

*This opinion is nonprecedential except as provided by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
A22-0846**

State of Minnesota,
Respondent,

vs.

Clyde Lee Reyes, Jr.,
Appellant.

**Filed April 17, 2023
Affirmed
Wheelock, Judge**

Beltrami County District Court
File No. 04-CR-21-988

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

David Hanson, Beltrami County Attorney, Ashley A. Nelson, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota (for
appellant)

Considered and decided by Ross, Presiding Judge; Bryan, Judge; and Wheelock,
Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges his conviction for second-degree driving while impaired (DWI), arguing that the district court erred by denying his pretrial motion to suppress evidence against him that was obtained after a traffic stop of his vehicle. Because the initial

stop of appellant's vehicle and the expansion of the stop were each justified by a reasonable, articulable suspicion of unlawful conduct, we affirm.

FACTS

The following facts are drawn from evidence the state presented at a contested omnibus hearing and are supplemented by the record as necessary. While on patrol in April 2021, a police officer observed a Chevrolet Blazer pass his location in Bemidji Township. The officer checked the records of the license-plate number for the Chevrolet, which he believed to be 173TCU. The computer system identified the vehicle associated with that plate number as a Chevrolet and flagged the vehicle registration as expired. The officer then initiated a traffic stop of the vehicle.

However, the actual license-plate number for the Blazer was 173TLU. As the officer was getting out of his squad car, he radioed the license-plate number to dispatch, but this time he read out the correct letters. The dispatcher sent the information for the correct license-plate number to the squad car's computer system, which indicated that the vehicle was a Chevrolet and that the registration was valid. At that time, the officer was already outside of his squad car and approaching the Blazer, and he testified that he did not hear the squad-car computer read out the correct information.

Upon reaching the driver's window, the officer informed the driver, appellant Clyde Lee Reyes Jr., that he had pulled Reyes over for expired vehicle registration. The officer observed that Reyes had constricted pupils, glassy and watery eyes, and beads of sweat on his forehead. He suspected Reyes was under the influence of a controlled substance and ordered Reyes to step out of the vehicle. He questioned Reyes about drug use, and Reyes

admitted that he had used heroin one day earlier and methamphetamine three days earlier. The officer administered several standardized field sobriety tests to Reyes; Reyes failed three of the tests. The officer arrested Reyes for driving under the influence of a controlled substance.

Law enforcement obtained a search warrant to collect a urine sample from Reyes. The results of the urine analysis indicated that Reyes had fentanyl in his system. Respondent State of Minnesota charged Reyes with first-degree DWI and two other charges that the state later dismissed.

Reyes filed a motion to suppress all evidence stemming from the traffic stop, arguing that law enforcement did not have an objective, reasonable, articulable suspicion to justify the seizure. The district court held a contested omnibus hearing on the motion. At the hearing, the arresting officer testified that he initially ran an incorrect license-plate number and that he did not realize his mistake until after he arrested Reyes, returned to his squad car, and viewed the correct license-plate information on his squad car's computer system. He testified that he had noticed "signs of impairment" in Reyes "as soon as [he] began speaking with him."

The district court denied Reyes's motion to suppress. In its order denying the motion, the district court determined that the officer had made an "honest and reasonable mistake of fact" regarding the license-plate number that "provided reasonable and articulable suspicion for the [traffic] stop." It further determined that the officer's "immediate observations" of signs of impairment in Reyes provided a valid basis to expand the scope of the traffic stop.

The matter proceeded to a bench trial based on stipulated evidence. The district court acquitted Reyes of first-degree DWI due to the state's failure to prove that Reyes had three prior qualified impaired-driving incidents. Instead, the district court found Reyes guilty of the lesser-included offense of second-degree DWI for driving while having a Schedule II controlled substance in his body and two prior qualified impaired-driving incidents. The district court sentenced Reyes to one year in the county jail.

Reyes appeals.

DECISION

Reyes argues that the district court erred by denying his motion to suppress the evidence supporting his conviction because the officer's reasonable, articulable suspicion of a traffic violation was dispelled before he approached Reyes's vehicle. "When reviewing a district court's pretrial order on a motion to suppress evidence, [appellate courts] review the district court's factual findings under a clearly erroneous standard and the district court's legal determinations de novo." *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009) (quotation omitted). Findings of fact are clearly erroneous when they are "either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *State v. McCormick*, 835 N.W.2d 498, 509 (Minn. App. 2013) (quotation omitted). We defer to the district court's credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012).

