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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0916**

State of Minnesota,
Respondent,

vs.

Nancy Jean Feltus,
Appellant.

**Filed July 18, 2022
Affirmed
Cochran, Judge**

Itasca County District Court
File No. 31-CR-19-1218

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

Matti R. Adam, Itasca County Attorney, Justin J. Lee, Assistant County Attorney, Grand Rapids, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Kathryn L. LaPlante, Special Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Following a traffic stop and search of her vehicle, appellant was convicted of first-degree sale of a controlled substance and third-degree driving while impaired (DWI). In this direct appeal, appellant argues that the district court erred by denying her motion to

suppress evidence because (1) police unlawfully expanded the scope of the traffic stop; (2) statements appellant made regarding her drug use were elicited in violation of her *Miranda* rights; (3) police lacked probable cause to arrest her; and (4) police unlawfully searched and seized her car. We affirm.

FACTS

On April 29, 2019, a Minnesota State Patrol trooper initiated a traffic stop of a car traveling on Highway 169 in Itasca County after observing the car cross over the centerline and then over the fog line numerous times. After the trooper activated her emergency lights, the car continued to travel for approximately a quarter mile without slowing down before pulling over to the side of the highway. The car came to a stop on the shoulder of a highway bridge.

The trooper approached the car and spoke to the driver, whom she later identified as appellant Nancy Jean Feltus. An adult male passenger was also in the car. While speaking with Feltus, the trooper observed that Feltus's eyes were bloodshot, watery, and glossy. The trooper also noticed that Feltus appeared to be nervous and the carotid artery in her neck was "pulsating distinctively." The trooper asked Feltus about her driving conduct, and Feltus responded that she was tired after recently finishing work. The trooper then returned to her squad car to run Feltus's driver's license and wait for Feltus to locate proof of car insurance. The trooper also called for another squad car because she believed the location of the stop was unsafe.

Upon receiving Feltus's proof of insurance, the trooper informed Feltus that, based on her driving conduct and other signs of impairment, she was going to have Feltus exit

her car and perform field sobriety testing. Feltus complied, and the trooper directed Feltus to stand by the front bumper of the squad car. The trooper asked Feltus if she had any weapons. Feltus pulled a portable torch out of her pocket and explained that she uses it for beading jewelry. The trooper also asked Feltus if she had any recent brain tumors, concussions, or injuries of any kind. Feltus told the trooper that her knees had been operated on in the past but that it had been a while.

Before beginning the field sobriety tests, the trooper took Feltus's pulse, which she measured as 104 beats per minute. Feltus then performed a series of field sobriety tests. The first test, known as the Romberg test, required Feltus to place her feet together, tilt her head back, close her eyes, and estimate the passage of 30 seconds. Feltus estimated the passage of 30 seconds in approximately 24 seconds, which the trooper believed showed that Feltus's "internal clock [was] faster than the average person's." The trooper also noticed that Feltus "had a distinct sway" during the Romberg test. Next, Feltus performed the horizontal gaze nystagmus test, which required her to track the trooper's finger with her eyes. While the trooper did not notice any of the standard indicia of impairment during this test, the trooper saw that Feltus's eyes jerked or bounced around and had a hard time focusing on the trooper's finger. Feltus also told the trooper during this test that she was on the verge of falling asleep. The trooper then administered the walk-and-turn test. Before beginning the test, Feltus lost her balance numerous times. During the test, Feltus did not touch heel-to-toe for every step and took the incorrect number of steps before turning. Finally, Feltus performed the one-leg-stand test, during which she swayed while balancing, used her arms to balance, and put her foot down early. After completing the

field sobriety tests, the trooper once again took Feltus's pulse, which she measured to be 112 beats per minute. Based on Feltus's performance on the field sobriety tests and the trooper's measurement of her pulse rate, the trooper believed that Feltus was impaired by a stimulant drug such as methamphetamine.

