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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0378**

State of Minnesota,
Respondent,

vs.

Luis Omar Chaparro Vargas,
Appellant.

**Filed April 12, 2021
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CR-19-3218

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

John Pavelko, Special Assistant Public Defender, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Minneapolis Police executed a high-risk search warrant at 5:45 a.m. at a house from which they suspected methamphetamine and heroin were being sold. As police were

arriving, Luis Chaparro-Vargas walked from the house and entered a parked car. Police stopped Chaparro-Vargas, and he told them he was carrying a gun and methamphetamine. Appealing from his conviction of unlawfully possessing a firearm, Chaparro-Vargas argues that evidence of the possession is inadmissible because police uncovered it only because they unconstitutionally seized him. Because police had reasonable suspicion to detain and question Chaparro-Vargas under all the circumstances, we affirm.

FACTS

Police obtained a warrant for a nighttime, unannounced search of a North Minneapolis house and a black BMW parked in front. Based on an informant's statements, police had suspected that two men, "Javi" and "Flacko," were selling methamphetamine and heroin, that they possessed firearms, and that one of them sold drugs out of the BMW. The warrant application also stated that shots had been fired in the alley behind the house and that Javier Acevedo, a resident there, was recently arrested at the home for possessing methamphetamine. It also stated that police had found drug residue in numerous plastic baggies and a bullet shell casing in the home's trash the same day as the warrant application. The search warrant authorized police to search the house "and any and all garages, outbuildings, and vehicles associated with the address" for evidence of drug dealing.

Police executed the warrant at 5:45 in the morning of November 20, 2018. Detective Terrence Sleavin was parked about 120 feet from the home when he saw a man "come from the area of the sidewalk from the direction of the house" and begin entering a dark-colored BMW parked on the street in front of the house. Police detained the man,

Luis Chaparro-Vargas, because he was “involved with the residence,” and the officers needed to learn whether he was armed before they approached the house with their backs to him. Police immediately handcuffed Chaparro-Vargas, and he told them that he was carrying a firearm and methamphetamine. Police searched Chaparro-Vargas and seized a handgun and drugs.

The state charged Chaparro-Vargas with unlawful possession of a firearm by a prohibited person. Chaparro-Vargas unsuccessfully moved the district court to suppress the evidence of the handgun. The parties submitted the case to the district court for a bench trial on stipulated evidence under Minnesota Rule of Criminal Procedure 26.01, subdivision 4. The district court found Chaparro-Vargas guilty and sentenced him to serve 60 months in prison.

Chaparro-Vargas appeals.

DECISION

Chaparro-Vargas argues that the district court improperly denied his motion to suppress the evidence as a result of police detaining him in an unconstitutional stop. We review the district court’s factual findings in its pretrial order for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). The United States and Minnesota Constitutions protect individuals against unreasonable seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may perform a brief, investigatory detention, commonly called a *Terry* stop, when he sees conduct leading him to reasonably conclude that criminal activity might be occurring. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011). The standard for reasonable suspicion is not high,

State v. Timberlake, 744 N.W.2d 390, 393 (Minn. 2008), and will be met with “specific and articulable facts which, taken together with rational inferences from those facts, reasonably” justify the officer’s conduct, *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007) (quoting *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880 (1968)). We determine the existence of reasonable suspicion based on the totality of the circumstances. *State v. Wiggins*, 788 N.W.2d 509, 513 (Minn. App. 2010), *review denied* (Minn. Nov. 23, 2010). We have carefully considered Chaparro-Vargas’s arguments under that standard and conclude that the officers had reasonable suspicion to stop him and investigate to determine whether he was a danger or involved in the drug-dealing activity that precipitated the warrant.

Chaparro-Vargas argues that the district court clearly erred by finding that police saw him walking away from the house and that Acevedo was sitting in the driver’s seat of the BMW alongside him. Chaparro-Vargas’s absence from the premises and the fact that he was not named in the search warrant, he claims, make his detention unlawful. The arguments fail.

We are satisfied that the district court did not clearly err in the findings. A clear error occurs when we are “left with the definite and firm conviction” of a mistake or when there is no reasonable evidence supporting the finding. *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008) (quotation omitted). The record does not leave us with this conviction concerning Chaparro-Vargas’s apparent departure from the house. The fact-finder is entitled to draw an inference “if reason and experience support the inference.” *Tot v. United States*, 319 U.S. 463, 467, 63 S. Ct. 1241, 1244 (1943). Detective Sleavin testified that he

saw the man “come from the area of the sidewalk from the direction of the house” and enter the BMW parked in front of the house. The district court interpreted the detective’s testimony reasonably. Chaparro-Vargas’s suggestion that the testimony could have meant that Chaparro-Vargas was walking down the public sidewalk rather than away from the house would require us not only to make an uncommon assumption about what the detective meant by “from” but also to conclude that the district court clearly erred by not making the assumption. But given Chaparro-Vargas’s trajectory “*from* the direction of the house” toward the car in front, the district court could reasonably conclude that the sidewalk the detective referred to was a private sidewalk, or walkway, linking the house and the public sidewalk, not the public sidewalk that runs parallel to the street. Indeed, the detective’s testimony implying the trajectory of Chaparro-Vargas’s course almost compels the district court’s finding that the detective believed that Chaparro-Vargas was walking away from the house. We do not suggest that reasonable suspicion would have been lacking even if he were walking on the public sidewalk, but the district court’s assessment and testimony seem to place Chaparro-Vargas on the walkway.

Chaparro-Vargas correctly observes that the district court mistakenly stated that Acevedo, who was named as a suspected drug dealer in the warrant application, was sitting in the BMW that Chaparro-Vargas entered. But the mistake is not one that we need to correct on appeal because the district court caught the mistake, corrected itself, and based its finding on the facts as recounted by the detective’s actual testimony.

We conclude that the circumstances made stopping Chaparro-Vargas reasonable. We look at all the relevant circumstances in the totality “from the point of view of a trained

police officer.” *State v. Lamar*, 382 N.W.2d 226, 229 (Minn. App. 1986), *review denied* (Minn. Mar. 27, 1986). The assembled officers knew that a judge had warranted them to enter a house involving suspected drug dealing and recent gunplay nearby, and they approached in the early morning while it was still dark. They knew that drugs were reportedly sold from a black BMW parked in front of the house, and they saw a man who was seemingly leaving the house just before police arrived enter a car directly in front of the house.¹ A person’s presence in a high-crime area at an unusual hour is a relevant factor when developing reasonable suspicion. *See State v. Uber*, 604 N.W.2d 799, 800–02 (Minn. App. 1999) (“Suspicious activity in an area that has had problems with crime augments the basis for a lawful investigatory stop.”). And in this situation, officers executing the high-risk warrant would soon have their backs to any occupant in the car as they completed their approach and entered the house. On these facts, we are satisfied that the officers had reasonable suspicion to detain Chaparro-Vargas and determine both whether he posed a danger to them and whether he possessed, purchased, or sold illegal drugs.

Chaparro-Vargas raises other arguments, but our holding that police had a sufficient basis to stop him renders those arguments immaterial. The district court appropriately denied Chaparro-Vargas’s motion to suppress.

Affirmed.

¹ As it happens, the dark blue BMW Chaparro-Vargas entered was not the black BMW identified in the warrant, and the detective did not testify that he thought it was. We do not factor the make of the car into our analysis.