

*This opinion is nonprecedential except as provided by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
A21-0777**

Derrick Devon Turner, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 24, 2022
Affirmed
Jesson, Judge**

Stearns County District Court
File No. 73-CR-16-7565

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Renee N. Courtney, St. Cloud City Attorney, Lindsey D. Lancette, Assistant City Attorney, St. Cloud, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After responding to a complaint that a man was threatening to kill someone, a St. Cloud police officer—after determining no threat existed—asked for the identification of a group of men, including appellant Derrick Turner. During this encounter, Turner

started yelling that no one needed to comply and refused to identify himself. He was charged with obstructing legal process, and with misdemeanor ordinance violations of disruptive intoxication, and yelling and screaming. Turner moved to suppress the evidence discovered after the seizure. The district court denied the motion, and ultimately Turner was found guilty of obstructing legal process. Three years later, Turner filed a postconviction petition, arguing that the district court erred by not suppressing the evidence leading to his arrest. Because the postconviction court did not abuse its discretion by denying the motion to suppress, we affirm.

FACTS

On an early evening in August, a St. Cloud police officer and his partner were dispatched to an apartment building to investigate a complaint that one man threatened to kill another man. When making the complaint, the caller described the people allegedly involved as two Black men, one wearing white and the other wearing black. The officer and his partner arrived at the apartment complex in uniforms and a marked squad car. The officer observed four men—including Turner, who was wearing pink—sitting outside on a grassy area near the apartment. The officer, roughly 60 feet from the individuals, heard loud music playing, which was turned off as he approached. Two of the men matched the descriptions of the men who, according to the complaint, were arguing. The officer informed the men that he received a call about an argument and death threat, but all the men denied being involved. The officer then noted that the music he heard when he exited his squad car was too loud and in violation of St. Cloud ordinance. D.V. explained that the music came from his hoverboard.

The officer testified at a motion hearing that after D.V.'s statement about the hoverboard, he asked who lived in the apartment and for their identification. He made the request, the officer explained, because St. Cloud ordinances provide for keeping track of noise violations in or near apartment complexes. D.V. stated that he lived at the apartment. While the officer was jotting down the information, Turner loudly exclaimed that no one had to identify themselves and that the officer had no reason to be there. The officer testified that he reexplained that the St. Cloud noise ordinance requires him to identify who violated the noise ordinance, particularly if they live at the apartment. Turner continued to yell and swear at the officer. The officer then noted that Turner had bloodshot, watery eyes, his speech was "a little slurred," and he smelled of alcohol. While he was still in the process of identifying D.V., the officer again asked Turner not to yell. At that point the officer then believed that Turner was disruptive and was violating the intoxication ordinance.

After making this determination, the officer (and other officers who were now on the scene) attempted to separate the men. The officer asked Turner to identify himself. Turner refused, despite being asked over a dozen times for his identification. The officers eventually tased Turner. Turner was cited with obstructing legal process, disruptive intoxication, and yelling and screaming—all misdemeanors.¹

Turner moved to suppress the evidence discovered after the seizure, and the district court denied the motion. A jury found Turner guilty of obstructing legal process but not

¹ Minn. Stat. § 609.50, subd. 1(2) (2016), St. Cloud, Minn. Code of Ordinances §§ 1002.30, 1050.05, subd. 4 (2007).

guilty of disruptive intoxication or yelling and screaming. The district court sentenced Turner to a stayed 90-day sentence and gave him credit for the two days he had been detained.²

Three years later, Turner filed a postconviction petition challenging the denial of his motion to suppress.³ He argued that the district court erred by not suppressing the evidence discovered after the officer “dispelled any suspicion” that Turner had engaged in criminal activity. The postconviction court denied the petition for two reasons. First, the court concluded that the officer had reasonable suspicion of a noise violation permitting him to demand Turner’s identification because he was in a group that had produced the loud music. Second, the postconviction court determined that an officer who has reasonable suspicion to investigate a crime may demand the identification of any witness.