The trooper then administered a preliminary breath test, the result of which indicated that Feltus did not have any alcohol in her system. While administering the breath test, the trooper noticed that Feltus had a number of "heat bumps," or blisters, on the back of her tongue. The trooper believed the presence of "heat bumps" to be consistent with methamphetamine use. Immediately after the breath test, the trooper asked Feltus several questions about her prior drug use. Feltus admitted that she had smoked methamphetamine in the past but was unaware of when she had last used the drug. The trooper then told Feltus that she was under arrest for DWI.

After placing Feltus in the back of the squad car, the trooper determined that Feltus's car would need to be towed and impounded. She made that decision in part "due to safety concerns as to where [the car] was parked"—specifically, "on top of a hill on a bridge," which made the car "hard to see." She also made the decision because Feltus's passenger did not have a valid driver's license and could not lawfully drive the car. Therefore, another trooper who had arrived during the traffic stop gave the passenger a ride to a nearby town and a tow truck was called. The trooper who stopped Feltus then conducted a "tow inventory" of the car to ensure that any private property in the car was recorded before it was towed. Inside the car, the trooper found a small container in the backseat containing white residue, which later tested positive for methamphetamine. She also found a green

bag in the trunk which held (1) a small round tin containing Ziploc baggies of methamphetamine, (2) another pouch containing additional baggies of methamphetamine, and (3) a glass pipe containing methamphetamine residue.

Respondent State of Minnesota charged Feltus with first-degree sale of a controlled substance in violation of Minn. Stat. § 152.021, subd. 1(1) (2018),¹ and third-degree DWI in violation of Minn. Stat. § 169A.20, subd. 1(7) (2018). During pretrial proceedings, Feltus filed a motion to dismiss the case and suppress evidence. Feltus argued in relevant part that (1) the trooper unlawfully expanded the scope of the traffic stop by asking her to exit her car to perform field sobriety tests; (2) the trooper violated her *Miranda* rights by questioning her during the stop; (3) the trooper lacked probable cause to arrest her; and (4) the search and subsequent impoundment of her car was unlawful.

The district court held a contested omnibus hearing to address the motion. At the hearing, the district court heard testimony from the trooper who conducted the traffic stop, an expert witness for the defense, and Feltus. The trooper testified about the circumstances of the stop, Feltus's arrest, and the search of her car. The state introduced a video from the trooper's dashboard camera showing the stop. The expert witness, a registered nurse, opined that the trooper did not accurately take Feltus's pulse during the traffic stop. Lastly, Feltus testified that she has had reconstructive surgeries on both of her knees and that her knee problems affected her ability to perform the field sobriety tests. The district court

¹ The state initially charged Feltus with fifth-degree possession of a controlled substance. By amended complaint, the state later replaced that charge with a first-degree-sale charge. The amended complaint alleged that Feltus admitted to police after her arrest that she had planned to sell the methamphetamine found in her car.

received into evidence copies of two medical records detailing Feltus's knee conditions after her surgeries.

Following the hearing, the district court issued a written order denying Feltus's motion to dismiss and suppress evidence. The parties agreed to a trial on stipulated evidence, thereby preserving the suppression issue for appeal. The district court found Feltus guilty of both first-degree drug sale and third-degree DWI. This appeal follows.

DECISION

When reviewing a district court's pretrial decision on a motion to suppress evidence, this court reviews the district court's legal determinations de novo and its findings of fact for clear error. *State v. Brown*, 932 N.W.2d 283, 289 (Minn. 2019). "A factual finding is clearly erroneous if it does not have evidentiary support in the record or if it was induced by an erroneous view of the law." *State v. Ezeka*, 946 N.W.2d 393, 403 (Minn. 2020) (quotation omitted).

Feltus raises four arguments on appeal. She contends that the district court erred by denying her motion to suppress evidence because (1) the trooper unlawfully expanded the scope of the traffic stop; (2) the statements she made to the trooper regarding her drug use were elicited in violation of her *Miranda* rights; (3) the trooper lacked probable cause to arrest her; and (4) the trooper unlawfully searched and impounded her car. We address each of these arguments in turn.

