STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0109

State of Minnesota,
Respondent,

vs.

Cortez Drenele Williams,
Appellant.

Filed December 11, 2023
Affirmed
Bratvold, Judge

St. Louis County District Court
File No. 69DU-CR-20-3762

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

Kimberly J. Maki, St. Louis County Attorney, Kirstyn L. Oye, Assistant County Attorney, Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Paul J. Maravigli, Special Assistant Public Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Reyes, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this direct appeal from a judgment of conviction for unlawful possession of a firearm, appellant argues that the district court erred by denying his motion to suppress

evidence obtained by law enforcement during a warrantless pat search that preceded appellant's arrest. Appellant contends that the district court erred when it determined that law enforcement reasonably believed appellant was armed and dangerous because the body-camera recording conflicts with the district court's factual findings. Because we conclude that other materials in the record support the district court's factual findings and that the body-camera recording does not contradict these findings, we affirm.

FACTS

On December 14, 2020, respondent State of Minnesota charged appellant Cortez Drenele Williams with unlawful possession of ammunition or a firearm under Minn. Stat. § 624.713, subd. 1(2) (2020). The following summary is based on the district court's factual findings, the record evidence submitted at the suppression hearing, and the procedural history.

After midnight on December 12, 2020, law enforcement responded to a call reporting a single car rolled over on the Blatnik Bridge connecting Duluth and Superior, Wisconsin. Law-enforcement officers from Duluth arrived first and found Williams and his uncle, both of whom were passengers in the rolled-over car. Law enforcement then learned that the driver of the car had fled.

Williams told Officer L.G. that Williams, his uncle, and the driver left a strip club in Superior after a fight broke out and shots were fired. Williams said that "bikers" and "white guys" started shooting. L.G. received confirmation that shots were fired outside a Superior strip club and that Williams was "a possible suspect in the shooting." Law

enforcement detained Williams for "further investigation" and did a pat search. L.G. found a pistol in Williams's front waistband and arrested him.

At an omnibus hearing in February 2021, Williams's attorney raised two issues: "the detention" and "frisk" of Williams before his arrest. Williams's attorney asked to brief the issues, indicated that Williams would not offer any testimony, and agreed that Williams was waiving all other omnibus issues. The record for Williams's suppression motion included L.G.'s police report and body-camera recording. Williams filed a memorandum of law in support of his motion, arguing that the pat search was "illegal and the fruits thereof should be suppressed and the charge dismissed." Williams contended that law enforcement had "no information" that would "justify a pat search."

The state opposed Williams's motion. In its memorandum, the state argued that Williams "consent[ed] to the pat search." The state argued in the alternative that "the evidence supports a reasonable articulable suspicion of criminal activity," but added that "such a determination might require the testimony" of L.G. And "[r]ather than delay this matter by reopening the record to present that testimony," the state indicated that it would "rely on the consensual nature of the search" in opposing Williams's motion.

In a May 2021 order, the district court denied Williams's motion to suppress evidence. The district court determined that the pat search was constitutional because "[l]aw enforcement learned that [Williams] was potentially involved in a shooting

immediately prior to the accident and therefore reasonably believed that he may be armed and dangerous," and, alternatively, that Williams "consented to the search."[1]

The state's case against Williams went to a jury trial in August 2022. The jury found Williams guilty, and the district court sentenced Williams to 60 months in prison.

Williams appeals.

DECISION

Williams argues that the district court erred by denying his motion to suppress evidence from the pat search. "When reviewing pretrial orders on motions to suppress evidence, [appellate courts] may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). 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. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted). "A factual finding is clearly erroneous only when, after reviewing all the evidence, [the appellate court is] left with the definite and firm conviction that a mistake occurred." *State v. Pauli*, 979 N.W.2d 39, 51 (Minn. 2022) (quotation omitted).

[1] In its order, the district court disposed of an additional issue. In Williams's motion to suppress, he argued that a "*Miranda* warning should have been given" before "[a]ny questioning about the incident" involving shots fired at the Superior strip club. The state argued that a *Miranda* warning was not necessary because "Williams was not in custody at the time of the statements" and the "statements are not related to the criminal charge under consideration." The district court agreed with the state and determined that Williams "could not have reasonably believed he was in police custody at the time he provided statements to law enforcement and therefore a *Miranda* warning was not required." Williams does not challenge the district court's *Miranda* determination on appeal.

In his brief to this court, Williams first acknowledges that "[t]here is no dispute in this appeal that [L.G.] had a valid basis for investigating and keeping Mr. Williams at the scene of the accident." But Williams argues that two clearly erroneous factual findings by the district court require reversal. First, Williams argues that the district court erred in finding that L.G. learned Williams was a suspect in the strip-club shooting before he conducted a pat search of Williams, and therefore, L.G. lacked a reasonable belief that Williams was armed and dangerous. Second, Williams argues that the district court erred in finding that Williams consented to the pat search because L.G. told Williams "he was going to search him. He did not ask for consent, and refusal was not an option." We first consider whether L.G. reasonably believed that Williams might be armed and dangerous.

