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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0269**

State of Minnesota,
Appellant,

vs.

Trevon Lashaun Manuel,
Respondent.

**Filed August 31, 2020
Reversed and remanded
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-19-15840

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

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Considered and decided by Bryan, Presiding Judge; Johnson, Judge; and Cochran, Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

Trevon Lashaun Manuel is charged with driving while impaired. He moved to suppress evidence obtained by police officers who responded to a report that a person was

unconscious or asleep in the driver's seat of a minivan in the drive-thru lane of a White Castle restaurant in Minneapolis at 3:30 a.m. The district court granted the motion, reasoning that the officers made a *de facto* arrest of Manuel without probable cause when they handcuffed him, and reasoning further that the officers did not have a reasonable belief that Manuel might be armed and dangerous. The state appeals. We conclude that the officers did not arrest Manuel when they handcuffed him. We further conclude that the officers' observations justified a reasonable belief that Manuel might have been armed and dangerous and that, pursuant to *Terry v. Ohio*, the officers' reasonable belief permitted them to take necessary measures to determine whether Manuel was carrying a weapon and to neutralize the risk to the officers' safety. Therefore, we reverse and remand.

FACTS

In July 2019, Manuel was tab-charged with two counts of driving while impaired (DWI), for operating a motor vehicle under the influence of alcohol, in violation of Minn. Stat. § 169A.20, subd. 1(1) (2018), and for having an alcohol concentration of 0.08 within two hours of driving, operating, or being in physical control of a motor vehicle, in violation of Minn. Stat. § 169A.20, subd. 1(5) (2018).

In August 2019, Manuel moved to suppress the state's evidence and to dismiss the charges. His one-page motion asserted that police officers did not have probable cause to arrest him for DWI. The district court conducted an evidentiary hearing on the motion in December 2019. The state called one witness, Officer Jesada Moua. He testified as follows:

He was dispatched to a White Castle restaurant at 3:30 a.m. on July 5, 2019, in response to a call that a person was unconscious or asleep at the wheel of a minivan in the drive-thru lane. Whenever he receives a report that a person is “unconscious at the wheel,” he naturally considers whether the person is intoxicated. When he arrived at the White Castle, he saw a minivan in the drive-thru lane and saw a man, later identified as Manuel, sitting in the driver’s seat. Officer Moua and his partner exited their squad car and walked toward the minivan. As they approached, they saw Manuel “reaching back into the vehicle.” Officer Moua considered Manuel’s action to be a “safety concern” because “[w]e don’t know if he’s reaching for a weapon or if he’s reaching for something else.” Officer Moua ordered Manuel to not reach for anything and to place his hands on the steering wheel, and Manuel complied. When Officer Moua and his partner arrived at the minivan, they directed Manuel to get out of the vehicle. The officers placed Manuel in handcuffs so that they could search his person to ensure that he did not have a weapon and that he could not reach for a weapon. The officers escorted Manuel away from his minivan so that they could search it for weapons. Officers found an open bottle of alcohol in the back seat of Manuel’s minivan and observed numerous signs of impairment. Manuel eventually was arrested for DWI. He submitted to a breath test, which indicated an alcohol concentration of 0.13.

At the evidentiary hearing, the parties stipulated to the introduction of three video-recordings, all of which were created by the officers’ body-worn cameras. We have reviewed the video-recordings, two of which depict the following sequence of events: After arriving at the White Castle and placing his squad car in park, Officer Moua

approached Manuel's minivan on the passenger's side. As he approached, Manuel was sitting in the driver's seat with his torso turned clockwise toward the area behind the driver's seat, with his head leaning over the back of his seat and his right arm extended backward as if he were reaching for something. Officer Moua immediately yelled at Manuel, saying "stop reaching around" and "throw your hands on the steering wheel." Manuel turned around, faced forward, and put one hand on the steering wheel. Officer Moua then directed Manuel to place his vehicle in park, unbuckle his seat belt, and step out of the vehicle. Manuel did so. Officer Moua walked around to the driver's side of Manuel's vehicle, where his partner instructed Manuel, who was standing next to his vehicle, to place his hands behind his back. Moua's partner handcuffed Manuel and briefly searched him.