I. The district court did not err by concluding that the trooper did not unlawfully expand the scope of the traffic stop.

Feltus first contends that the district court erred by not suppressing the evidence obtained during the traffic stop because the trooper unlawfully expanded the scope of the stop. She identifies three actions by the trooper that she argues constituted unlawful expansions of the stop: (1) the trooper asked her to exit her vehicle to perform field sobriety tests; (2) the trooper “interrogated” her about her prior drug use; and (3) the trooper searched her car.

As an initial matter, Feltus did not argue to the district court that the trooper impermissibly expanded the scope of the traffic stop by questioning her about her prior drug use or by searching her car. In her motion to suppress, Feltus argued only that the trooper impermissibly expanded the scope of the traffic stop by “requesting [that she] exit the vehicle to conduct driving impaired testing [sic].” In reviewing a district court’s decision, we “generally will not decide issues which were not raised before the district court, including constitutional questions of criminal procedure.” *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). We therefore decline to consider Feltus’s newly raised arguments and limit our analysis here to whether the trooper impermissibly expanded the scope of the traffic stop by asking Feltus to exit her vehicle to perform field sobriety tests.² For the reasons set forth below, we conclude that the trooper did not.

² We address Feltus’s remaining arguments concerning the impoundment and search of her car in Issue IV of this opinion.

The United States and Minnesota Constitutions protect individuals from “unreasonable searches and seizures” by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A warrantless search or seizure is generally unreasonable. *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021). But a police officer may initiate a brief warrantless investigatory stop of a motor vehicle if she has a reasonable, articulable suspicion of criminal activity. *Id.* Under the Minnesota Constitution, each incremental intrusion during a traffic stop must be strictly tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) a reasonable basis for the expansion, as defined in *Terry*. *Id.* (citing *State v. Askerooth*, 681 N.W.2d 353, 365 (Minn. 2004)).

Here, the original purpose of the traffic stop was to investigate potential impaired driving. The trooper initiated the traffic stop after observing Feltus’s car cross over the centerline and fog line of the highway numerous times. There is no dispute by Feltus that this driving conduct provided reasonable suspicion of impaired driving and justified the initial stop. *See State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001) (concluding that reasonable suspicion supported traffic stop where car was reported to be driving “all over the road” and police officer observed the car “cross and recross the fog line”). Given that the trooper pulled Feltus over to investigate suspected impaired driving, we have no trouble concluding that the trooper’s request that Feltus exit her car to perform field sobriety tests was strictly tied to the original purpose of the stop. Moreover, the record reflects that the trooper did not expand the scope of the stop to investigate any other suspected illegal activity; rather, the trooper’s request—along with the entirety of the trooper’s actions

preceding Feltus's arrest—was a continuation of her investigation into possible impaired driving and was justified by that original legitimate purpose. We therefore reject Feltus's contention that the trooper impermissibly expanded the scope of the traffic stop by asking Feltus to exit her vehicle to perform field sobriety tests.

Feltus's other arguments also do not support her position that the district court erred when it concluded that the trooper did not unlawfully expand the scope of the stop. She first argues several of the district court's factual findings relating to the stop are clearly erroneous. More specifically, Feltus contends that the district court clearly erred by finding that her vehicle was "correcting itself excessively" and "weaving dangerously" prior to the traffic stop and that there was a "considerable delay" before she pulled over to the side of the highway. She also challenges the district court's finding that she had "callused fingers." Our review of the record demonstrates that these findings of fact are reasonably supported by the dashboard camera video and the trooper's testimony. These factual findings are not clearly erroneous.

