

*This opinion is nonprecedential except as provided by  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  
A25-0218**

State of Minnesota,  
Respondent,

vs.

Dustin Roy Hentges,  
Appellant.

**Filed February 9, 2026  
Affirmed  
Bratvold, Judge**

Kandiyohi County District Court  
File No. 34-CR-23-810

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Shane Baker, Kandiyohi County Attorney, Willmar, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Eva F. Wailes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Bratvold, Judge; and Bentley, Judge.

**NONPRECEDENTIAL OPINION**

**BRATVOLD, Judge**

On appeal from the final judgment of conviction for first-degree controlled-substance sale, appellant challenges the district court's denial of his pretrial motion to suppress evidence, arguing that, when law-enforcement officers obtained

evidence from his car, it was unlawful for two reasons: (1) law enforcement illegally expanded the scope of their investigation and searched appellant's car, and (2) law enforcement illegally impounded and towed appellant's car. Because law enforcement had probable cause to search appellant's car for contraband or evidence of a crime, we affirm and need not decide the impoundment issue.

## **FACTS**

The district court found appellant Dustin Roy Hentges guilty of four charges: first-degree controlled-substance sale under Minn. Stat. § 152.021, subd. 1(1) (Supp. 2023); first-degree controlled-substance possession under Minn. Stat. § 152.021, subd. 2(a)(1) (Supp. 2023); driving after cancellation as inimical to public safety (DAC-IPS) under Minn. Stat. § 171.24, subd. 5 (2022); and driving while under the influence of a controlled substance (DWI) under Minn. Stat. § 169A.20, subd. 1(2) (Supp. 2023). The district court found Hentges not guilty of a fifth charge of violation of driving restrictions under Minn. Stat. § 171.09, subd. 1(f)(2) (2022).

The following summarizes the district court's written findings after an evidentiary hearing on Hentges's motion to suppress evidence along with testimony and other record evidence relevant to this appeal. The district court received many video recordings into evidence, including body-worn-camera recordings by law-enforcement officers and a security-camera recording from the gas station where law enforcement arrested Hentges.

On November 2, 2023, at around 4:00 p.m., a Minnesota State Patrol trooper received two reports from Kandiyohi County dispatch. The district court found that dispatch first reported that a "dark-colored BMW was passing unsafely and pushing" other

cars “off the road” while going west on Highway 12. As the trooper started driving toward the location reported by dispatch, the trooper received another report—this time of an “active domestic dispute” at a gas station. The trooper rerouted and responded to the gas station. Other state and county law-enforcement officers were present or arrived shortly after the trooper. The body-worn-camera recording shows a tan sedan parked at the gas pump and a silver sedan parked on a nearby dirt lot next to a black BMW.

When the trooper arrived, Hentges was sitting on a bench outside the gas station next to his girlfriend and they were speaking to other law-enforcement officers about the reported domestic dispute. The trooper “separated” Hentges from his girlfriend. The trooper spoke with Hentges, a sheriff’s deputy spoke with Hentges’s girlfriend, and two deputies from the sheriff’s department went inside the gas station to review the gas station’s security-camera recording. Early on in the investigation, law enforcement determined that the domestic-dispute report did not require any additional law-enforcement action.

As the trooper spoke with Hentges, he observed that Hentges “could not stand still, continually moved his hands, tensed his muscles, and was uncontrollably moving his jaw.” Relying on these observations and his training as a Drug Recognition Evaluator, the trooper suspected that Hentges was under the influence of a controlled substance. Hentges gave the trooper his Minnesota identification card, which was labeled “not a driver’s license.” The trooper learned that Hentges’s driver’s license was canceled as inimical to public safety. As discussed below, at some point, law enforcement learned that Hentges’s wallet had “a substantial sum of money.”

In response to questioning, Hentges denied driving; he stated that he arrived at the gas station in the tan sedan with his girlfriend and their friend, who was driving. But law-enforcement officers reviewed the gas station's security-camera recording and saw Hentges exiting the driver's door of the BMW. The trooper arrested Hentges and placed him in the squad car.

