This opinion is nonprecedential except as provided by Minn.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
A24-1306

State of Minnesota,
Respondent,

vs.

Soloman Hosea Tomas,
Appellant.

Filed August 25, 2025
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-CR-24-1952

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

Mary F. Moriarty, Hennepin County Attorney, Nicholas G. Kimball, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Johnson, Judge; and Kirk, Judge.*

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the judgment of conviction for unlawful possession of a firearm or ammunition, appellant Soloman Hosea Tomas challenges the district court's order denying his motion to suppress evidence found during the warrantless search of his vehicle, which included the firearm and ammunition that led to his conviction. Tomas raises several other arguments in a pro se supplemental brief.

We conclude that the district court erred by determining that the inventory-search exception to the warrant requirement authorized the search because the officers who searched the vehicle did not testify about the standard inventory-search procedures of their department. But we also conclude that the warrantless search was authorized by the automobile exception, which the state offers for the first time on appeal as an alternative ground to uphold the denial of the suppression order. In addition, we conclude that Tomas's arguments in his supplemental brief lack merit. We therefore affirm.

FACTS

The following facts related to the denial of Tomas's suppression motion are drawn from the testimony and body-worn-camera footage that were admitted during the suppression hearing.

Shortly after midnight on January 24, 2024, Officer Tarik Kekic observed an SUV start to turn left at an intersection and then quickly brake to avoid colliding with another vehicle. Officer Kekic pulled behind the vehicle and observed that the vehicle's registration tabs were expired. The officer ran the license-plate number through a computer search and confirmed that the tabs had expired three months prior. He then activated his emergency lights to initiate a traffic stop. The SUV pulled to the right, parking in an active traffic lane.

Officer Kekic then approached the vehicle and spoke to the driver. No one else was in the vehicle. The driver provided Officer Kekic with a Masonic Temple identification card and a California driver's license, which identified him as Tomas. Officer Kekic noticed that Tomas had bloodshot eyes and smelled of alcohol. There was also an almost empty bottle of brandy in plain view on the passenger seat of the vehicle.

Officer Kekic went back to his squad car and requested a second unit to assist with a field sobriety test. Officer Kekic then ran Tomas's name through a database, which showed that Tomas had two warrants from California. Soon thereafter, Officer Nhia Thor arrived on the scene. Officer Kekic informed Officer Thor that the database showed that one of Tomas's warrants authorized "full extradition." Officer Kekic requested that the police department's clerk assist with confirming the warrants.

Officer Kekic then went back to Tomas, asked him to step out of the SUV, handcuffed him, told him that he was being placed under arrest for one of the California warrants, searched his person, and had him sit in the back of Officer Kekic's squad car. It then took the officers over an hour to confirm the warrants due to issues contacting an office in California and complications with the warrants themselves, including that they each listed a different birthdate for Tomas. While the officers were waiting to confirm the warrants and Tomas was in the backseat of the squad car, Officer Kekic conducted a field sobriety test—a horizontal gaze nystagmus—with Tomas's consent. During the test, Officer Kekic observed Tomas's eyes and identified signs indicating that Tomas was likely impaired by alcohol. Tomas did not consent to a preliminary breath test, and no other field sobriety tests were conducted.

Once the warrants were confirmed, the officers performed a search of the vehicle and inventoried it before it was impounded. During the search, Officer Thor discovered a loaded handgun on the front passenger seat underneath a white terry-cloth towel. According to Officer Kekic, a community service officer (CSO) was standing outside of Tomas's vehicle during the search, and the CSO completed an inventory sheet detailing the items in the car.[1]

The next day, the state charged Tomas with unlawful possession of a firearm or ammunition in violation of Minnesota Statutes section 624.713, subdivision 1(2) (Supp. 2023). Tomas filed a motion to suppress the evidence obtained from the search of the vehicle, and a hearing was held to address the suppression motion. During the suppression hearing, both Officer Kekic and Officer Thor testified about the stop and search of Tomas's vehicle, and the district court admitted into evidence all of Officer Kekic's body-worn-camera footage and a portion of Officer Thor's body-worn-camera footage from the night of the search.

Following the hearing, the parties submitted memoranda regarding the motion. In its memorandum opposing suppression, the state argued that the warrantless search of Tomas's vehicle was justified because it was an inventory search. The state did not argue that any other exception to the warrant requirement applied.

[1] The inventory sheet was not entered into evidence during the suppression hearing.