Feltus next argues that the "expansion" of the stop was not supported by reasonable suspicion or probable cause. But neither reasonable suspicion nor probable cause was required because the trooper's request that Feltus exit her vehicle to perform field sobriety tests was tied to the original legitimate purpose of the traffic stop. *See Taylor*, 965 N.W.2d at 752 (explaining that each incremental intrusion during a traffic stop must be strictly tied to and justified by *one* of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, *or* (3) a reasonable basis for the expansion).

Accordingly, there is no need to reach the alternative issues of whether independent probable cause or reasonable suspicion supported the request.

In sum, because the trooper did not unlawfully expand the scope of the stop by asking Feltus to exit her car to perform field sobriety tests, the district court did not err by denying Feltus's motion to suppress evidence on that basis.

II. The district court did not err by concluding that Feltus was not entitled to a *Miranda* warning.

Feltus next argues that the district court erred by declining to suppress statements she made to the trooper regarding her prior drug use because the trooper did not first provide a *Miranda* warning. “The issue of whether a suspect is in custody and therefore entitled to a *Miranda* warning presents a mixed question of law and fact.” *State v. Sterling*, 834 N.W.2d 162, 167 (Minn. 2013) (quotation omitted). When the district court applied the proper legal standard, we give considerable deference to its resolution of this fact-specific issue. *State v. Horst*, 880 N.W.2d 24, 31 (Minn. 2016).

The Fifth Amendment to the United States Constitution protects individuals from compelled self-incrimination. U.S. Const. amend. V; Minn. Const. art I, § 7 (providing that “[n]o person shall . . . be compelled in any criminal case to be a witness against himself”). As a safeguard for this right against self-incrimination, the United States Supreme Court has held that a statement made by a suspect during a “custodial interrogation” is admissible only if the statement was preceded by a *Miranda* warning. *State v. Thompson*, 788 N.W.2d 485, 491 (Minn. 2010) (quoting *Miranda v. Arizona*, 384 U.S. 436, 444-45 (1966)). Accordingly, “a *Miranda* warning is required if a suspect

is both in custody and subject to interrogation.” *Id.* A person is “in custody” if, “based on all the surrounding circumstances, a reasonable person . . . would believe that he or she was in police custody of the degree associated with formal arrest.” *Horst*, 880 N.W.2d at 30-31. Whether a person has been placed in “custody” in a Fifth Amendment analysis is distinct from the issue of whether a person has been seized within the meaning of the Fourth Amendment—“[t]he [custody] test is *not* whether a reasonable person would believe he or she was not free to leave.” *Sterling*, 834 N.W.2d at 168 (emphasis added) (quotation omitted). Factors that typically indicate a person is in custody include questioning at the police station, the suspect being told she is a prime suspect, police restraining the suspect’s freedom of movement, the suspect making a highly incriminating statement, the presence of multiple officers, and police pointing a gun at the suspect. *Horst*, 880 N.W.2d at 31. Factors that suggest a person is *not* in custody include “briefly questioning the suspect” and “a nonthreatening environment.” *Id.*

A motorist subject to a traffic stop is usually not in custody for *Miranda* purposes. *State v. Herem*, 384 N.W.2d 880, 882-83 (Minn. 1986). This is because two features of the ordinary traffic stop mitigate the risk that the person questioned will be unduly impaired in her free exercise of her right against self-incrimination: (1) “traffic stops are presumptively temporary and brief” and (2) “the typical traffic stop involves circumstances such that the motorist does not feel completely at the mercy of the police.” *Id.* (citing *Berkemer v. McCarty*, 468 U.S. 420, 437-39 (1984)). Because traffic stops are usually conducted in public by only one or two officers and the questioning that occurs is typically

limited, most traffic stops do not involve the same type of prolonged questioning and “police dominated” atmosphere that was at issue in *Miranda*. *Id.*

Here, the record demonstrates that the trooper’s questioning occurred under the following circumstances. The questioning took place during a traffic stop, on the shoulder of a public highway, in front of the trooper’s squad car. The questioning was conducted by only one trooper, and the questioning itself lasted approximately one minute and 20 seconds. The trooper did not exert any physical control over Feltus either before or during the questioning, and it was not until after the questioning was complete that the trooper informed Feltus that her detention would not be temporary. Furthermore, as the district court found, the trooper’s demeanor was collected and amicable throughout the stop, and the trooper never cited her authority as a police officer to pressure Feltus to comply. In light of this record evidence, the circumstances of the trooper’s questioning cannot be fairly characterized as the functional equivalent of a formal arrest.