Both the United States Constitution and the Minnesota Constitution protect citizens from unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "Warrantless searches are per se unreasonable under the fourth amendment—subject only to a few specifically established and well-delineated exceptions." *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992) (quotation omitted). A "protective pat search" is one such exception. *Id.* The state has the burden to prove that the search fell within an exception to the warrant requirement. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007).

The Minnesota Supreme Court, applying *Terry v. Ohio*, 392 U.S. 1 (1968), has held that "police may stop and frisk a person when (1) they have a reasonable, articulable suspicion that a suspect might be engaged in criminal activity and (2) the officer reasonably believes the suspect might be armed and dangerous." *Dickerson*, 481 N.W.2d at 843. The

purpose of the stop and frisk "is to reduce concerns that the suspect poses a danger to officer safety." *Flowers*, 734 N.W.2d at 251.

"The legality of a pat search depends on an objective examination of the totality of the circumstances." *State v. Lemert*, 843 N.W.2d 227, 230 (Minn. 2014). "The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27. The Minnesota Supreme Court has "allow[ed] that the special training of police officers may lead them to arrive at inferences and deductions that might well elude an untrained person." *State v. Askerooth*, 681 N.W.2d 353, 369 (Minn. 2004) (quotation omitted).

In its order denying Williams's motion to suppress, the district court found that L.G. "learned that [Williams] was a possible suspect in the shooting" and concluded that the pat search was constitutional. The district court explained: "Due to the information regarding the shooting and [Williams's] possible involvement, law enforcement suspected that [he] may be armed and dangerous."

On appeal, Williams argues that the district court erred in determining L.G. "reasonably believed that [Williams] may be armed and dangerous" at the time of the pat search. Williams's brief points out inconsistencies between L.G.'s police report and the body-camera recording. Williams also argues that the body-camera recording does not include the same information that is contained in L.G.'s police report. Specifically, the body-camera recording does not include any discussion among the officers about Williams being a suspect in the strip-club shooting, and Williams argues that the recording shows

L.G. "did not regard" Williams "as an armed and dangerous suspect" because L.G. and Williams were "chatting amiably" and "joking."

The state argues that L.G. "had reasonable and articul[able] suspicion justifying his belief that [Williams] was armed." The state points to Williams's statement that he had come from a strip club where a shooting occurred, Superior police's confirmation that Williams was a person of interest in the shooting, and L.G.'s experience and knowledge as explained in the police report.

We begin by summarizing the body-camera recording and L.G.'s police report. The body-camera recording shows L.G.'s arrival at the scene around 12:44 a.m. and ends with the pat search of Williams at 1:18 a.m. After he arrived at the rolled-over vehicle, L.G. learned about the strip-club shooting from Williams. L.G. then radioed dispatch with the license-plate number of the rolled-over vehicle. L.G. asked dispatch to "check with Superior" police about the strip-club shooting and stated that the rolled-over vehicle was "possibly involved" in the shooting and was "probably leaving the scene." L.G. asked Williams for more information about the driver and what happened at the strip club. Williams said he did not know where the driver went or why he fled. Williams also stated that "bikers" and "a white guy" were involved in the strip-club shooting.

There is a six-minute gap in L.G.'s body-camera recording. When the recording resumed, L.G. informed Williams that his uncle went to the hospital. L.G. offered to drive Williams to the hospital after they "finish this investigation" and Superior police "look into some stuff." Williams asked if L.G. could drop him off elsewhere. L.G. responded that he

had to "hold on to" Williams while Superior police were "trying to figure out who the driver is."

A Superior police officer then walked over and began talking to L.G. and Williams. Williams stated that he was not the driver, and L.G. stated that Williams was a "witness to something that was going on" at the strip club in Superior. Later, a Minnesota State Patrol trooper spoke with Williams about the car accident. The state trooper suggested to Williams that he "have a seat" in the squad car and "get out of the cold" because they were "going to be here for a while." Williams asked if he could leave, and L.G. stated, "You can't leave yet." L.G. and Williams walked over to the squad car.

L.G. asked Williams if he had any weapons on him. Williams said no. L.G. stated, "Let me just do a quick check of your pockets real quick. Hands up," and patted Williams down. L.G. found a firearm on Williams and arrested him.

L.G.'s police report about the incident stated that L.G. asked Williams about why the driver "fled the scene." The report stated that "[a]t this time, a Superior police officer arrived on the scene to assist" and "updated that this vehicle was possibly involved with the shots fired call" at the Superior strip club; the Superior police officer also "advised [L.G.] that Williams was a person of interest in the shots fired call and requested [L.G.] detain him." The report also stated that L.G. received information that Superior police "had not yet recovered a firearm" from the shooting.