After the evidentiary hearing, the state filed a two-page letter brief. The state asserted that the only issue in dispute was whether there was probable cause for Manuel's arrest. The state assumed that the issue in dispute was whether the officers had probable cause to arrest Manuel for DWI after completing their investigation, and the state argued that the officers observed multiple indications that Manuel was intoxicated. Manuel later filed a 25-page memorandum of law in support of his motion. He made four arguments: (1) the officers unlawfully arrested him "immediately upon making contact with him"; (2) the officers did not have probable cause to arrest him immediately upon making contact with him; (3) in the alternative, the officers did not have a reasonable suspicion of criminal activity to justify an investigative stop; and (4) the officers unlawfully searched Manuel's vehicle.

In February 2020, the district court filed a ten-page order and memorandum in which it granted Manuel’s motion. The district court concluded that the officers unlawfully arrested Manuel when they handcuffed him, that the officers did not have probable cause to arrest Manuel at that point in time, and that the officers did not have a reasonable belief that Manuel might be armed and dangerous. The state appeals.

D E C I S I O N

The state argues that the district court erred by granting Manuel’s motion to suppress evidence.

A.

Before considering the state’s arguments for reversal, we must consider a threshold issue: whether the state may challenge the district court’s suppression ruling in a pre-trial appeal. As a general rule, the state is not entitled to appellate review of a district court’s pre-trial order as a matter of right. *See* Minn. R. Crim. P. 28.04, subd. 2; *see also* Minn. R. Crim. P. 28.04, subd. 1. To obtain appellate review of a pre-trial order, the state must show that, unless the district court’s ruling is reversed, it “will have a critical impact on the outcome of the trial.” *State v. Webber*, 262 N.W.2d 157, 159 (Minn. 1977); *see also* Minn. R. Crim. P. 28.04, subd. 2(2)(b). The state can satisfy the critical-impact standard if the challenged ruling either “‘completely destroys’ the state’s case” or “‘significantly reduces the likelihood of a successful prosecution.’” *State v. McLeod*, 705 N.W.2d 776, 784 (Minn. 2005) (quoting *State v. Joon Kyu Kim*, 398 N.W.2d 544, 551 (Minn. 1987)). In this case, the state contends that the critical-impact requirement is satisfied. Manuel does not

respond to the contention. We agree with the state that the district court's order, which suppressed evidence and dismissed the charges against Manuel, satisfies the critical-impact standard. *See State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). Thus, the state may proceed with its pre-trial appeal.

B.

The district court considered and decided three issues. First, the district court considered Manuel's argument "that he was under arrest the moment he was ordered out of his vehicle, surrounded by police officers, and placed in handcuffs." The district court concluded that "Defendant was *de facto* arrested when the officers ordered him out of his car and immediately handcuffed him." Second, the district court considered whether the officers had probable cause to arrest Manuel when they handcuffed him and concluded that they did not. Third, the district court considered whether "Defendant's furtive movements within the vehicle (i.e., reaching into the backseat) provided the officers with a reasonable basis to seize Defendant." The district court concluded that the record did not "contain[] specific and articulable facts supporting the officers' belief that the suspect was armed and dangerous" because "[t]he only articulated basis the officers had for suspecting Defendant was armed and dangerous was the fact that he reached into the backseat as they approached."

For its primary argument on appeal, the state argues that the district court erred by concluding that the officers arrested Manuel when they placed him in handcuffs. The state contends that the officers merely detained Manuel for a brief investigation, which was supported by a reasonable suspicion of criminal activity. The state also contends that the

officers' decision to handcuff Manuel was justified by concerns of officer safety. In response, Manuel argues that the district court correctly concluded that the officers arrested Manuel when they placed him in handcuffs.