Feltus’s arguments do not persuade us otherwise. She first asserts that she was in custody during the trooper’s questioning because “[t]he totality of the circumstances reveals . . . Feltus was under the direction and control of [the trooper] for the entire period that [she] was outside of her vehicle.” But a person is not in custody during a traffic stop simply because an officer directs her actions; rather, the stop must exert pressures upon the individual that so impair her free exercise of her right against self-incrimination that a *Miranda* warning is required. *See Herem*, 384 N.W.2d at 882-83 (concluding that defendant was not in custody when officer ordered him to sit in a police car for a short

time). For the reasons set forth above, such pressures were not present during the stop at issue in this case.

Feltus also suggests that the length of the stop converted it into a custodial situation. “[A]n extension of the duration of a stop beyond the time necessary to effectuate the purposes of the stop is unreasonable.” *Askerooth*, 681 N.W.2d at 371. However, there is no indication in the dashboard camera video that the trooper unreasonably prolonged the stop. The traffic stop lasted a relatively short period of time—approximately 22 minutes from the time of its initiation to Feltus’s arrest. During that time, the trooper had a brief initial discussion with Feltus, checked Feltus’s driver’s license, waited for Feltus to produce proof of insurance, and conducted the field sobriety tests. The trooper performed these activities expeditiously and did nothing to unreasonably prolong the stop. Moreover, as mentioned above, the record demonstrates that the trooper’s time spent questioning Feltus was very brief.

Next, Feltus asserts that the trooper’s questioning was custodial because the trooper began the questioning by saying “So, let’s talk.” But “the mere fact that there are coercive aspects to the interrogation does not mean that the interrogation necessarily is custodial.” *State v. Sirvio*, 579 N.W.2d 478, 481 (Minn. 1998) (quotation omitted). In sum, considering the totality of the circumstances of the stop, we conclude that no reasonable person in Feltus’s position would have concluded that the stop was custodial in nature.

Finally, Feltus argues for the first time on appeal that she was in custody during the trooper’s questioning because state law makes it a crime to refuse to comply with the trooper’s directions or attempt to flee the scene. *See* Minn. Stat. §§ 169.02, subd. 2,

609.487, subd. 3 (2018). We decline to address this argument because it was not presented to or considered by the district court. *See Roby*, 547 N.W.2d at 357. We also note that the United States Supreme Court has rejected a similar line of reasoning. *See Berkemer*, 468 U.S. at 436-40 (noting that “[u]nder the law of most [s]tates, it is a crime either to ignore a policeman’s signal to stop one’s car or, once having stopped, to drive away without permission,” but nonetheless concluding that questioning of a motorist during a routine traffic stop was not a “custodial interrogation” requiring a *Miranda* warning), *cited with approval in Herem*, 384 N.W.2d at 882-83.

In short, Feltus fails to point to any aspect of the traffic stop prior to her arrest that suggests that the stop had a coercive atmosphere akin to a formal arrest. Therefore, Feltus was not in custody prior to her arrest, and she was not entitled to a *Miranda* warning before questioning. We conclude that the district court did not err by denying Feltus’s motion to suppress evidence on that basis.

