

*This opinion is nonprecedential except as provided by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
A21-1715**

State of Minnesota,
Respondent,

vs.

Tyler Jared Higgins,
Appellant.

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

St. Louis County District Court
File No. 69HI-CR-20-504

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

Kimberly J. Maki, St. Louis County Attorney, Tyler J. Kenefick, Assistant County Attorney, Hibbing, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Worke, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After observing a crack that spanned three-fourths of a vehicle's windshield, a state trooper initiated a traffic stop of the car driven by appellant Tyler Jared Higgins. During the stop, a search revealed evidence of firearms, ammunition, drug paraphernalia,

methamphetamine, marijuana, and prescription drugs. Higgins appeals the subsequent denial of his pretrial motion to suppress the evidence for lack of reasonable, articulable suspicion of criminal activity for the stop. We affirm.

FACTS

On a sunny July afternoon in 2020, Higgins’s vehicle was traveling southbound on Highway 169 leaving Hibbing when he passed a parked state trooper’s squad car. The trooper initiated a traffic stop of Higgins’s vehicle. After making face-to-face contact with Higgins, the trooper observed that Higgins was “fidgety,” “playing with his hands,” and had “pinpoint pupils.” The trooper expanded the scope of the stop, suspecting Higgins was under the influence of a controlled substance.¹ The vehicle search that followed uncovered firearms, ammunition, drug paraphernalia, methamphetamine, marijuana, and prescription drugs.

Higgins was charged with one count of felon in possession of ammunition or a firearm, one count of fifth-degree possession of a controlled substance, and one count of driving while impaired (DWI).² Arguing that the trooper did not have reasonable suspicion for the traffic stop, Higgins moved to suppress all seized evidence as a violation of his right to be free from unreasonable searches and seizures.

At the contested omnibus hearing, the trooper testified that he stopped Higgins because he observed (1) a crack in Higgins’s front windshield that “went three quarters of

¹ The expansion of the stop is not at issue on appeal.

² In violation of Minn. Stat. §§ 624.713, subd. 1(2), 152.025, subd. 2(1), 169A.20, subd. 1(7) (2018).

the way through the windshield,” and (2) a suspended object “swinging on the mirror.” The trooper could not recall the exact item he saw “swinging” on the rearview mirror or the location of the crack on the windshield. But the trooper recalled that the reflection of the sun on the windshield made the crack “very easy to see.”

The district court denied Higgins’s motion to suppress evidence obtained from the stop. Higgins then waived his right to a jury trial and stipulated to the prosecution’s case under Minnesota Rules of Criminal Procedure 26.01, subdivision 4, to obtain review of the district court’s pretrial ruling on his motion to suppress. The district court found Higgins guilty on two counts—felon in possession of ammunition or a firearm and DWI—and dismissed the remaining count of fifth-degree possession of a controlled substance.

Higgins appeals.

DECISION

Higgins contends that the evidence here was not sufficient to give rise to a reasonable, articulable suspicion of criminal activity necessary to justify a traffic stop. When facts regarding a traffic stop are not in dispute, as here, this court reviews a pretrial order on a motion to suppress *de novo* and determines 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) (quoting *State v. Flowers*, 734 N.W.2d 239, 247-48 (Minn. 2007)).

We undertake this review mindful that the United States Constitution and Minnesota Constitution prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Generally, warrantless searches and seizures are *per se* unreasonable. *State v. Horst*, 880 N.W.2d 24, 33 (Minn. 2016). But a law-enforcement officer may

conduct a brief, warrantless investigatory stop if the officer has a reasonable, articulable suspicion that criminal activity is afoot. *Terry v. Ohio*, 392 U.S. 1, 19-22 (1968); *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011); *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021). This standard is met if there are “specific, articulable facts” showing that the officer “had a particularized and objective basis for suspecting the seized person of criminal activity.” *Diede*, 795 N.W.2d at 842-43. The reasonable-suspicion standard is not high. *Id.* at 843. It requires more than a hunch but much less than proof of wrongdoing by a preponderance of the evidence. *Taylor*, 965 N.W.2d at 752.

Generally, any traffic violation provides a basis for a traffic stop. *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004). For example, crossing over traffic lanes without signaling or weaving within a lane provide the necessary reasonable, articulable suspicion to justify a traffic stop. Minn. Stat. § 169.19, subd. 5 (2020); Minn. Stat. § 169.18, subd. 7(1) (2020); *State v. Dalos*, 635 N.W.2d 94, 96 (Minn. App. 2001) (holding continuous weaving within one’s own lane is sufficient by itself to create a reasonable, articulable suspicion of criminal activity to support a traffic stop). Here, the primary potential traffic violation stems from Minn. Stat. § 169.71, subd. 1(a)(1) (2018) (the “obstructed-vision statute”), which states “[a] person shall not drive or operate any motor vehicle with . . . a windshield cracked or discolored to an extent to limit or obstruct proper vision.” (Emphasis added.)

Regarding the scope of the windshield crack, the trooper testified that the crack he observed “went three quarters of the way through the windshield.” He described it as “very easy to see” from the sunshine’s reflection on the windshield at the time of the stop. Based

upon this testimony, the district court found that the crack extended across three-quarters of the vehicle's windshield. Because a crack of this size could lead a reasonable officer to suspect that the driver's vision was limited, this undisputed factual finding on the size and extent of the crack provides a sufficient basis for the conclusion that the trooper had a reasonable, articulable suspicion that Higgins drove in violation of the obstructed-vision statute. *Diede*, 795 N.W.2d at 842-43.

To persuade us otherwise, Higgins references *State v. Poehler*, where we held that not every windshield crack justifies a traffic stop under the obstructed-vision statute. 921 N.W.2d 577, 580 (Minn. App. 2018), *aff'd on other grounds*, 935 N.W.2d 729 (Minn. 2019). Rather, there must be evidence to support a finding that a reasonable officer might suspect that the windshield was cracked to an extent that it limited the driver's vision. *Id.* at 580-81. But unlike *Poehler*—where there was no factual finding about the crack's size or location—evidence of the windshield crack size exists here. *Id.* at 581.

Nor are we persuaded by Higgins's contention that the trooper's lack of testimony about his *subjective* belief about whether the crack impaired the driver's vision makes the traffic stop unlawful. An officer's subjective belief is not the basis to determine whether reasonable, articulable suspicion exists. Rather, reasonable, articulable suspicion is based on whether the officer was able to articulate facts at the omnibus hearing that they had at least a minimal level of *objective* justification for the stop. *Diede*, 795 N.W.2d at 842-43.

And identifying a severe crack across Higgins's windshield satisfies that objective standard.³

In sum, we conclude that the trooper had a reasonable, articulable suspicion of criminal activity when he observed the windshield crack on Higgins's vehicle because the crack spanned "three quarters of the way through the windshield." Under these circumstances, a reasonable officer could conclude that the crack obstructed the driver's view in violation of the traffic law.⁴

Affirmed.

³ Higgins also argues that the trooper did not prove a traffic violation had been committed, so the stop was not justified. But requiring proof that the trooper observed, beyond a reasonable doubt or even by a preponderance of the evidence, that a traffic violation was committed at the initiation of a traffic stop, would apply too high a standard to these types of traffic stops. *See Taylor*, 965 N.W.2d at 752. Instead, the trooper only had to offer specific, articulable facts that form an objective basis for suspecting the traffic violation is occurring. *Diede*, 795 N.W.2d at 842-43.

⁴ Because we decided here that the windshield crack on Higgins's vehicle was enough to justify the stop, we do not reach the issue of whether the stop was justified by the trooper's additional observation of a hanging object.