C.

The Fourth Amendment to the United States Constitution guarantees the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV.; *see also* Minn. Const. art. I, § 10. As a general rule, a law-enforcement officer may not make a warrantless arrest of a person without probable cause that the person “had committed or was committing an offense.” *Beck v. Ohio*, 379 U.S. 89, 91, 85 S. Ct. 223, 225 (1964). But a law-enforcement officer may temporarily detain a person for investigatory purposes if the officer has a reasonable, articulable suspicion that the person has engaged in criminal activity. *Terry v. Ohio*, 392 U.S. 1, 19-21, 88 S. Ct. 1868, 1878-80 (1968); *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011).

In addition, officers who are detaining a person for investigatory purposes may “protect themselves and other prospective victims of violence.” *Terry*, 392 U.S. at 24, 88 S. Ct. at 1881. “When an officer is justified in believing that the individual whose suspicious behavior he is investigating at close range is armed and presently dangerous to the officer or to others,” the officer may “take necessary measures to determine whether the person is in fact carrying a weapon and to neutralize the threat of physical harm.” *Id.* at 24, 88 S. Ct. at 1881. “The purpose of this limited search is not to discover evidence of crime, but to allow the officer to pursue his investigation without fear of violence,” and the

officer's search for weapons must be "limited in scope to this protective purpose." *Adams v. Williams*, 407 U.S. 143, 146, 92 S. Ct. 1921, 1923 (1972). "The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27, 88 S. Ct. at 1883. Moreover, "in determining whether the officer acted reasonably in such circumstances, due weight must be given . . . to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience." *Id.* at 27, 88 S. Ct. at 1883.

In the context of a traffic stop, the principles of *Terry* allow a law-enforcement officer to require a driver to exit the vehicle while the officer conducts a brief investigation. *Pennsylvania v. Mimms*, 434 U.S. 106, 109-12, 98 S. Ct. 330, 332-34 (1977); *State v. Ortega*, 770 N.W.2d 145, 152 (Minn. 2009). The officer in *Mimms* did so as a matter of course, and the Court approved in light of "the inordinate risk confronting an officer as he approaches a person seated in an automobile," a risk that the Court said is no less dangerous simply because it arises from a traffic violation. 434 U.S. at 110, 98 S. Ct. at 333. The Court balanced the interests of officer safety against the driver's liberty interest and reasoned that the requirement that a driver exit his or her vehicle is "at most a mere inconvenience [that] cannot prevail when balanced against legitimate concern for the officer's safety." *Id.* at 111, 98 S. Ct. at 333. The *Mimms* opinion also established that, as in *Terry*, if an officer "reasonabl[y] conclude[s] that the person whom he had legitimately stopped might be armed and presently dangerous," the officer may seek to neutralize the threat by conducting a limited search for weapons. *Id.* at 111-12, 98 S. Ct. at 334.

This case presents the question whether an officer making a traffic stop may, in addition to requiring a driver to exit his or her vehicle, also place the driver in handcuffs for the purpose of ensuring the officer's safety. Answering that question requires that we consider the principles articulated in *Terry* and *Mimms* as well as the principle that a “*de facto* arrest” may occur if a person has not been formally arrested but has been effectively arrested because the person's liberty has been restrained to an extent that exceeds the scope of a lawful *Terry* stop. See *United States v. Sharpe*, 470 U.S. 675, 682-88, 105 S. Ct. 1568, 1573-76 (1985). As the United States Supreme Court has recognized, the analysis may give rise to “difficult line-drawing problems in distinguishing an investigative stop from a *de facto* arrest.” *Id.* at 685, 105 S. Ct. at 1575; see also *Florida v. Royer*, 460 U.S. 491, 506, 103 S. Ct. 1319, 1329 (1983) (discussing fact-specific nature of “determining when a seizure exceeds the bounds of an investigative stop”).