The district court denied Tomas's motion to suppress, determining that (1) the traffic stop was supported by a reasonable articulable suspicion of criminal activity, (2) the expansion of the stop was lawful because the California warrants and Officer Kekic's observations that Tomas showed signs of impairment established independent probable cause that justified detaining him, and (3) the warrantless search of Tomas's vehicle was permissible because it was an inventory search. Regarding the inventory-search exception, the district court found that the search was conducted "pursuant to department protocol."

A jury trial was held in May 2024, and the jury found Tomas guilty of unlawful possession of a firearm or ammunition. The district court sentenced Tomas to 60 months in prison.

Tomas appeals.

DECISION

We first address Tomas's challenge to the district court's denial of his suppression motion and then turn to the issues that Tomas raises in his pro se supplemental brief.

I. The district court properly denied the suppression motion because the warrantless search of Tomas's vehicle was constitutional.

Tomas challenges the denial of his motion to suppress evidence. "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. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted).

The United States and Minnesota Constitutions protect against unreasonable searches and seizures by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Generally, evidence obtained through an unlawful search or seizure must be suppressed. *State v. Jackson*, 742 N.W.2d 163, 177-78 (Minn. 2007). "Under the fourth amendment, warrantless searches and seizures are per se unreasonable unless they fall under an established exception." *State v. Hummel*, 483 N.W.2d 68, 72 (Minn. 1992) (emphasis omitted) (citing *Katz v. United States*, 389 U.S. 347, 357 (1967)).

A. On this record, the inventory-search exception to the warrant requirement does not apply.

Inventory searches are one exception to the warrant requirement. *State v. Rohde*, 852 N.W.2d 260, 263 (Minn. 2014) (citing *Colorado v. Bertine*, 479 U.S. 367, 371 (1987)). Under the inventory-search exception, officers may, without a warrant, conduct an inventory search "pursuant to a standard police procedure prior to lawfully impounding an automobile." *Gauster*, 752 N.W.2d at 502 (quotation omitted). The purpose of the exception is to "protect an owner[']s property while it is in the custody of the police, to insure against claims of lost, stolen, or vandalized property, and to guard the police from danger." *Id.* (quoting *Bertine*, 479 U.S. at 372). "The inventory exception . . . permits the police to search a vehicle provided they (1) follow standard procedures in carrying out the search and (2) perform the search, at least in part, for the purpose of obtaining an inventory and not for the sole purpose of investigation." *State v. Ture*, 632 N.W.2d 621, 628 (Minn. 2001). "[T]he existence of standard inventory procedures, as well as compliance with those procedures, may be established through testimony and does not require admission of the policy itself into evidence." *Id.*

Tomas argues that the inventory-search exception does not apply here because the state failed to establish during the suppression hearing that the officers' department had standard procedures for inventory searches.

The state asserts that the following testimony from the officers during the suppression hearing[2] adequately established the department's standard procedures for inventory searches and that the officers complied with those procedures:

> PROSECUTOR: Okay. What happened with [Tomas's] vehicle?
>
> OFFICER KEKIC: We ended up impounding the vehicle.
>
> PROSECUTOR: Okay. Do you search vehicles before you impound them?
>
> OFFICER KEKIC: We do.
>
> PROSECUTOR: Okay. And was a search -- you said a search was performed on this vehicle?
>
> OFFICER KEKIC: Correct, yes.
>
> . . . .
>
> DEFENSE COUNSEL: Now you testified, Officer Kekic, that once you confirmed the warrant, placed [Tomas] under arrest, and were gonna take him into the police station or take him

[2] The state also cites testimony from the jury trial as supporting its argument. But, because Tomas is challenging the district court's order denying his motion to suppress, we decline to consider evidence that was admitted after the district court filed that order and therefore was not considered by the district court in making its decision not to suppress. *See State ex rel. Rasmussen v. Tahash*, 141 N.W.2d 3, 13 (Minn. 1965) (explaining that a district court deciding a suppression issue bases its decision on "the record of the evidence elicited at the time of [the pretrial] hearing").

downtown on the warrant, you conducted what you call an inventory search of his car; is that right?

OFFICER KEKIC: Yes, sir.

DEFENSE COUNSEL: What's the purpose of an inventory search, do you know?

OFFICER KEKIC: Yes, sir, I do.

DEFENSE COUNSEL: What is it?

OFFICER KEKIC: It is to safeguard the valuables of the owner or driver's vehicles.

DEFENSE COUNSEL: Okay. And when you conduct an inventory, does your department have an inventory sheet, is it part of a tow sheet where you list all of the property of any potential value that might be in the vehicle for your safety and for the safeguarding of [Tomas]?

