STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0727

State of Minnesota,
Appellant,

vs.

Ricky James Bedell,
Respondent.

Filed December 27, 2022
Reversed
Bjorkman, Judge

Chisago County District Court
File No. 13-CR-21-73

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

Janet Reiter, Chisago County Attorney, David Classen, Assistant County Attorney, Center City, Minnesota (for appellant)

Hillary B. Parsons, Joseph P. Tamburino, Caplan & Tamburino Law Firm, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Bryan, Presiding Judge; Bjorkman, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

In this pretrial appeal, appellant State of Minnesota challenges an order suppressing evidence obtained after law-enforcement officers ordered respondent Ricky James Bedell

to exit his vehicle during a traffic stop. Because the officers did not impermissibly expand the scope of the stop, we reverse.

FACTS

While patrolling on the evening of January 22, 2021, a Chisago County Sheriff's deputy and sergeant encountered a Chevrolet pickup truck that had only one working headlight. The officers stopped the truck for this equipment violation. The deputy observed that the truck was black in color and had a Wisconsin license plate. A license-plate check revealed that the truck was registered to a Wisconsin owner and listed as being red in color.

The deputy approached the driver and sole occupant while the sergeant stood on the passenger side of the truck. At this point, both officers' body-worn cameras were recording audio and video. The deputy asked Bedell for his driver's license. He replied that he did not have one and identified himself by name and date of birth. When Bedell provided a Minnesota address, the deputy pointed out that the truck had Wisconsin license plates. Bedell explained that he bought the truck "last week" and had not yet registered it because he did not have a valid license. Bedell also handed the deputy a sheet of paper containing insurance information for the truck. Bedell then asked if he could call his girlfriend to come and drive the truck home. The deputy responded that Bedell could do so "after we're done here."

Both officers then returned to their patrol vehicle. Upon arrival, the sergeant muted his body-worn camera and asked the deputy if the driver was Ricky Bedell. The deputy

answered affirmatively; the sergeant immediately told her to mute her body-worn camera. The two officers remained in their vehicle for approximately ten minutes.[1]

The sergeant then exited the patrol vehicle and unmuted his body-worn camera. He approached another officer who had arrived at the scene, saying, "Ricky Bedell," and, "Got a little digging to do on the VIN." The two walked to the passenger side of Bedell's truck while the deputy approached the driver's side and spoke with Bedell. When the deputy directed Bedell to get out of the truck so that she could look for its vehicle identification number (VIN), Bedell instead sped off. All of the officers pursued Bedell, eventually arresting him after he drove his truck off the road.

Police searched Bedell's vehicle, finding a single .22 caliber cartridge. Officers noted that Bedell appeared to be throwing items out of his truck during the pursuit, and subsequent searches of the area discovered a bag containing 21 rounds of .22 caliber cartridges and a .22 caliber revolver.

The state charged Bedell with unlawful possession of ammunition or a firearm[2] and fleeing a peace officer in a motor vehicle. Bedell moved to suppress the gun and ammunition, arguing that the officers did not have reasonable suspicion to stop his vehicle and they improperly expanded the scope of the stop. At the suppression hearing, the deputy testified that she suspected the truck was stolen because Bedell's insurance document pre-

[1] During the suppression hearing, the sergeant testified that it was a common practice in his department to mute "investigative conversations" between officers.

[2] Bedell was prohibited from possessing firearms or ammunition due to a prior assault conviction.

dated his claimed purchase of the truck and the truck was registered as being red but appeared to have been painted black. Because the sergeant told her Bedell "had a history of fleeing" and "assaultive behavior towards law enforcement," she ordered Bedell out of the truck before checking the VIN out of concern for her safety. The deputy also acknowledged that the truck had not been reported stolen.

The sergeant testified that he recognized Bedell from past encounters and suspected the truck was stolen because it was registered to a different owner as a different color, and Bedell's insurance paperwork "did not appear to be legitimate." The sergeant stated that he "didn't feel that [it] was safe" for the deputy to check the VIN with Bedell in the truck as the deputy was too short to see the VIN by looking through the windshield.

The district court granted Bedell's motion to suppress. Although the court determined the initial stop was valid, it concluded the officers impermissibly expanded its scope by ordering Bedell out of the truck because their "subjective reason to expand the scope of the stop—to investigate a possible motor vehicle theft—was not objective given the totality of the circumstances."

The state appealed, arguing that directing Bedell to exit the truck was justified by a reasonable, articulable suspicion that the truck was stolen. The state did not argue that the officers could order Bedell out of his truck as a matter of course, without articulating a reason. Nor did the state argue that officers could view the VIN without infringing on Bedell's privacy expectations. Because appellate courts have a responsibility to decide cases in accordance with law, *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990), we asked the parties to submit supplemental briefs addressing:

(a) What impact, if any, does *Pennsylvania v. Mimms*, 434 U.S. 106 (1977), have on the parties' arguments?

(b) What impact, if any, does *New York v. Class*, 475 U.S. 106 (1986), have on the parties' arguments?

The parties complied with our request.

DECISION

I. The suppression order has a critical impact on the state's ability to prosecute.

The state has a limited right to appellate review of a district court's pretrial order. Minn. R. Crim. P. 28.04, subd. 1(1). To obtain appellate review of a pretrial order, the state must show that, unless the district court's ruling is reversed, it will have a "critical impact on [the state's] ability to prosecute the case." *State v. McLeod*, 705 N.W.2d 776, 784 (Minn. 2005) (quotation omitted). The state can show critical impact if the challenged ruling either "completely destroys the state's case" or "significantly reduces the likelihood of a successful prosecution." *Id*. (quotation omitted).