III. The district court did not err by concluding that the trooper had probable cause to arrest Feltus for DWI.

Feltus next argues that the district court erred by denying her motion to suppress evidence found during the search of her vehicle after her arrest because the trooper lacked probable cause to arrest her for DWI. The determination of whether probable cause exists is a mixed question of fact and law. *Otto v. Comm’r of Pub. Safety*, 924 N.W.2d 658, 662 (Minn. App. 2019). We review the district court’s factual findings for clear error and its legal determinations de novo. *Id.* When reviewing a district court’s probable cause determination, “[t]he duty of the reviewing court is simply to ensure that the officer had a

substantial basis for concluding that probable cause for arrest for DWI existed.” *Reeves v. Comm’r of Pub. Safety*, 751 N.W.2d 117, 120 (Minn. App. 2008) (quotation omitted).

An officer has probable cause to arrest a suspect for DWI “when the facts and circumstances available at the time of arrest reasonably warrant a prudent and cautious officer to believe that an individual was driving while under the influence.” *Id.* “Probable cause requires something more than mere suspicion but less than the evidence necessary for conviction.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011). “The inquiry is objective, and the existence of probable cause depends on all of the facts of each individual case.” *Id.* But, where the officer stops a driver, one objective indication of intoxication can constitute probable cause to believe a person is under the influence. *State v. Kier*, 678 N.W.2d 672, 678 (Minn. App. 2004) (quotation omitted), *rev. denied* (Minn. June 15, 2004).

Here, the district court determined that the total sum of the trooper’s observations of Feltus supported probable cause for arrest. The district court reasoned that the trooper observed sufficient indicia of impairment, including Feltus’s driving conduct, her demeanor, and her performance on the field sobriety tests.

Feltus challenges the district court’s probable cause determination on the ground that it failed to consider and make adequate factual findings regarding evidence she presented at the contested omnibus hearing. At the hearing, Feltus testified and presented medical reports related to the physical condition of her knees. She stated that she has had surgeries on both of her knees, resulting in pain and a limited range of motion, and “can’t

use just one leg to support [herself].” She testified that her knee problems affected her ability to perform the field sobriety tests during the traffic stop. Feltus also presented the testimony of an expert witness, who opined that the trooper’s method of measuring Feltus’s pulse during the traffic stop likely resulted in an overestimation of her pulse rate. The expert witness testified that the proper method for taking a pulse would be to either count the person’s heartbeats for 15 seconds and multiply that number by four or count the heartbeats for 30 seconds and multiply by two. The expert witness opined that the trooper likely miscalculated Feltus’s pulse rate because she took Feltus’s pulse for 43 seconds the first time and 32 seconds the second time.

Feltus contends that the district court failed to consider the evidence she presented regarding her bilateral knee condition and her expert’s testimony regarding the trooper’s measurement of her pulse, and she argues that this evidence undermines the district court’s determination that the trooper had probable cause to arrest her for DWI. She further asserts that the district court clearly erred in its factual findings regarding her performance on the walk-and-turn and one-leg-stand tests, and clearly erred by finding that she “collectively failed” the field sobriety tests, because her testimony and the medical reports show that she has balance issues that explain her poor performance on those tests. For the reasons set forth below, we conclude that the district court did not err in its factual findings, adequately considered the evidence presented at the contested omnibus hearing, and did not err by determining that the trooper had probable cause to arrest Feltus for DWI.

First, we discern no clear error in the district court’s factual findings. The trooper’s testimony and the dashboard camera video support the district court’s factual findings that

Feltus exhibited poor balance on the walk-and-turn and one-leg-stand tests and that Feltus “collectively failed” the field sobriety tests.