The United States and Minnesota constitutions both protect against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Warrantless searches and seizures are "presumptively unreasonable." *State v. Lugo*, 887 N.W.2d 476,

486 (Minn. 2016). Evidence obtained from an unconstitutional search or seizure must be suppressed. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

However, an exception to the rule prohibiting warrantless searches and seizures allows a police officer to “conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). This exception is based on the United States Supreme Court’s decision in *Terry v. Ohio*, 392 U.S. 1 (1968). *Terry* further clarifies that a reasonable suspicion exists if the officer can “point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant th[e] intrusion” of the particular search or seizure. 392 U.S. at 21. A determination of whether a police officer has reasonable suspicion depends on the totality of the circumstances. *In re Welfare of M.D.R.*, 693 N.W.2d 444, 448 (Minn. App. 2005), *rev. denied* (Minn. June 28, 2005).

Appellate courts evaluate the reasonableness of traffic-stop searches and seizures under the principles set forth in *Terry*. *State v. Askerooth*, 681 N.W.2d 353, 363 (Minn. 2004). Under the *Terry* analysis, appellate courts must determine first whether the traffic stop was justified at its inception and second whether the scope of the traffic stop was “reasonably related to and justified by the circumstances that gave rise to the stop in the first place.” *Id.* at 364 (citing *Terry*, 392 U.S. at 19-20). Any further intrusion must be “closely related to the initial justification for the search or seizure . . . unless there is independent probable cause or reasonableness to justify that particular intrusion.” *Id.* (citing *Terry*, 392 U.S. at 20-21).

A police officer's observation of a traffic violation, however insignificant, is generally enough to form "the requisite particularized and objective basis for conducting a traffic stop." *Wilkes v. Comm'r of Pub. Safety*, 777 N.W.2d 239, 243 (Minn. App. 2010) (quotation omitted). And a traffic stop based on a reasonable mistake of fact may nevertheless be valid as well. *See State v. Johnson*, 392 N.W.2d 685, 687 (Minn. App. 1986) (holding that a reasonable mistake of identity did not render a stop invalid). But a stop is not valid if it is based on "mere whim, caprice or idle curiosity." *State v. Barber*, 241 N.W.2d 476, 477 (Minn. 1976) (quotation omitted); *accord State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007) ("[R]easonable suspicion requires something more than an unarticulated hunch" (quotation omitted)).

Here, Reyes concedes that the traffic stop was justified at its inception because the officer had reasonable suspicion of unlawful conduct due to his mistaken belief that Reyes's registration had expired.¹ However, Reyes argues that any further intrusion was not justified because the officer's reasonable, articulable suspicion was dispelled before he approached Reyes's vehicle. Reyes's argument rests on his assertion that the officer was still in the squad car when he called in the correct license-plate number and that the squad-car computer system "immediately" announced that the registration was valid *before* the officer exited the squad car. Reyes further claims that the officer could clearly see Reyes's rear license plate with valid tabs as he approached Reyes's car.

¹ Despite this concession, Reyes notes that the record does not indicate why the officer ran a check on the license plate in the first place, and Reyes suggests that the traffic stop may have been pretextual.

The district court's findings of fact included a finding that the officer believed the vehicle registration was expired when he approached the vehicle. Reyes argues that this finding of fact and the district court's credibility determination regarding the officer's testimony were clearly erroneous because the squad-car video contradicts the officer's testimony. We disagree.

A review of the squad-car video reveals that the district court did not clearly err in its findings of fact. In the video, the officer first states the incorrect license-plate number, 173TCU ("Tom-Charles-Union"), while he is following Reyes's vehicle before initiating the traffic stop. He then states the correct license-plate number, 173TLU ("Tom-Lincoln-Union"), once he has stopped the squad car. The sound of a car door closing can then be heard in the video, from which we can infer that the officer has gotten out of the squad car. Immediately following this, the squad-car's computer system issues an automated statement that can be heard on the video: "Status valid." The officer appears on-camera a few feet away from the front left bumper of the squad car just after the squad-car system issues that statement. When the squad-car system again announces that the registration is valid approximately 30 seconds later, the officer is several yards away speaking to Reyes.

The sequence of events in the squad-car video supports the district court's finding that the officer still believed the vehicle registration was expired when he approached Reyes's vehicle. This finding is also consistent with the officer's testimony that he did not realize he had entered the incorrect license-plate number until after he arrested Reyes and that he had not seen the valid tabs on Reyes's license plate. And we defer to the district

court's acceptance of the officer's testimony on this point. *See Klamar*, 823 N.W.2d at 691. Therefore, we conclude that the district court did not clearly err in crediting the officer's testimony and making this finding of fact.