OFFICER KEKIC: We do have impound sheets, yes.

DEFENSE COUNSEL: And did you fill one out in this case?

OFFICER KEKIC: I did not, no.

DEFENSE COUNSEL: Did Officer Thor fill one out?

OFFICER KEKIC: No, sir.

DEFENSE COUNSEL: In fact, you guys were not actually conducting an inventory when you located the handgun and then looked in the back seat, you were looking for contraband; correct?

OFFICER KEKIC: I had conducted an inventory, as I mentioned, to safeguard any valuables and also document if anything was in the vehicle at the time.

DEFENSE COUNSEL: Where is that inventory?

OFFICER KEKIC: Our on-duty community service officer at the time had completed the form.

DEFENSE COUNSEL: So he or she completed the form?

OFFICER KEKIC: Yes, sir.

DEFENSE COUNSEL: Under your direction, or did he or she conduct the actual inventory?

OFFICER KEKIC: They [were] standing outside of [Tomas's] vehicle as we were conducting the inventory.

DEFENSE COUNSEL: So some place there is a[n] inventory sheet that shows all the valuables and all the items that were either taken from the car or that were noted and kept for safekeeping?

OFFICER KEKIC: There should be, yes.

DEFENSE COUNSEL: Have you ever seen it?

OFFICER KEKIC: No, sir.

. . . .

PROSECUTOR: Okay. And, based on your training and experience, is that common to conduct an inventory search where the driver's taken into custody for warrants?

OFFICER THOR: Yes.

PROSECUTOR: Okay. [Defense counsel] asked you about if there were any other officers on-scene about the inventory form. Um, did any other officers respond to the scene?

OFFICER THOR: I believe there was, um, one officer and maybe a CSO that responded.

PROSECUTOR: Okay. And when the CSO responded, um, could that person have also done an inventory form as well?

OFFICER THOR: Um, yes, for the vehicle.

PROSECUTOR: Okay. Does an inventory form always have to be completed by the person who searched the vehicle?

OFFICER THOR: No.

> PROSECUTOR: Can it be by another officer who is at the scene?
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> OFFICER THOR: Yes.
>
> PROSECUTOR: And can it be by an -- a community service officer as well as a peace officer?
>
> OFFICER THOR: Yes.

Nowhere in this testimony did the officers use the word "policy" or "procedure" in relation to the inventory search. While the officers' testimony may support an inference that they were discussing common practices in their department, common practices are not necessarily the same as standard procedures. As a result, the officers did not establish what the police department's standard procedures were for inventory searches or that the officers followed such standard procedures. Thus, the district court's finding that the officers conducted the inventory search "pursuant to department protocol" was clearly erroneous, and the inventory-search exception does not apply. *See Ture*, 632 N.W.2d at 628.

B. The warrantless search was constitutional under the automobile exception.

The state argues, in the alternative, that we can uphold the denial of the motion to suppress because the search was justified under the automobile exception. While the state concedes that it did not argue the automobile exception before the district court, it argues that we can consider the automobile exception for the first time on appeal because there are sufficient facts in the record to determine that the exception applies, there is legal support for the argument, and "invoking the exception does not constitute any unfair surprise to" Tomas. The state argues that, under the automobile exception, the search was not unconstitutional because the officers had probable cause to search the vehicle without a warrant based on the totality of the circumstances, including the open bottle of brandy in plain view and signs that Tomas was intoxicated.

Generally, an appellate court will not review issues that are raised for the first time on appeal but may decide to hear such issues at its own discretion "when the interests of justice require their consideration and addressing them would not work an unfair surprise on a party." *State v. Sorenson*, 441 N.W.2d 455, 457 (Minn. 1989). "A respondent can raise alternative arguments on appeal in defense of the underlying decision when [1] there are sufficient facts in the record for the appellate court to consider the alternative theories, [2] there is legal support for the arguments, and [3] the alternative grounds would not expand the relief previously granted." *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003).

Tomas argues that the state forfeited the alternative argument of the automobile exception because, in its appellate briefing, it failed to address whether our consideration of the exception would serve the interests of justice and whether it would be an unfair surprise to Tomas. But Tomas does not cite any caselaw stating that we should consider an alternative argument to be forfeited for failure to separately address the concepts of interests of justice and unfair surprise when the three elements set forth in *Grunig* are satisfied. We turn to those elements.

Beginning with the third *Grunig* element, it is plainly satisfied. Application of the automobile exception would not expand the relief previously granted because it would yield the same result—permitting the jury to consider the items found during the search of Tomas's vehicle.