The state contends that the critical-impact requirement is satisfied because the suppression order prevents the state from prosecuting the unlawful-possession charge. We agree. Because the order precludes one of the two charges from going forward, the critical-impact test is met. *State v. Zais*, 805 N.W.2d 32, 36 (Minn. 2011) (stating "the exclusion of evidence need not affect all charges against the defendant" and "[i]t is enough if the exclusion affects the State's ability to prosecute a specific charge").

II. The district court erred by suppressing all evidence obtained after police ordered Bedell to exit his vehicle.

The United States and Minnesota Constitutions guarantee the right of the people to be secure against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const.

art. I, § 10. This guarantee extends to the right of the people to be secure in their motor vehicles. *Berkemer v. McCarty*, 468 U.S. 420, 439-40 (1984); *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). Generally, an officer may briefly stop a vehicle to conduct a limited investigation if the officer has a reasonable, articulable suspicion that the person in the vehicle is engaged in criminal activity. *State v. Anderson*, 683 N.W.2d 818, 822-23 (Minn. 2004). Violation of a traffic law, no matter how minor, provides reasonable suspicion for an investigative stop. *Id*. at 823.

Such an investigative stop must be reasonable in both duration and scope. *State v. Askerooth*, 681 N.W.2d 353, 363 (Minn. 2004) (citing *State v. Wiegand*, 645 N.W.2d 125, 136 (Minn. 2002)). In assessing reasonableness, we first determine "whether the stop was justified at its inception." *Id*. at 364. We next determine "whether the actions of the police during the stop were reasonably related to and justified by the circumstances that gave rise to the stop in the first place." *Id*. A valid stop may be expanded so long as "each incremental intrusion . . . [is] tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness, as defined in *Terry*." *Id*. at 365. We review a district court's factual findings for clear error and review de novo its legal determination whether an expansion of a traffic stop is justified. *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012).

Bedell does not dispute that the traffic stop was justified at its inception. And he does not contend that its duration was unreasonable. Rather, he asserts—as the district court concluded—that asking him to get out of the truck was unreasonable and impermissibly expanded the scope of the stop. This assertion is unavailing.

In *Pennsylvania v. Mimms*, the United States Supreme Court held that it is objectively reasonable for a police officer to order a driver to exit a vehicle during a lawful traffic stop. 434 U.S. at 110-11. The Supreme Court reasoned that, while asking a driver to exit a vehicle is an additional intrusion (i.e., an expansion of the stop), that intrusion "can only be described as *de minimis*" and is outweighed by the legitimate officer safety concerns that are generally present in traffic stops. *Id*. at 111.

Our supreme court has specifically applied *Mimms* to a situation where an officer ordered a driver to exit a vehicle validly stopped for a headlight violation. *State v. Faber*, 343 N.W.2d 659, 660 (Minn. 1984) ("Having made a legal stop, the officer was justified in requiring [the driver] to get out of the vehicle."). And in *Askerooth*, the supreme court contrasted an officer's ability to "order a driver out of a lawfully stopped vehicle without an articulated reason," with additional intrusions—such as frisking or confining a driver in a squad car—that require additional justification. 681 N.W.2d at 367 (citing *Mimms*, 434 U.S. at 111).

Not only was asking Bedell to exit the truck permissible under *Mimms*, but doing so to allow the deputy to view the VIN was not unreasonable. In *New York v. Class*, the Supreme Court held that a driver lawfully stopped for a minor traffic violation did not have a reasonable expectation of privacy in the VIN, so the officer's intrusion into the car did not violate the Fourth Amendment. 475 U.S. at 114 (noting "the important role played by the VIN in the pervasive governmental regulation of the automobile").

In short, the officers did not need to articulate a reason for ordering Bedell to exit his vehicle. To convince us otherwise, Bedell cites our nonprecedential opinion in *State v.*

Stevenson, No. A21-1142, 2022 WL 3152587 (Minn. App. Aug. 8, 2022).[3] This reliance is misplaced. In *Stevenson*, we rejected the state's argument that *Mimms* not only permitted police to order a driver out of a car, but also permitted police to open a driver's door at the outset of a lawful traffic stop. 2022 WL 3152587, at *4-5. The state argued that opening a driver's door was not an expansion of the stop; this court concluded that it was, and that such an expansion was a "more intrusive act" than ordering a driver out of a vehicle. *Id*. at *5. Here, in contrast to *Stevenson*, the incremental intrusion of requiring Bedell to exit a vehicle lawfully stopped for a minor traffic violation is de minimis and is justified by the ordinary officer safety concerns associated with traffic stops.[4]

Reversed.

[3] Nonprecedential opinions of this court are not binding but may have persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

[4] Bedell points to several facts to suggest that the police had an *unreasonable* justification for ordering him out of his car and checking his VIN—namely, that the police knew who he was and concealed their conversation about him because they sought to target him. But Bedell cites no authority to support his contention that these facts "should color this [c]ourt's decision." Police are permitted to consider a person's criminal history when determining what actions to take during a traffic stop. *See, e.g.*, *Flowers*, 734 N.W.2d at 249. And when we evaluate the reasonableness of a stop, an officer's subjective intent is not a relevant consideration. *Askerooth*, 681 N.W.2d at 374-75 (citing *Whren v. United States*, 517 U.S. 806, 813 (1996)).