Furthermore, we note that *State v. Lopez* is dispositive in this case. 631 N.W.2d 810 (Minn. App. 2001), *rev. denied* (Minn. Sept. 25, 2001). In *Lopez*, we concluded that when an officer's reasonable suspicion is dispelled after the officer initiates a traffic stop, "the validity of the original stop continues at least long enough for the officer to approach the car and inform the driver he is free to go." *Id.* at 814. The officer in *Lopez* gained independent reasonable suspicion of criminal activity by detecting the odor of alcohol "[i]n the process of the lawful act of approaching the car," and we concluded that the officer was justified in recommencing the traffic stop based on this reasonable suspicion. *Id.* Similarly, the validity of the officer's traffic stop in the instant case would have continued long enough for him to approach Reyes's vehicle regardless of whether he believed the registration was expired at that point. And the officer testified that he immediately detected signs of Reyes's impairment, which provided "independent probable cause or reasonableness" to justify expanding the scope of the stop to investigate the possible DWI. *Askerooth*, 681 N.W.2d at 364.

Reyes argues that this case can be distinguished from *Lopez* because here the officer approached Reyes's vehicle to question him about the vehicle's registration and did not observe certain indicia of impairment until after he had begun his questioning. Reyes's argument is not supported by the record. The officer stated in his incident report and testified at the omnibus hearing that he immediately observed signs of impairment when

he approached Reyes.² The district court credited the officer's testimony and included in its findings of fact that the officer immediately observed signs of impairment and expanded the scope of the stop based on his belief that Reyes was impaired. As we have already noted, we defer to the district court's credibility determination regarding the officer's testimony. *See Klamar*, 823 N.W.2d at 691. We therefore conclude that this finding of fact is consistent with the record evidence and is not clearly erroneous.

Reyes also argues that this case is analogous to *State v. Hickman*, 491 N.W.2d 673 (Minn. App. 1992), *rev. denied* (Minn. Dec. 15, 1992). In *Hickman*, the officer initiated the traffic stop because he noticed the vehicle had an expired registration sticker. 491 N.W.2d at 674. His reasonable suspicion that the vehicle's registration was expired was dispelled after he initiated the traffic stop because he observed a temporary registration sticker in the vehicle's window. *Id.* Despite this, the officer approached the driver and asked to see his driver's license. *Id.*

This case is distinguishable from *Hickman*. First, the officer in *Hickman* testified that he verified the validity of the driver's temporary registration sticker before approaching the driver. *Id.* at 674-75. Here, the officer testified that he did not know

² Reyes also argues that the signs of impairment the officer observed were not enough to establish a reasonable suspicion of criminal activity. In making this argument, Reyes cites *State v. Burbach*, 706 N.W.2d 484, 490 (Minn. 2005), which held that nervous behavior is not enough to support a reasonable, articulable suspicion of criminal activity. However, the officer did not testify that he suspected Reyes was impaired due to nervous behavior; his suspicion arose because Reyes displayed three other indicia of impairment. *See State v. Carver*, 577 N.W.2d 245, 248 (Minn. App. 1998) ("An officer needs only one objective indication of intoxication to constitute probable cause to believe a person is under the influence." (quotation omitted)).

Reyes's registration was valid before he approached Reyes.³ Second, the officer in *Hickman* did not observe any indicia of impairment or other activity that would have justified an expansion of the traffic stop after his reasonable suspicion of expired registration was dispelled. *See id.* In contrast, the officer here immediately noticed signs of impairment upon making contact with Reyes, which justified expanding the scope of the stop.

In sum, the record supports the district court's finding of fact that the officer was unaware of his mistake regarding Reyes's license-plate number when he conducted the traffic stop and approached Reyes's car. We therefore conclude that the district court's findings of fact were not clearly erroneous and that the facts supported the district court's denial of Reyes's motion to suppress the evidence as a matter of law.

Affirmed.

³ Reyes argues in his reply brief that his appeal is not based on a misunderstanding of the evidence. He reasserts that the squad-car system announced, "Status valid," before the officer left his squad car and suggests that the officer heard these announcements but disregarded them because the officer recognized Reyes, knew he was on probation, and suspected that he might be using drugs. However, as we previously discussed, the squad-car video and the officer's testimony support the district court's finding of fact that the officer was unaware that Reyes's registration was valid when he approached Reyes.