gun and

ordering him to the ground. Because an officer's use of force is not a basis for evidence suppression even if the force was excessive, we affirm.

FACTS

Beltrami County Deputy Sergeant Anthony Petrie was patrolling a rural area late one night in February 2019 when he observed a car with a loud exhaust passing him in the opposite direction. Sergeant Petrie turned his squad car around, intending to initiate a traffic stop. But the loud car stopped in the middle of the road, backed up, and pulled into a driveway. The sergeant positioned his squad car in the driveway behind it.

Sergeant Petrie began approaching on foot. He saw that the driver turned and carefully watched his approach. The driver then suddenly left the car. The sergeant—alone and surprised—drew his handgun and ordered the driver to the ground. He holstered his gun when he was satisfied that the driver, Jesse Urrutia, was unarmed.

The sergeant suspected that Urrutia was intoxicated, and he confirmed the suspicion using field sobriety tests. A records check revealed that the state had cancelled Urrutia's driving privilege. The state charged Urrutia with drunk driving and driving with a cancelled license. Urrutia unsuccessfully moved the district court to suppress the evidence of his impairment and cancelled license, arguing that the sergeant had unconstitutionally ordered him to the ground at gunpoint. The parties agreed to a stipulated-evidence bench trial, and the district court found Urrutia guilty on both counts. Urrutia appeals.

DECISION

Urrutia challenges his convictions, arguing that the district court erroneously failed to suppress evidence gathered during the stop. We review de novo a district court's legal

conclusions in a pretrial order refusing to suppress evidence, and we review its factual findings for clear error. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). Although Urrutia’s brief vaguely suggests that he is challenging “the scope” of the stop, his argument focuses on the degree of force the officer used by drawing his gun and ordering him to the ground. Clarifying the basis of Urrutia’s appeal, during oral argument his counsel explained that Urrutia is challenging the level of force the sergeant used, but he does not assert that the deputy’s conduct constituted a de facto, unconstitutional arrest.

We hold that the district court did not err by refusing to suppress the evidence. As one federal court accurately put it, “[T]here has been no appellate decision holding that the exclusionary rule can serve as a remedy for excessive force collateral to a search or seizure.” *United States v. Collins*, 714 F.3d 540, 544 (7th Cir. 2013). Urrutia has cited no Minnesota or federal case holding that a seizure that is unconstitutionally excessive in force precipitates the suppression of evidence collected during the seizure and unrelated to the force. It is unlikely that such a case exists, since the exclusionary rule generally justifies suppression of evidence discovered or collected *because of* a Fourth Amendment violation, *United States v. Calandra*, 414 U.S. 338, 347, 94 S. Ct. 613, 619 (1974), not evidence that is collected with no causal relation to an alleged Fourth Amendment violation. We doubt that the sergeant’s conduct here was excessive under the circumstances of Urrutia’s suspicious behavior in the secluded driveway, but because the appeal would fail anyway, we need not consider the assertion.

Affirmed.