As for the first two elements, Tomas argues that the record is not sufficiently developed for us to determine that the automobile exception applies because, under the law as applied to this case, the officers needed probable cause to believe that they would discover *additional* open bottles in the vehicle besides the brandy bottle and the evidence does not support such a finding. The argument is unconvincing.

The automobile exception authorizes police to search a vehicle without a warrant following a stop "if there is probable cause to believe the search will result in a discovery of evidence or contraband." *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016) (quotation omitted). In *State v. Collard*, an officer stopped the defendant for speeding, after which he noticed that the vehicle's license-plate tabs were expired and learned that the vehicle's title was in another individual's name. 414 N.W.2d 733, 734 (Minn. App. 1987), *rev. denied* (Minn. Jan. 15, 1988). The officer also observed that there was an open beer bottle on the floor with a "mouthful of liquid" in it. *Id.* The officer then asked the defendant if there were more bottles in the vehicle, to which the defendant replied there were only empty bottles. *Id.* at 734-35. When a backup unit arrived, the officer returned to the vehicle and searched it for additional open beer bottles. *Id.* at 735. Even though the defendant had stated that the only other bottles in the vehicle were empty, there were no signs that the defendant was intoxicated, and no odor of alcohol was coming from the vehicle, we determined that police had probable cause to search the remainder of the passenger compartment of the vehicle after seizing the open beer bottle. *Id.* at 734-36.

Here, there was more evidence suggesting that contraband might be found in Tomas's vehicle than the evidence presented in *Collard*. Officer Kekic's testimony and body-worn-camera footage establish that (1) Tomas almost hit another vehicle while driving; (2) Tomas exhibited signs of impairment, including that he smelled of alcohol, had bloodshot eyes, and failed the field sobriety test, (3) an almost empty bottle of brandy was sitting on the passenger seat of the vehicle in plain view, and (4) he had active warrants for his arrest. These facts are not contested by Tomas and are not contradicted by other evidence in the record. Although the open bottle in Tomas's vehicle contained brandy, and not beer like in *Collard*, and Tomas never discussed whether there were additional bottles of alcohol in the vehicle, we are not convinced that these differences are so material as to warrant a deviation from our conclusion in *Collard*, especially in light of Tomas's erratic driving, signs of intoxication, and active warrants. Based on these facts, we conclude that the officers had "probable cause to believe the search [would] result in a discovery of evidence or contraband." *Lester*, 874 N.W.2d at 771 (quotation omitted); *cf. Collard*, 414 N.W.2d at 734-36.

Accordingly, we conclude that the record contains sufficient facts to consider the automobile exception and that there is legal support for the theory. Therefore, all three elements of *Grunig* are met and we can consider the automobile exception as an alternative ground for denying the motion to suppress. *See Grunig*, 660 N.W.2d at 137. And, having considered that exception, we conclude, for the reasons stated above, that the automobile exception justified the warrantless search of Tomas's vehicle. *Cf. Collard*, 414 N.W.2d at 734-36. The district court therefore did not err by denying the motion to suppress.

II. Tomas's supplemental brief does not establish a basis for relief.

Tomas filed a pro se supplemental brief, in which he raises six arguments.

First, Tomas argues that his constitutional rights were violated because the stop was not supported by an articulable suspicion of wrongdoing, which is required to justify an investigative stop of a vehicle. *See State v. Askerooth*, 681 N.W.2d 353, 359-60 (Minn. 2004) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). An appellate court reviews de novo questions of reasonable articulable suspicion to justify a *Terry* stop. *Carter v. State*, 787 N.W.2d 675, 678 (Minn. App. 2010) (citing *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999)). Tomas does not challenge that his registration tabs were expired and that driving with expired registration tabs is unlawful. *See* Minn. Stat. § 168.09, subd. 1 (2022). We have previously held that, when an officer has a reasonable articulable suspicion that a vehicle has expired registration, the officer has a legally sufficient basis to conduct a stop. *See Carter*, 787 N.W.2d at 679. Because Officer Kekic observed that the SUV's tabs were expired and confirmed that the registration was expired before pulling over the SUV, we conclude that there was a reasonable articulable suspicion to conduct the stop.

