

*This opinion is nonprecedential except as provided by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
A21-0745**

State of Minnesota,
Respondent,

vs.

Derelle Keith Todd,
Appellant.

**Filed March 21, 2022
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CR-20-21049

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

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Kirk M. Anderson, Anderson Law Firm, PLLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Slieter, Judge; and Kirk,
Judge.*

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

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges his conviction as an ineligible person in possession of a firearm or ammunition arguing that the district court failed to suppress evidence obtained through an unconstitutional search. Because the police intrusion into appellant's home was justified by the emergency-aid exception and the evidence thereafter obtained did not require suppression, we affirm.

FACTS

The facts are not in dispute. At 12:47 a.m. on September 30, 2020, the Minneapolis Police Department received a report of suspected gunfire near the 3500 block of Bryant Avenue North.¹ Officers arrived 15 minutes later and discovered in the alley the body of an apparent homicide victim who had a gunshot wound in the chest. Approximately two houses down the alley from the victim, officers noticed an unoccupied vehicle with the driver's door open and, as the approaching officer learned, with keys located on the running board. The gate and back door of the house directly in front of the vehicle were open, and lights were on in the house.

Officers approached and began to surround the house with the goal of making contact with anyone inside. Two officers took positions on either side of the back door,

¹ The report came from ShotSpotter, a system which uses acoustic sensors and computer programs to detect suspected gunshots, triangulate their approximate location, and automatically report that location to law enforcement. See ShotSpotter, <https://www.shotspotter.com/law-enforcement/gunshot-detection/> (last visited Mar. 14, 2022).

and a third officer briefly leaned in for observation but retreated when he heard someone approaching from inside the house. As appellant Derelle Keith Todd approached the back door, the officers identified themselves and directed Todd to show his hands. Todd did not show his hands and, instead, began to push the door closed. At that point, the third officer pushed the door open and forced Todd outside. While being forced out of the house, Todd threw an object across the yard, which police later recovered and determined was an extended gun-magazine. Once outside, officers handcuffed Todd and began questioning him about his identity and others who might be in the house.

Police then obtained a search warrant and discovered evidence inside the house, including a handgun which fit the previously seized extended gun-magazine.

Respondent State of Minnesota charged Todd with second-degree intentional murder without premeditation, in violation of Minn. Stat. § 609.19, subd. 1(1) (2020), second-degree unintentional murder while committing a felony, in violation of Minn. Stat. § 609.19, subd. 2(1) (2020), and possession of a firearm or ammunition by an ineligible person, in violation of Minn. Stat. § 624.713, subd. 1(2) (2020). Todd moved to suppress the evidence obtained as a result of the officers' intrusion into his home. Following an evidentiary hearing, the district court denied Todd's motion to suppress. A jury found Todd guilty of being an ineligible person in possession of a firearm or ammunition and not guilty of the two murder counts. The district court sentenced Todd to 60 months' imprisonment. Todd appeals.

DECISION

In reviewing whether a valid exception to the search-warrant requirement exists, appellate courts review the district court's factual findings for clear error and its legal conclusions *de novo*. *State v. Stavish*, 868 N.W.2d 670, 677 (Minn. 2015). “When facts are not in dispute, as here, we 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.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted).

The district court, based upon the emergency-aid exception, declined to suppress evidence obtained as a result of the officers' warrantless entry into Todd's home and the subsequently issued search warrant.

The United States and Minnesota constitutions guarantee individuals the right to be free from unreasonable government searches and seizures. U.S. Const. amend. IV; Minn. Const. art. 1, § 10; *State v. Lemieux*, 726 N.W.2d 783, 787 (Minn. 2007). Warrantless searches are presumptively unreasonable, subject to a few well-established exceptions, *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003), and “[c]ourts are particularly reluctant to find exceptions to this rule in the context of a warrantless search or seizure in a home.” *State v. Othoudt*, 482 N.W.2d 218, 222 (Minn. 1992).

One well-established exception includes limited home intrusion to protect human life by rendering emergency aid. *State v. Gray*, 456 N.W.2d 251, 256 (Minn. 1990). The emergency-aid exception provides that “law enforcement officers, in pursuing a community-caretaking function, ‘may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury.’”

Lemieux, 726 N.W.2d at 787-88 (quoting *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006)). Entry is reasonable if (1) officers “have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property,” (2) the search is not “primarily motivated by intent to arrest and seize evidence,” and (3) the officers have “some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.” *Id.* at 788. If the warrantless search is reasonable, it must still be “strictly circumscribed by the exigencies which justify its initiation.” *Id.* (quoting *Mincey v. Arizona*, 437 U.S. 385, 393 (1978)). The burden of proof is on the state to show that the conduct was justified by the officers’ objectively reasonable belief at the time. *Id.*

The district court applied the test set forth in *Lemieux* to conclude that the warrantless entry of Todd’s home was justified by the emergency-aid exception, and therefore the resulting evidence did not require suppression. Todd argues that the district court erred by applying the emergency-aid exception because “there was nothing to suggest to law enforcement there was a person inside the residence that needed emergency assistance” and the officers should have allowed him to close the door and retreat into his home. *Lemieux* compels our disagreement.

In *Lemieux*, the supreme court held that a warrantless “entry of the residence in close proximity to a brutal and seemingly random homicide was justified under the emergency-aid exception” where the officers had reasonable grounds to believe a crime of violence was “in progress or had recently occurred,” the officers were “motivated primarily to look for possible victims, and the scope of the search was limited to the emergency.” *Id.* at 790.

In *Lemieux*, six hours after a homicide, officers approached a house approximately one-half block from the body “to find out if persons using the premises might have seen or heard something useful to the ongoing homicide investigation” and, upon noticing signs of forced entry indicating a possible burglary, conducted a limited search for possible victims during which they discovered evidence linking Lemieux to the homicide. *Id.* at 785, 789. The supreme court concluded that the emergency-aid exception allowed for the warrantless home entry. *Id.* at 790.

In this matter, the house was a similar distance—two houses away—from a gunshot victim and a gunshot had been reported in the immediate area within 25 minutes of the officers’ arrival. As the officers secured the alley, they noticed a vehicle with the driver’s door open and keys laying on the running board, and that the backyard fence gate and back door of the house immediately in front of the vehicle were open. The officers did not see any other open vehicle or house doors. These facts led the officers to believe the house “was related in one way or another” to the apparent homicide. They were concerned “someone had shot [the victim] and ran into that house . . . [or] this was . . . some type of hostage situation, and [the victim] made it out and got shot as he was coming out” so they approached the house “to make contact at that house, check the welfare of everyone in the house, while keeping in mind a suspect may or may not be inside of that house.” In sum, the physical and temporal proximity of the house to an apparent homicide in combination with the open vehicle and house doors during the early morning gave the officers reasonable grounds to believe the house was linked to the recent violent crime and they

approached the house with the intent to determine if anyone inside required emergency assistance.

When Todd approached the back door, the officers “didn’t know if [he] was a suspect, [or] a victim” or if he was “going to go hurt . . . a resident in the house” if he was allowed to retreat into the house. The officers prevented Todd from closing the door and secured him in order “to freeze the scene to try and begin to figure it out safe[ly].” In the course of being secured, Todd “tossed” the extended gun-magazine and, immediately after Todd was handcuffed, police began to inquire about his identity and that of other occupants who may be in the house.

In sum, the officers reasonably believed that there may be an emergency at the home they approached because of its proximity to an apparently random homicide, their primary intent was not to gather evidence or make an arrest, they reasonably associated the home with the emergency, and appropriately limited the scope of their entry to addressing the emergency.

Affirmed.