The Minnesota Supreme Court has stated that an arrest has occurred if “a reasonable person would have concluded, under the circumstances, that he was under arrest and not free to go.” *State v. Beckman*, 354 N.W.2d 432, 436 (Minn. 1984). The supreme court later clarified that an arrest does not occur unless the person believes that he is *both* under arrest *and* not free to leave because “a person who is being detained temporarily is not free to leave during the period of detention, yet that does not convert the detention into an arrest.” *State v. Moffatt*, 450 N.W.2d 116, 119-20 (Minn. 1990); see also *Illinois v. Wardlow*, 528 U.S. 119, 125, 120 S. Ct. 673, 676 (2000); *Royer*, 460 U.S. at 497-98, 103 S. Ct. at 1324; *In re Welfare of E.D.J.*, 502 N.W.2d 779, 783 (Minn. 1993). “The reasonable person standard is an objective standard,” which ensures that the scope of the

constitutional protection against unreasonable searches and seizures “does not vary with a particular person’s subjective state of mind.” *See State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995) (analyzing whether person was seized).

In *State v. Blacksten*, 507 N.W.2d 842 (Minn. 1993), an officer stopped a vehicle driven by an armed-robbery suspect, “pointed a shotgun at him, ordered him to get out of the car and lie on the ground, . . . searched him,” “handcuffed [his] left hand to his rear belt loop,” and “plac[ed] him in the back of the squad car.” *Id.* at 845. The supreme court noted that the officer “had no intention of conducting any investigation while detaining” the suspect. *Id.* The supreme court concluded that the suspect “was *de facto* under arrest from the time he was ordered to the ground at gunpoint, handcuffed, and placed in the squad car.” *Id.* at 847. On the other hand, in *State v. Munson*, 594 N.W.2d 128 (Minn. 1999), officers stopped a vehicle that was suspected to contain a large amount of drugs, ordered two occupants out of the vehicle, and temporarily handcuffed them while the officers determined that they were not armed and dangerous, at which point the handcuffs were removed. *Id.* at 133. The supreme court held that, given the totality of the circumstances, temporarily handcuffing the suspects did not amount to an arrest. *Id.* at 137. The supreme court explained that “briefly handcuffing a suspect while police sort out the scene of an investigation does not *per se* transform an investigatory detention into an arrest.” *Id.*; *see also Chase v. State*, 144 A.3d 630, 646-47 (Md. 2016) (stating that “the use of handcuffs *per se* does not ordinarily transform a *Terry* stop into an arrest”); *State v. Wells*, 859 N.W.2d 316, 195-96 (Neb. 2015) (noting that the “use of handcuffs has been

approved when it was reasonably necessary to protect officer safety during an investigative stop”).

The United States Court of Appeals for the Eighth Circuit summarized the caselaw of that circuit as follows:

A de facto arrest occurs when the officer’s conduct is more intrusive than necessary for a *Terry* investigative stop. *United States v. Bloomfield*, 40 F.3d 910, 916 (8th Cir. 1994). During a *Terry* stop, officers must use “the least intrusive means of detention and investigation, in terms of scope and duration, that are reasonably necessary to achieve the purpose of the *Terry* stop.” *United States v. Newell*, 596 F.3d 876, 879 (8th Cir. 2010) (quoting *United States v. Navarrete-Barron*, 192 F.3d 786, 790 (8th Cir. 1999)). “A *Terry* stop may become an arrest, requiring probable cause, if the stop lasts for an unreasonably long time or if officers use unreasonable force.” *Id.* “As part of a lawful *Terry* stop, officers may take any measures that are ‘reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop.’” *United States v. Smith*, 648 F.3d 654, 659 (8th Cir. 2011) (quoting *Newell*, 596 F.3d at 879). “[W]hen officers are presented with serious danger in the course of carrying out an investigative detention, they may brandish weapons or even constrain the suspect with handcuffs in order to control the scene and protect their safety.” *United States v. Fisher*, 364 F.3d 970, 973 (8th Cir. 2004). “In discerning whether [an officer’s] actions [meet] the Fourth Amendment’s standard of reasonableness, the issue is whether the officer has an objectively reasonable concern for officer safety or suspicion of danger.” *Williams v. Decker*, 767 F.3d 734, 740 (8th Cir. 2014), *cert. denied*, — U.S. —, 135 S. Ct. 1418, 191 L.Ed.2d 382 (2015).