The driver of the tan sedan told law-enforcement officers that she was the registered owner of both the tan sedan and the BMW. The driver of the silver sedan told officers that he was almost forced off the road by the tan sedan and that the BMW passed the tan sedan "at a high rate of speed." The trooper realized that the BMW matched dispatch's description of the "dark-colored BMW" involved in the driving complaint.

The trooper also spoke with the passenger who was seated inside the BMW. The passenger told officers that Hentges drove the BMW. Standing outside the BMW, the trooper saw a torch lighter "in plain view" on a ledge just under the dashboard. The trooper testified that torch lighters are "paraphernalia." The trooper also saw an empty, open liquor bottle on the floor by the front passenger seat.

Law-enforcement officers sought a law-enforcement canine to sniff the BMW, but none were available. Officers towed the BMW to a secure garage, where a K9 officer supervised a trained dog as it sniffed the BMW. The dog alerted to the presence of narcotics. Law enforcement then obtained a warrant to search the BMW. During the search of the BMW and its contents, law enforcement uncovered "approximately three pounds of meth."

Respondent State of Minnesota charged Hentges with the five counts mentioned above. Hentges moved to suppress all evidence found in the search of the BMW, arguing that law enforcement unlawfully expanded the initial domestic-dispute investigation into a drug investigation.<sup>1</sup> The trooper and two deputies from the sheriff's office testified for the state at the omnibus hearing, as summarized above.

The district court filed written findings of fact, along with a memorandum, in an order denying Hentges's motion to suppress. Hentges waived his right to a jury trial, and the parties agreed to submit the case on stipulated evidence under Minn. R. Crim. P. 26.01, subd. 4. As part of the agreement, the parties stipulated that, if Hentges were convicted, the parties would jointly recommend a sentence of 107 months—the bottom of the box under the Minnesota Sentencing Guidelines.

After reviewing the evidence and making written findings, the district court entered convictions on first-degree controlled-substance sale, DAC-IPS, and DWI, but did not enter a conviction on first-degree possession because it is a lesser-included offense of first-degree sale. The district court sentenced Hentges to 107 months in prison for first-degree sale and concurrent sentences of 364 and 90 days for DAC-IPS and DWI.

Hentges appeals.

## **DECISION**

When reviewing a pretrial order on a motion to suppress, appellate courts review a district court's factual findings for clear error and its legal determinations de novo,

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<sup>1</sup> Hentges also argued that the state lacked probable cause for the controlled-substance charges, which the district court rejected. The second pretrial issue is not raised on appeal.

including a determination of probable cause. *State v. Milton*, 821 N.W.2d 789, 798 (Minn. 2012). Appellate courts must independently review the facts and determine whether the district court erred. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004).

The Fourth Amendment to the United States Constitution and article I, section 10 of the Minnesota Constitution protect against unreasonable searches and seizures. *Id.* A warrantless search or seizure is presumptively unreasonable unless it falls within a well-recognized exception to the warrant requirement. *State v. Stavish*, 868 N.W.2d 670, 675 (Minn. 2015).

In the memorandum attached to its order denying Hentges's motion to suppress evidence, the district court first concluded that law enforcement reasonably expanded their investigation from the reported domestic dispute and investigated whether Hentges was driving under the influence of a controlled substance. Second, the district court determined that, based on the DWI investigation, the trooper had probable cause to arrest Hentges. Third, the district court concluded that the search of the BMW was justified as a search incident to arrest. Finally, the district court determined that impounding the BMW prior to the search was lawful "based on [Hentges]'s arrest in conjunction with the need to preserve evidence for a search incident to arrest."

On appeal, Hentges challenges only his controlled-substance conviction. Hentges acknowledges that the trooper's observations of Hentges's physical indicia of controlled-substance impairment supported expanding the scope of the domestic-dispute investigation to include impaired driving. But Hentges argues that the search of the BMW violated his Fourth Amendment rights because law enforcement unlawfully expanded the

scope of the encounter and searched the BMW without a warrant, even though the totality of the circumstances did not support an exception to the warrant requirement. Hentges raises two issues, arguing that the district court erred in concluding that the search of the BMW was valid (1) under the search-incident-to-arrest exception and (2) because the BMW was lawfully impounded. The first issue disposes of the second; therefore, we begin there.

