

*This opinion is nonprecedential except as provided by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
A24-0324**

State of Minnesota,
Respondent,

vs.

Dywon Jackson,
Appellant.

**Filed April 14, 2025
Reversed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-22-11447

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

Mary F. Moriarty, Hennepin County Attorney, N. Nate Summers, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Nathan D. Converse, Special Assistant Public Defender, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

On direct appeal from his conviction of unlawful possession of a firearm, appellant argues that the district court erred by denying his motion to suppress all evidence of a gun

found by law enforcement during a traffic stop of his vehicle. Because law enforcement lacked reasonable, articulable suspicion that appellant was engaged in criminal activity before conducting the traffic stop, we reverse the district court's denial of the motion to suppress and vacate the conviction.

FACTS

Respondent State of Minnesota charged appellant Dywon Jackson with unlawful possession of a firearm in violation of Minnesota Statutes section 624.713, subdivision 1(2) (2020), after finding a gun in his car during a traffic stop. Before trial, Jackson moved to suppress evidence of the gun and dismiss the complaint. The district court held a contested omnibus hearing on Jackson's motion, at which the district court heard testimony from two police officers (Officer S and Officer B) and received video recordings of the traffic stop from Officer B's body-worn camera and squad car. The evidence presented at the omnibus hearing established the following facts.

On June 12, 2022, Officer S and his partner were investigating multiple burglaries in the city of Richfield. The officers identified two suspects and set up surveillance on the suspects' house. When the suspects left the house and drove away in their car, the officers followed them, stopped them on Lyndale Avenue, and arrested them. Once the suspects were in custody, Officer S asked to have an additional officer (Sergeant D) surveil the suspects' house because Officer S was busy drafting a search warrant for the house and his partner was with the suspects. Officer S expected to find various stolen items in the suspects' house, including computers, iPads, shoes, keys, and furniture.

While drafting the search warrant, Officer S received a report from Sergeant D via police radio that he saw some activity in the vicinity of the suspects' home. Officer S testified that "[i]t was dark out" at the time. According to Officer S, Sergeant D was located down the street "a little bit" from the suspects' house. Sergeant D, who did not testify at the hearing, reported to Officer S that he saw a car "pull up" and "people get out." The people were then "moving from the car to the house out of sight of [Sergeant D's] point of view, and back and forth." According to Officer S, Sergeant D was not able to see "what was happening at the house" because his view was blocked by trees and bushes. After maybe "a couple minutes," Sergeant D saw the people leave in their car. Sergeant D did not report seeing the people bring anything from the house back to the car.

While Sergeant D was observing the unknown individuals at the suspects' house, Officer S learned from one of the suspects that they were not expecting anyone at their house during that time. Nor was anybody in the home at the time, according to the suspect.

Officer S testified that he was concerned about the unknown individuals' presence at the house for multiple reasons. Officer S was concerned that the unknown individuals were "burglarizing the house themselves, or . . . removing potential evidence from the house." He was also concerned about officer safety because officers were eventually going to enter the house to execute the search warrant. Based on his concerns, Officer S requested that Officer B, who was in the vicinity of the house in another squad car, conduct a traffic stop on the unknown individuals' car "in order to see what they were doing [at the house]."

Officer B followed the car and then conducted a traffic stop. Officer B testified that he stopped the car because "it was very suspicious that a vehicle was parked outside the

residence that no one was supposed to be at.” When the prosecutor asked Officer B whether he observed the driver of the car commit a traffic violation, Officer B testified that he could not “recall observing any traffic violations.”

After he stopped the car, Officer B identified the driver as Jackson. While speaking with Jackson, Officer B smelled the odor of cannabis and learned that Jackson’s passenger had a felony warrant for her arrest unrelated to the burglary under investigation. Officer B arrested both Jackson and his passenger. Officer B then searched Jackson’s vehicle and discovered a gun between a seat and the center console. Jackson, who had a prior conviction that prohibited him from possessing firearms, was charged with unlawful possession of a firearm.

Following the omnibus hearing, Jackson filed a memorandum in support of his motion to suppress evidence of the gun and dismiss the complaint. Jackson argued that the state failed to demonstrate that the officers had a reasonable, articulable suspicion that Jackson was engaged in criminal activity prior to the traffic stop. The state filed a responsive memorandum, arguing that police had a reasonable, articulable suspicion of criminal activity based on Jackson’s conduct at the house and based on his driving conduct after leaving the house. The district court denied the motion. The district court agreed with the state that Officer S’s testimony demonstrated that police had “a reasonable and articulable suspicion” that Jackson was engaged in criminal activity at the house. The district court did not address the state’s alternative theory based on Jackson’s driving conduct.

The parties then agreed to a court trial on stipulated evidence under Minnesota Rule of Criminal Procedure 26.01, subdivision 4.¹ The district court found Jackson guilty of unlawful possession of a firearm and imposed a stayed 71-month sentence.

Jackson appeals.