United States v. Sanford, 813 F.3d 708, 712-13 (8th Cir. 2016).

D.

The district court concluded that “Defendant was *de facto* arrested when the officers ordered him out of his car and immediately handcuffed him.” The district court reasoned,

“A reasonable person being ordered by officers to leave his belongings and to get out of his car and then immediately handcuffed and surrounded by additional officers would certainly conclude that he was under arrest and not free to go” such that “it was reasonable for Defendant to conclude under those circumstances that he was under arrest and not free to go.” Because this legal conclusion is based on underlying facts that are undisputed, we apply a *de novo* standard of review. *State v. Martinson*, 581 N.W.2d 846, 849 (Minn. 1998).

The record leaves no doubt that, when the officers ordered Manuel out of his car and handcuffed him, he was not free to leave. But the *de-facto*-arrest test requires more; it also requires that a reasonable person in the suspect’s position would believe he was under arrest, which depends on the scope, means, and duration of the intrusion on the person’s liberty. *See Blacksten*, 507 N.W.2d at 845-47; *Moffatt*, 450 N.W.2d at 120. The United States Supreme Court has expressly approved of an officer’s removal of a driver from a vehicle for the purpose of ensuring officer safety. *Mimms*, 434 U.S. at 110, 98 S. Ct. at 333. In addition, the Minnesota Supreme Court has approved of the use of handcuffs during an investigative detention for the purpose of ensuring officer safety. *See Munson*, 594 N.W.2d at 137. Thus, the fact that the officers removed Manuel from his vehicle and handcuffed him does not necessarily mean that he was arrested. *See Chase*, 144 A.3d at 647-48; *Wells*, 859 N.W.2d at 195-96. Rather, whether an officer made a *de facto* arrest by placing a suspect in handcuffs depends primarily on whether the officer was justified in believing that the suspect might have been armed and dangerous, in which case the officer may “take necessary measures to determine whether the person is in fact carrying a weapon

and to neutralize the threat of physical harm,” see *Terry*, 392 U.S. at 24, 88 S. Ct. at 1881, and also on an assessment of the scope, means, and duration of the person’s detention, see *Blacksten*, 507 N.W.2d at 845-47; *Moffatt*, 450 N.W.2d at 120; see also *Sanford*, 813 F.3d at 712-13.

The district court considered the state’s argument that the officers’ actions were justified by “Defendant’s furtive movements within the vehicle (i.e., reaching into the backseat).” The district court concluded that the record does not “contain[] specific and articulable facts supporting the officers’ belief that the suspect was armed and dangerous” because “[t]he only articulated basis the officers had for suspecting Defendant was armed and dangerous was the fact that he reached into the backseat as they approached.”

The district court’s analysis conflates two distinct issues: first, whether an officer has a reasonable suspicion of criminal activity, which would justify an investigatory detention, and, second, whether an officer has a reasonable belief that a suspect may be armed and dangerous, which would justify protective measures, such as a pat frisk or the use of handcuffs. The district court cited several opinions relevant to the former question but did not express any conclusion as to whether Officer Moua and his partner had a reasonable suspicion of criminal activity. The district court’s analysis of the latter question is as follows:

Minnesota law has routinely recognized the importance of officer safety. Under our precedents, officers have been permitted to approach suspects with weapons drawn, frisk suspects for weapons, require suspects to lie on the ground while officers conducted the frisk, protective search the passenger compartment of a vehicle, and briefly detain a handcuffed suspect in their squad car while they continued

their investigation. . . . However, in each of those scenarios, the record contained specific and articulable facts supporting the officers' belief that the suspect was armed and dangerous. Those facts are not present in this case. The only articulated basis the officers had for suspecting Defendant was armed and dangerous was the fact that he reached into the backseat as they approached.