Second, Tomas argues that the stop was unreasonably expanded in violation of his rights because it lasted around two hours. "[E]xpand[ing] the duration or scope of the stop beyond the stop's original justification" does not violate the Fourth Amendment or article I, section 10 of the Minnesota Constitution if "the officers had reasonable, articulable suspicion to support that expansion." *State v. Smith*, 814 N.W.2d 346, 351 (Minn. 2012); *see Terry*, 392 U.S. at 18-19. Here, after the initial stop, Officer Kekic noticed signs indicating that Tomas was under the influence of alcohol and saw a bottle of brandy in plain view in the vehicle when he first talked to Tomas after pulling him over. And, within ten minutes of stopping Tomas, Officer Kekic became aware of Tomas's two warrants in

California and that one of those warrants authorized full extradition. After that, the stop was prolonged to confirm the warrants, and, through their testimony at the suppression hearing, both officers explained the reasons why it took them so long to do so, including issues contacting the California office and issues with the warrants themselves. On these facts, the duration of the stop was justified by reasonable articulable suspicion. *See Smith*, 814 N.W.2d at 351; *Terry*, 392 U.S. at 18-19.

Third, Tomas challenges the justification of the search under the inventory-search exception on the ground that the officers were searching his vehicle for contraband and not for the purpose of safeguarding Tomas's property. Because we concluded that the inventory-search-exception fails for a separate reason but that the warrantless search was independently justified by the automobile exception, we need not address this challenge to the inventory-search exception.[3]

Fourth, Tomas appears to make several claims of trial error. He asserts that the district court improperly informed the jury of information not in evidence, discussed relevant issues outside the presence of the jury, instructed the jury in a way that caused the jury to base its decision solely on his prior offenses, and informed the jury that Tomas knowingly possessed the firearm or ammunition. But Tomas does not clearly identify what

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[3] We note, however, that this challenge by Tomas would be unavailing. For the inventory-search exception to apply, officers merely need to "perform the search, *at least in part*, for the purpose of obtaining an inventory and not for the *sole* purpose of investigation." *Ture*, 632 N.W.2d at 628 (emphasis added). Officer Kekic's testimony during the suppression hearing satisfied this requirement because it established that the officers were conducting an inventory search of the vehicle, at least in part, because it was about to be impounded and the officers wanted to document the items in the vehicle. *See id.*

specific actions or statements by the district court were improper or provide legal reasoning as to why that may be the case. Accordingly, we decline to address these assertions of error because they are not supported by arguments or legal authority. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) ("[Appellate courts] will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority.") In addition, Tomas cites *State v. Jones*, 271 N.W.2d 534 (Minn. 1978), which addresses the admissibility of prior convictions to impeach a witness under Minnesota Rule of Evidence 609, insinuating that he was denied the right to a fair trial because he was deterred from testifying due to the possibility that his prior convictions would be erroneously admitted. But, as the state notes, although the possibility of admission of his prior convictions was raised before trial, the issue was not raised again and was never ruled on, and Tomas waived his right to testify without raising any concerns about the issue. Tomas provides no support for the argument that the district court erred or that his rights were violated with respect to rule 609, and we therefore decline to further address the issue. *See Bartylla*, 755 N.W.2d at 22.

Fifth, Tomas argues that the state engaged in malicious prosecution by seeking an upward departure in sentencing and by submitting to the district court registers of action showing his prior convictions, which he suggests could have led to the admission of stale convictions as impeachment evidence under *Jones*. But Tomas does not provide a legal basis for why seeking an upward departure or submitting a list of prior convictions constituted malicious prosecution, and therefore, we decline to consider the argument. *See id.*; *see also Dunham v. Roer*, 708 N.W.2d 552, 569 (Minn. App. 2006) (listing requirements for appellant to demonstrate a malicious-prosecution claim), *rev. denied* (Minn. Mar. 28, 2006).

Finally, Tomas argues that the state does not have jurisdiction to prosecute him because he is a "Moorish-American sovereign." In a previous case involving an assertion of sovereign citizenship, we stated that "the sovereign-citizen jurisdictional defense has 'no conceivable validity in American law.'" *State v. Winbush*, 912 N.W.2d 678, 686 (Minn. App. 2018) (quoting *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990)), *rev. denied* (Minn. May 29, 2018). And, as the state notes, "[a] person may be convicted and sentenced under the law of this state if the person . . . commits an offense in whole or in part within this state." Minn. Stat. § 609.025(1) (2022). Because Tomas does not offer a legal argument regarding why state laws do not apply to him and does not dispute that the crime occurred in Minnesota, the argument lacks merit.

In sum, Tomas's supplemental brief does not establish any claim for which he is entitled to relief. And, because the warrantless search of Tomas's vehicle was constitutional under the automobile exception, the district court did not err in denying Tomas's motion to suppress.

Affirmed.