DECISION

Jackson challenges the district court’s denial of his motion to suppress, contending that law enforcement lacked the necessary reasonable, articulable suspicion of criminal activity to conduct the investigatory traffic stop. On review of a pretrial ruling on a motion to suppress, we review the district court’s findings of fact for clear error and its “legal determination that an officer had reasonable, articulable suspicion de novo.” *State v. Garding*, 12 N.W.3d 697, 703 (Minn. 2024).

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. “Warrantless searches and seizures are per se unreasonable.” *State v. Malecha*, 3 N.W.3d 566, 572 (Minn. 2024) (citing *Katz v. United States*, 389 U.S. 347, 357 (1967)). But, under the United States Supreme Court’s ruling in *Terry v. Ohio*, 392 U.S. 1 (1968), “an officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *State v. Timberlake*,

¹ Rule 26.01, subdivision 4, provides the process by which a defendant may preserve appellate review of a pretrial issue that the parties agree is dispositive. Here, the state agreed that “a trial will be unnecessary if the defendant prevails on appeal.”

744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). The *Terry* framework applies in the context of traffic stops. *Id.*

The parties do not dispute the facts, nor does the state dispute that the traffic stop at issue was a seizure for purposes of the Fourth Amendment. The sole question before us is whether officers had a reasonable, articulable suspicion of criminal activity by Jackson to support the traffic stop and subsequent warrantless search.

The standard for reasonable suspicion to conduct an investigatory traffic stop is not high, but it does require “at least a minimal level of objective justification for making the stop.” *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011) (quotation omitted). The standard is met when officers “articulate a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *Timberlake*, 744 N.W.2d at 393 (quotation omitted). “A hunch, without additional objectively articulable facts, cannot provide the basis for an investigatory stop.” *Diede*, 795 N.W.2d at 843 (quotation omitted). The state has the burden to establish a reasonable, articulable suspicion. *State v. Flowers*, 734 N.W.2d 239, 256 (Minn. 2007).

Jackson contends that the state failed to meet the reasonable-suspicion standard, and therefore the district court erred by denying his motion to suppress. He argues that neither his conduct at the suspects’ house nor his driving conduct gave rise to reasonable suspicion that he engaged in criminal activity. The state counters that Jackson’s conduct at the house and his driving conduct each independently support the traffic stop of Jackson’s vehicle. We address each basis separately.

Jackson's Conduct at the House

Jackson first contends that his conduct in the vicinity of the house does not support a reasonable, articulable suspicion of criminal activity. Jackson argues that the officers' suspicion was "based on nothing more than an unparticularized hunch." He also contends that the officers' suspicion of his criminal activity was impermissibly focused on his mere proximity to the house. The state responds that law enforcement articulated objective facts to suspect Jackson of burglary or removing evidence from the house based on his conduct of going "back and forth" from his car to the house at night while the homeowners, who were burglary suspects, were not home and were not expecting any guests.

Based on our de novo review, we conclude that the state failed to meet its burden to establish a reasonable, articulable suspicion that Jackson was engaged in criminal activity while in the vicinity of the home. At the contested omnibus hearing, police did not articulate facts that established an objectively reasonable basis for suspecting that Jackson engaged in burglary or was tampering with evidence. According to Officer S, Sergeant D reported that Jackson was in the vicinity of the house only for "a couple minutes." Sergeant D saw Jackson pull up in a car, get out, and go "back and forth" from the car to the house. But Sergeant D could not see whether Jackson entered the home because Sergeant D's view was obstructed by trees and bushes. And Sergeant D did not report observing Jackson carrying any items from the house back to his car. Because police could not articulate any facts suggesting that Jackson actually entered the house, Officer S's suspicion that Jackson engaged in burglary by removing items from the house or tampered with evidence in the

house amounts to nothing more than a hunch.² This mere hunch cannot justify the subsequent warrantless traffic stop of Jackson after he left the vicinity of the house. *See Diede*, 795 N.W.2d at 843.

We also agree with Jackson that law enforcement’s rationale for stopping him was based largely on his mere proximity to the suspects’ house. As discussed above, Officer S articulated that Jackson walked “back and forth” between the house and his car over the course of “a couple minutes.” Objectively, these vague facts merely place Jackson at the scene of an active burglary investigation. But “[m]ere proximity to, or association with, a person who may have previously engaged in criminal activity is not enough to support reasonable suspicion of [criminal activity].”³ *Id.* at 844. Although the state demonstrated that Jackson was indeed walking near the house during an active burglary investigation,

² Similarly, Officer S’s safety concern over eventually entering the home to execute the warrant does not establish reasonable suspicion of Jackson’s criminal activity when Officer S did not articulate any objective facts supporting a suspicion that Jackson, or anyone else, entered the home.