Contrary to the district court's analysis, the evidentiary record does contain "specific and articulable facts supporting the officers' belief that the suspect was armed and dangerous." Officer Moua testified that he and his partner "saw [Manuel] reaching back into the vehicle," that they "didn't know what [Manuel] was reaching for," that he was concerned, and that he told Manuel "to not reach back there." Officer Moua elaborated by testifying that Manuel's actions gave rise to a "safety issue" because the officers did not "know if he's reaching for a weapon or if he's reaching for something else." Officer Moua summarized by testifying, "So, when we're approaching, if someone is making those furtive movements, if someone is reaching behind places in locations that we haven't checked yet, it's definitely a safety concern."

Officer Moua was the only witness at the evidentiary hearing. Manuel's attorney did not cross-examine him with respect to his concerns that Manuel might be armed and dangerous. The district court did not make any findings that Officer Moua was not credible. Indeed, the district court's findings of fact are consistent with Officer Moua's testimony. The district court found that, as the officers approached Manuel's vehicle, "[t]he officers saw the driver reach into the backseat area of the vehicle, and Officer Moua told the driver to stop reaching around and to place his hands on the steering wheel." The district court also made the following finding of fact:

Officer Moua . . . handcuffed [Manuel] for “officer safety” because he did not know what the driver had been reaching for inside his vehicle, and it could have been a weapon or “something else.” The officers had not received any information suggesting the driver was armed or dangerous; they based their safety concerns solely on the fact that the driver had reached into the backseat of his vehicle as they were approaching. . . . Therefore, the only reason the driver was handcuffed was the officers’ belief that it was necessary for officer safety.

The district court’s findings concerning the officers’ concerns for their safety do not support the district court’s conclusion. In *State v. Flowers*, 734 N.W.2d 239 (Minn. 2007), the supreme court recognized that furtive movements of a driver during a routine traffic stop may give rise to a reasonable belief that the driver is armed and dangerous and, thus, may justify measures to restrain the driver. In that case, police officers initiated a traffic stop after observing that a vehicle had no rear license-plate light. *Id.* at 243. The driver did not immediately stop but, instead, continued to drive slowly down an alley and made furtive movements for 45 seconds, which led police to suspect that he may have a gun. *Id.* at 243, 245. The supreme court stated, “Flowers’ movements in the vehicle, which lasted for approximately 45 seconds, gave the officers a reasonable suspicion that Flowers . . . might have been armed and dangerous.” *Id.* at 252.

The supreme court’s recognition that the furtive movements of a motorist can, without any other indicia of criminal or dangerous activity, give rise to a reasonable concern for officer safety is consistent with the caselaw of other jurisdictions. For example, in *People v. Daniel*, 987 N.E.2d 470 (Ill. App. Ct. 2013), a police officer conducting a traffic stop in a high-crime area saw an occupant of a vehicle make furtive movements by

reaching down toward the floorboard several times. *Id.* at 472. The officer directed the occupants of the vehicle to raise their hands. *Id.* When the driver did not comply, the officer opened the driver's door and handcuffed him. *Id.* The appellate court concluded that the officer's safety concerns were reasonable due to the driver's furtive movements and other factors. *Id.* at 479-80. The court stated that "the fact that a police officer places an individual in handcuffs does not necessarily transform a *Terry* stop into an arrest" and that "concerns for officer safety and the safety of the public can, in certain limited circumstances, justify handcuffing during a brief investigatory stop," so long as this measure is "reasonable in light of the circumstances that prompted the stop or that developed during its course." *Id.* at 478-79 (quotations omitted).