The report added that, based on L.G.'s "training and experience," suspects "involved in shootings or violent crimes tend to take the weapon with them" and suspects "involved in criminal behavior in Superior, WI tend to flee to Duluth." The report stated

that "[w]ith the information from Superior [police] that Williams was [a] potential . . . suspect from the shooting [and] the short time frame from the reported shooting and the traffic accident," L.G. "believed Williams to be armed and dangerous." The report stated that L.G. then "advised Williams that he would be detained for further investigation in which [L.G.] did a pat search."

The conflict that Williams alleges is not supported by our review of the record for two reasons. First, the police report supports the district court's finding that before the pat search, L.G. learned that Williams "was potentially involved" in the Superior strip-club shooting. While L.G.'s body-camera recording does not show L.G. receiving information that Williams was a suspect in the strip-club shooting, there is a six-minute gap in the recording. The police report states that before the pat search, L.G. learned from Superior police that the rolled-over vehicle "was possibly involved with the shots fired" at the strip club and that "Williams was a person of interest" in the shooting. The district court appears to have credited the information in L.G.'s police report as a summary of his conversation with a Superior police officer during the six-minute gap in the body-camera recording. We therefore conclude that the police report is consistent with the body-camera recording. Even if we were to assume that there is a conflict between the police report and the body-camera recording, we defer to the district court to make credibility determinations, and here, the district court credited L.G.'s police report. *See State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012) ("Deference must be given to the district court's credibility determinations.").

Second, the body-camera recording shows L.G.'s behavior was consistent with having received information that Williams was a suspect in the strip-club shooting. Williams argues that L.G.'s body-camera recording does not show "that he regarded Mr. Williams as a suspect, much less someone with a gun" because L.G. "stood chatting amiably" with Williams and allowed Williams to "wander the scene freely." But Williams ignores that the body-camera recording shows that L.G. repeatedly refused to allow Williams to leave the scene. At one point, L.G. informed Williams that he needed to "hold on to" him. And immediately before the pat search, Williams asked if he could leave, and L.G. stated, "You can't leave yet." Thus, we conclude that L.G.'s conduct in the body-camera recording is consistent with the district court's finding that "law enforcement suspected that [Williams] may be armed and dangerous." We will not reweigh the evidence to determine, as Williams urges, that L.G. "did not regard" Williams "as an armed and dangerous suspect." *See State v. Harris*, 405 N.W.2d 224, 229 (Minn. 1987) (stating that weighing the evidence is for the fact-finder).

We note that Williams's brief to this court relies on two opinions, neither of which is persuasive under the circumstances of this case. In the first case, *State v. Varnado*, the supreme court reversed this court and affirmed the district court's determination that a pat search of the appellant was "not justified" because the police officer "did not have a reasonable basis to suspect that [the appellant] might be armed and dangerous." 582 N.W.2d 886, 890 (Minn. 1998). The officer in *Varnado* stopped the appellant for driving with a cracked windshield and asked the appellant to sit in his police car while he checked the status of her driver's license. *Id*. at 888. The officer frisked the appellant before

she entered the police car. *Id.* The supreme court reasoned that the officer could not have reasonably suspected that the appellant was armed and dangerous because the appellant "fully cooperated with the officers' requests and did not make any furtive or evasive movements," was stopped for a "minor traffic violation," and "[t]he officers had no reason to believe that [the appellant] had a criminal history." *Id.* at 890. Because, as described above, we determine that the record supports the district court's finding that L.G. learned Williams was a suspect in a recent shooting before L.G. conducted the pat search and there is no evidence similar to that discussed in *Varnado*, the opinion is not helpful to our analysis.

Williams also relies on this court's decision in *State v. Shellito*, in which we affirmed the district court's determination that police unlawfully expanded a traffic stop. 594 N.W.2d 182, 186 (Minn. App. 1999). The district court "was presented with conflicting evidence in the form of [a police officer's] testimony and the video recording of the stop." *Id.* at 185. "Based on its viewing of the video recording, the district court discounted much of [the officer's] testimony." *Id.* at 186. We concluded that "the district court has the discretion to draw its own conclusions and make factual findings" based on record evidence and that "ample evidence in the record" supported the district court's finding that police unlawfully expanded the stop. *Id.*

But *Shellito* involves a conflict in the evidence that is not present here because the district court appears to have credited L.G.'s police report as filling in the six-minute gap in the body-camera recording. In contrast with the district court's decision to reject the officer's testimony in *Shellito*, the district court here did not find that the body-camera

recording contradicted L.G.'s police report. In short, the district court's findings are supported by L.G.'s police report and are not contradicted by the body-camera recording.

We conclude that record supports the district court's factual finding that before the pat search, L.G. learned Williams was a suspect in the strip-club shooting. The district court's legal determination that the pat search was lawful based on L.G.'s reasonable belief that Williams was armed and dangerous is therefore sound. *See Dickerson*, 481 N.W.2d at 843 (stating that police may conduct a pat search when they have a reasonable, articulable suspicion that the suspect might be engaged in criminal activity and reasonably believe the suspect might be armed and dangerous). Thus, we need not consider whether Williams consented to the search.

Affirmed.