³ The United States Supreme Court has held that law enforcement may conduct a warrantless seizure of an occupant of a building that is being searched pursuant to a valid warrant. *Michigan v. Summers*, 452 U.S. 692, 701-05 (1981). That holding is inapplicable here for two reasons. First, the existence of a valid warrant to search a building at the time of the warrantless seizure of the building’s occupant is “[o]f prime importance.” *Id.* at 701. Here, the record shows that officers had not yet applied for a warrant to search the house when they stopped Jackson. Second, the holding in *Summers* only extends to “occupants” of the building to be searched. *Id.* at 705. The record indicates that Jackson *was not* an occupant of the suspects’ house. Even assuming that officers had a reasonable basis to conclude that Jackson was an occupant of the suspects’ house, “the decision to detain must be acted upon at the scene of the search and not at a later time in a more remote place.” *Bailey v. United States*, 568 U.S. 186, 201-02 (2013) (narrowing the holding of *Summers*). Because Jackson was stopped only after driving away from the suspects’ house, the stop had to be “justified by some other rationale.” *Id.* at 202. Accordingly, *Summers* does not implicate the lawfulness of the stop at issue.

Officer S articulated no objective facts tying Jackson to the burglary investigation or any other criminal activity. Jackson's mere proximity to the suspects' house was therefore insufficient to give rise to reasonable, articulable suspicion warranting the traffic stop.

In sum, the state has not satisfied its burden of articulating sufficient objective facts to demonstrate a reasonable suspicion of criminal activity by Jackson in or near the suspects' house. The district court's determination to the contrary was erroneous.

Jackson's Driving

At the omnibus hearing, the state also argued that Jackson's driving conduct was unlawful, thereby providing law enforcement with another, independent basis for stopping Jackson's vehicle. To support this argument, the state relied only on Officer B's squad-camera video. After determining that Jackson's conduct at the house justified the stop, the district court declined to consider whether a potential traffic violation provided a separate basis for stopping Jackson. On appeal, the state contends that the squad-car video shows that Jackson violated a traffic law and thereby establishes reasonable suspicion of Jackson's criminal activity. We disagree.

To support its argument, the state asserts that the squad-camera video introduced at the contested omnibus hearing shows that Jackson changed lanes without signaling in violation of Minnesota Statutes section 169.19, subdivision 4 (2020). "Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle." *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). But Officer B explicitly testified at the omnibus hearing that he did not recall any traffic violations by Jackson. And to establish reasonable suspicion, "[t]he

officer must be able to articulate *at the omnibus hearing* that he or she had a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995) (emphasis added). The only fact articulated by Officer B at the hearing as to Jackson’s driving was that he *did not* recall observing Jackson commit a traffic violation. Because *Cripps* requires that the officer articulate a particularized and objective basis for suspecting criminal activity, the state cannot rely on the squad-car video alone to establish reasonable suspicion of a traffic violation when Officer B articulated no particularized facts of a potential traffic violation.

Still, the state argues that this court can examine the squad-camera video to determine whether the video establishes objective, reasonable suspicion of criminal activity. The state relies on *State v. Grunig*, in which the supreme court held that “[a] respondent can raise alternative arguments on appeal in defense of the underlying decision *when there are sufficient facts in the record* for the appellate court to consider the alternative theories, there is legal support for the arguments, and the alternative grounds would not expand the relief previously granted.” 660 N.W.2d 134, 137 (Minn. 2003) (emphasis added). But there was no factual record developed regarding whether Jackson committed a traffic violation because Officer B denied observing a traffic violation. And, while the squad-camera video was admitted into the record, the district court made no factual findings on Jackson’s purported traffic violations based on the squad-car video. Consequently, *Grunig* does not support the state’s contention that this court should conclude that the squad-car video provides independent support for the traffic stop without

any officer testimony. We therefore decline to address the merits of the state's alternative argument based on the squad-car video.

Conclusion

Based on our de novo review of the record and undisputed facts, we conclude that the state did not meet its burden at the omnibus hearing to demonstrate officers had a reasonable, articulable suspicion that Jackson engaged in criminal activity to support the traffic stop. Accordingly, the traffic stop was an unlawful seizure in violation of the Fourth Amendment and Article I, section 10 of the Minnesota Constitution. "Evidence obtained as a result of a seizure without reasonable suspicion must be suppressed." *Diede*, 795 N.W.2d at 842. Jackson is therefore entitled to the suppression of all evidence obtained as a result of the unlawful traffic stop.

Because the parties agreed that the district court's pretrial ruling was dispositive and that a trial would be unnecessary if Jackson prevailed on appeal, remand for a contested trial is unnecessary. *See* Minn. R. Crim. P. 26.01, subd. 4(a), (c); *see also State v. Yang*, 814 N.W.2d 716, 718, 722-23 (Minn. App. 2012) (reversing conviction without remand after concluding that the district court erred in pretrial ruling in case tried by rule 26.01, subdivision 4). Accordingly, we reverse the district court's denial of Jackson's motion to suppress and vacate his conviction for unlawful possession of a firearm.

Reversed.