Second, the district court’s order demonstrates that it adequately considered the evidence Feltus presented at the omnibus hearing. The district court indicated that it considered the evidence regarding Feltus’s physical condition and assigned it little weight, noting that it was “not convinced by [Feltus’s] explanations for her driving conduct, her demeanor, and her performance through the field sobriety testing.” The district court also acknowledged the expert testimony regarding the trooper’s measurement of Feltus’s pulse. In doing so, the district court emphasized that, even if it were to omit the evidence of Feltus’s pulse rate from its analysis, “there remains sufficient indicia of intoxication to support probable cause to arrest.” The district court’s order thus shows that it considered all the evidence presented at the contested omnibus hearing, including the evidence presented by Feltus, before determining that the trooper had probable cause to arrest Feltus for DWI.³ To the extent that Feltus asks us to reweigh the evidence she presented, we decline to do so. Our review of the district court’s findings of fact is for clear error and the clear-error standard “does not permit an appellate court to weigh the evidence as if trying

³ We also note that, while the district court’s order shows that it considered the evidence Feltus presented at the contested omnibus hearing, Feltus’s challenge to the district court’s probable-cause determination fails for an additional reason. The probable-cause inquiry is objective and based on the totality of the circumstances, not an after-the-fact explanation. *State v. Olson*, 342 N.W.2d 638, 640-41 (Minn. App. 1984); *see also State v. Hawkins*, 622 N.W.2d 576, 580 (Minn. App. 2001) (explaining that mere possibility of an innocent explanation for conduct does not negate probable cause). Accordingly, to the extent the district court did not consider additional evidence of Feltus’s medical condition that was not known by the trooper at the time of Feltus’s arrest, the district court did not err.

the matter *de novo*.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

In any event, even without the trooper’s observations regarding Feltus’s pulse rate and poor balance on the walk-and-turn and one-leg-stand tests, the evidence of the trooper’s remaining observations of Feltus prior to her arrest adequately support the district court’s probable cause determination. These observations include the following: prior to the stop, Feltus’s car crossed over the centerline and fog line of the highway numerous times; Feltus had bloodshot, watery, and glossy eyes; Feltus appeared nervous, and her carotid artery was “pulsating distinctively”; Feltus had a portable torch in her pocket, which the trooper believed indicated methamphetamine use; Feltus estimated the passage of 30 seconds in 24 seconds, which the trooper believed showed “[i]mpairment caused by a [central nervous system] stimulant”; during the horizontal gaze nystagmus test, Feltus’s eyes jerked or bounced around and had a hard time focusing on the trooper’s finger; Feltus told the trooper that she was on the verge of falling asleep, which the trooper believed indicated that Feltus was on the “downside effect” of a stimulant drug; Feltus had “heat bumps” on the back of her tongue, which in the trooper’s training and experience indicated methamphetamine use; and Feltus admitted to the trooper to using methamphetamine in the past. These observations included more than one objective indication of intoxication and provided the trooper a substantial basis for concluding that there was probable cause to arrest Feltus for DWI. *See Kier*, 678 N.W.2d at 678. Accordingly, we conclude that the district court did not err by determining that the trooper had probable cause to arrest Feltus for impaired driving.

IV. The district court did not err by determining that the trooper lawfully searched and impounded Feltus's car.

Feltus next contends that the inventory search and impoundment of her car was unlawful and that the district court therefore erred by declining to suppress the evidence found in her car. As stated above, when reviewing a district court's decision on a motion to suppress evidence, we review the district court's legal determinations de novo and its findings of fact for clear error. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

Inventory searches are a well-defined exception to the Fourth Amendment's warrant requirement. *State v. Rohde*, 852 N.W.2d 260, 263 (Minn. 2014). "Inventory searches are considered reasonable because of their administrative and caretaking functions," which "serve to protect an owner's property while it is in the custody of the police, to insure against claims of lost, stolen, or vandalized property, and to guard the police from danger." *Gauster*, 752 N.W.2d at 502 (quotation omitted). Because the act of impoundment "gives rise to the need for and justification of the inventory search, the threshold inquiry when determining the reasonableness of an inventory search is whether the impoundment of the vehicle was proper." *Id.* (quotation omitted).