In light of this caselaw, Manuel's reaching backward in the minivan provided the officers with a reasonable belief that he might be armed and dangerous. The district court discounted the officers' concerns, stating that "[t]he only articulated basis the officers had for suspecting Defendant was armed and dangerous was the fact that he reached into the backseat as they approached." But under the caselaw, and given the circumstances of this case, the officers' observations were a sufficient reason to believe that Manuel might be armed and dangerous. As the Supreme Court stated in *Terry*, "The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27, 88 S. Ct. at 1883. Furthermore, "due weight must be given . . . to the specific reasonable inferences which [the officer] is entitled to draw from the facts in light of his experience." *Id.* at 27, 88 S. Ct. at 1883. We are unaware of

any caselaw that would allow a court to credit an officer's testimony that a person made furtive movements by reaching toward a place that was not visible to the officers yet conclude that the officers did not have a reasonable belief that the person may be armed and dangerous. Rather, the caselaw illustrates that if an officer sees furtive movements toward a place that is not visible to the officer, the officer is justified in believing that the person may be armed and dangerous. *See Flowers*, 734 N.W.2d at 252; *Daniel*, 987 N.E.2d at 478.

There is no issue in this case concerning the duration of the stop; Manuel argued, and the district court concluded, that he was arrested as soon as he was handcuffed. Manuel implies that the use of handcuffs exceeds the scope and means that are permissible in the circumstances of this case. But if Manuel had had a weapon, either on his person or in his minivan, the use of handcuffs would have ensured that he was unable to access it and use it. In that event, if the officers had refrained from using handcuffs, they would have been exposed to the risk of an armed and potentially hostile suspect. Officer Moua testified that he and his partner placed Manuel in handcuffs so that they could search his person to ensure that he did not have a weapon, to ensure that he could not reach for a weapon, and to allow them to search his minivan for weapons. The Court in *Terry* stated that "it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties." *Terry*, 392 U.S. at 23, 88 S. Ct. at 1881. We note, having reviewed the video-recordings, that the officers used the handcuffs in an appropriate manner, without any unnecessary force or indignity and without any apparent discomfort to Manuel. Given the

evidence in the record of the suppression hearing, there is no basis for a conclusion that the scope or means of the officers' use of handcuffs were unreasonable.

The district court's comparison of this case to *State v. Carver*, 577 N.W.2d 245 (Minn. App. 1998), is unwarranted. In *Carver*, a deputy sheriff stopped a vehicle that was travelling 20 miles per hour faster than the speed limit. *Id.* at 247. The deputy ordered the driver out of his vehicle, ordered him to lie prone on the road, handcuffed him, and escorted him to the deputy's patrol car. *Id.* Relying on *Blacksten*, this court concluded that the deputy arrested the driver when he handcuffed him. *Id.* at 247-48. The facts of *Carver* are different in several respects. The driver in *Carver* did nothing to indicate a possible threat to the deputy's safety. Also, the driver in *Carver* was forced to lie prone on the ground, whereas, in this case, Officer Moua and his partner did not further restrain Manuel's freedom by requiring him to do so. Thus, *Carver* is distinguishable.

In light of the forgoing, Officer Moua and his partner had a reasonable basis for believing that Manuel may have been armed and dangerous. That reasonable belief justified their decision to place Manuel in handcuffs while they conducted a brief search for weapons or other threats to their safety, and they did so in a reasonable manner. Because they were justified in handcuffing Manuel, he did not have an objectively reasonable belief that he was under arrest. Therefore, the officers did not make a *de facto* arrest of Manuel when they handcuffed him. The district court erred by concluding otherwise. In light of that error, the district court's probable-cause analysis is flawed because it is based on the incorrect premise that Manuel was arrested when he was handcuffed, not at a later point in time.

In sum, the district court erred by granting Manuel's motion to suppress evidence. Therefore, we reverse and remand for further proceedings.

Reversed and remanded.