Turner appeals.

DECISION

As a threshold matter, we review an order denying postconviction relief for an abuse of discretion. *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013). A court abuses its discretion if its ruling “is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). At issue here is the postconviction court’s conclusion that the district court did not err in concluding that the officer was justified in asking Turner for his identification after knowing both that he was not the owner of the

² Turner completed probation, and the court discharged him.

³ Turner did not bring a direct appeal. Because the state failed to assert that Turner’s petition for postconviction relief was untimely under the two-year statute of limitations, the time bar is waived. *Carlton v. State*, 816 N.W.2d 590, 606 (Minn. 2012).

hoverboard (which caused the music) and that Turner did not reside at the apartment complex. We review whether an officer had reasonable suspicion of criminal activity supporting a continued seizure de novo. *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011).

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 (1964). But an 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, 19-22, (1968); *Diede*, 795 N.W.2d at 842-43. It is an unconstitutional intrusion to ask for identification after the validity for the stop has expired. *State v. Hickman*, 491 N.W.2d 673, 675 (Minn. App. 1992), *rev. denied* (Minn. Dec. 15, 1992).

Here, because Turner does not dispute that the officer had reasonable suspicion to seize Turner to investigate the threat and music incidents, our review is narrow: was there reasonable, articulable suspicion to seize Turner after the initial justifications were dispelled? And Turner does not dispute that there was reasonable, articulable suspicion that he was violating the yelling-and-screaming and disruptive-intoxication ordinances—he argues only that he was asked for his identification *before* that reasonable, articulable suspicion was obtained.

This comes down purely to a matter of timing: when did the officer know that Turner was not the culprit behind the music, and when did the officer ask for Turner's identification in relation to Turner yelling at the officer? The record shows that the officer explained that he needed the identification of any person who lived at the apartment to comport with St. Cloud's noise ordinance. Then, D.V. volunteered that he was the owner of the hoverboard and also resided at the apartment. While the officer was talking with D.V., Turner began yelling and swearing, which created the reasonable suspicion that he was violating the relevant St. Cloud ordinances. Although the officer initially asked to review the identification of whomever lived at the apartment, it was only *after* Turner yelled, which was during the consensual identification process of D.V., that the officer focused on Turner. In short—regardless of the fact that reasonable suspicion was dispelled for the violent threat and for the noise violation—Turner created the reasonable, articulable suspicion for new criminal conduct by yelling and showing signs of intoxication *before* he specifically was asked for his identification. Therefore, the officer did not unconstitutionally seize Turner by asking him for his identification.

To convince us otherwise, Turner argues that the record, specifically the postconviction court's recitation of the facts, proves that the officer asked for identification before Turner started to yell. Turner is correct that the officer asked for the identification of everyone to find out who lived in the apartment. But neither the facts nor the analysis should stop at that point. As explained above, the timing of events still gave the officer reasonable suspicion that an additional crime was being committed, meaning the seizure was proper. Nor does the slight variation in the recitation of the facts between the district

court's and the postconviction court's order alter this conclusion. The postconviction court's facts merely sum up the findings of fact from the district court at a broader level. And regardless, the summation of the facts by the postconviction court does not change the underlying record, which showed that the officer did not ask Turner individually for his identification for excessive noise until after Turner began yelling.⁴

Therefore, because there was reasonable, articulable suspicion that Turner violated the St. Cloud ordinances, the postconviction court did not abuse its discretion by affirming the district court's denial of Turner's motion to suppress.

Affirmed.

⁴ Turner also alleges that the postconviction court's justifications for affirming the district court were legally incorrect. But we have de novo review over the reasonable, articulable suspicion issue, which as explained above, was met. Because we will not reverse a correct decision "simply because it was based on incorrect reasons," this argument does not need to be addressed. *Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1978); *see also State v. Robinson*, 699 N.W.2d 790, 799 (Minn. App. 2005) (applying this holding of *Katz* in a criminal case), *rev. granted* (Minn. Sept. 28, 2005).