For impoundment to be proper, it must be conducted pursuant to standardized criteria. *Id.* at 503. Moreover, "the [s]tate must have an interest in impoundment that outweighs the individual's Fourth Amendment right to be free of unreasonable searches and seizures." *Rohde*, 852 N.W.2d at 264 (quotation omitted). The state's interest in impounding a vehicle will outweigh an individual's right to be free from unreasonable searches and seizures if the vehicle is "impeding traffic or threatening public safety and

convenience.” *Id.* at 265 (quotation omitted). Additionally, the state has an overriding interest in impounding a vehicle if necessary “to protect the defendant’s property from theft and police from claims arising therefrom.” *Id.* (quotation omitted). The state has the burden to prove that the inventory-search exception to the warrant requirement applies in a particular case. *Id.* at 263.

The district court determined that two circumstances supported the trooper’s decision to impound Feltus’s car. First, the court found that the car’s location presented a public safety concern for other vehicles on the roadway. Second, the district court found that “the search comported with the [s]tate’s interest in protecting [itself] from claims” of theft. Feltus challenges both bases for the district court’s determination. We are not persuaded by either challenge.

First, the record supports the district court’s finding that the location of Feltus’s car posed a threat to public safety. The trooper testified that, following Feltus’s arrest, she decided to impound Feltus’s car and have it towed “due to the safety concerns as to where [the car] was parked.” The trooper testified that she was concerned that the car was parked “on top of a hill on a bridge” and was “hard to see.” The trooper also testified that, after she initiated the stop, she called for another trooper because the stop was “located at an unsafe spot.” This testimony reasonably supports the district court’s finding that the car’s location threatened public safety, and it distinguishes this case from *Gauster*, on which Feltus relies. *See* 752 N.W.2d at 504 (affirming finding that a car did not create a safety hazard justifying impoundment because “the vehicle was on the shoulder of a rural road in the middle of the afternoon”).

Feltus argues that the dashboard camera video contradicts the trooper's testimony. She asserts that the video shows that her car was parked on a gradual incline rather than on top of a hill and that traffic was passing her parked car without issue, indicating that the vehicle was sufficiently visible to oncoming traffic. She also asserts that the car's location on a bridge did not create a risk to public safety and that, because it was parked on the shoulder of the highway, the car was in a safe location. We are not persuaded. The record evidence, including the dashboard camera video, reasonably supports the district court's finding that the location of Feltus's car threatened public safety. The district court's finding in this regard is not clearly erroneous. *See Kenney*, 963 N.W.2d at 221, 223 (noting factual findings that are reasonably supported by the record are not clearly erroneous; "it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary" (quotation omitted)).

Second, separate and apart from the public-safety rationale, the district court properly determined that the trooper's authority to protect Feltus's property justified impounding the car. "This authority arises when it becomes essential for the police to take custody of and responsibility for a vehicle due to the incapacity or absence of the owner, driver, or any responsible passenger." *Rohde*, 852 N.W.2d at 265 (quotation omitted). Here, no one was available to drive Feltus's car away from the scene because Feltus was under arrest at the time the trooper decided to impound the car, and Feltus's passenger lacked a valid driver's license. Feltus does not dispute these findings. Instead, she argues only that she or her passenger *could have* arranged for someone else to retrieve her vehicle if the trooper had given them the opportunity. But an officer is not required to offer an

arrested person such an opportunity before impounding her property. *See id.* at 266 (recognizing that the United States Supreme Court held in *Colorado v. Bertine*, 479 U.S. 367, 373-74 (1987), that police were not required to offer an arrested driver an opportunity to make alternative arrangements before impounding his van). Because Feltus was under arrest and her passenger did not have a valid driver's license, the trooper was authorized to impound and search the car for the purpose of protecting Feltus's property and the police from related claims of theft.⁴ The district court did not err by declining to suppress the evidence discovered during the search of Feltus's car.

Affirmed.

⁴ Feltus also argues that the trooper was required to wait four hours before impounding her car under Minn. Stat. § 168B.04, subd. 2(b)(1)(i) (2020). We decline to address this argument, which Feltus raises for the first time on appeal. *See Roby*, 547 N.W.2d at 357.