Hentges argues that the suspicion of and arrest for DAC-IPS and DWI did not support the search of the car under the search-incident-to-arrest exception once Hentges was under arrest and in the squad car. He argues that “neither an arrest for driving after cancellation nor for DWI summarily gives rise to searching a vehicle” and that law-enforcement officers “impermissibly expanded the scope of the encounter” when they searched the BMW.

“Expansion of the scope of the stop to include investigation of other suspected illegal activity is permissible under the Fourth Amendment only if the officer has reasonable, articulable suspicion of such other illegal activity.” *State v. Wiegand*, 645 N.W.2d 125, 135 (Minn. 2002). An officer seeking to expand the duration or scope of a stop beyond its original justification may do so only if they have “a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Sargent*, 968 N.W.2d 32, 38 (Minn. 2021) (quotation omitted).

Hentges criticizes the district court for applying the search-incident-to-arrest exception. The district court concluded that it was appropriate to search the BMW under *Arizona v. Gant*, which supports a warrantless search when it is “reasonable to believe

evidence relevant to the crime of arrest might be found in the vehicle.” 556 U.S. 332, 334 (2009) (quotation omitted). We agree with Hentges that the search-incident-to-arrest exception does not allow law enforcement to seize, tow, or search a vehicle after a defendant is secured and no longer within reaching distance of the vehicle. But this does not end our analysis.

The state counters that the automobile exception supported law enforcement’s search of the BMW because officers had probable cause to believe that the BMW contained contraband or evidence of a crime. Under the automobile exception, “police may search a car without a warrant, including closed containers in that car, 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). Stated slightly differently, law enforcement has probable cause to search if there is a “fair probability that contraband or evidence of a crime will be found in a particular place.” *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023) (quotations omitted). “Probable cause is an objective inquiry that depends on the totality of the circumstances in each case.” *Lester*, 874 N.W.2d at 771. “[T]he totality of the circumstances includes reasonable inferences that police officers draw from facts, based on their training and experience, because police officers may interpret circumstances differently than untrained persons.” *Id.*

The district court concluded that the automobile exception did not establish probable cause for a search of the car. But appellate courts review de novo district courts’ legal determinations, including whether a search was supported by probable cause. *Milton*, 821 N.W.2d at 798. Also, a respondent can defend the underlying decision on an alternative

ground “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.” *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003). Therefore, we consider whether there was probable cause to search the BMW under the automobile exception.

The automobile exception allows officers to either search the car immediately or tow the car and search it later, so long as probable cause exists. “There is no requirement that the warrantless search of a vehicle occur contemporaneously with its lawful seizure.” *State v. Schell*, 994 N.W.2d 326, 330 (Minn. App. 2023) (quoting *United States v. Johns*, 469 U.S. 478, 484, 487-88 (1985)), *rev. denied* (Minn. Oct. 25, 2023). This aspect of the automobile exception is codified under Minn. Stat. § 168B.035, subd. 3(b)(11) (2022), which states, “A towing authority may tow a motor vehicle . . . if . . . a law enforcement official has probable cause to believe . . . that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence[.]” And the supreme court has recognized that law enforcement may tow a car before obtaining a warrant if there was probable cause to believe the car “had been used as an instrumentality of a crime and that it contained evidence of a crime.” *State v. Roy*, 265 N.W.2d 663, 665 (Minn. 1978).

This case therefore hinges on whether there was a “fair probability” that contraband or evidence of a crime would be found inside the BMW. *Torgerson*, 995 N.W.2d at 169 (quotations omitted). Facts that may contribute toward this “fair probability” include observable signs of impairment, *State v. Gallagher*, 275 N.W.2d 803, 808 (Minn. 1979)

(holding that police had probable cause to conduct a warrantless vehicle search based in part on indicia of impairment), the presence of an open bottle, *State v. Collard*, 414 N.W.2d 733, 735-36 (Minn. App. 1987), *rev. denied* (Minn. Jan. 15, 1988), the presence of drug paraphernalia, *State v. Johnson*, 15 N.W.3d 843, 852-53 (Minn. App. 2024), *rev. denied* (Minn. Apr. 15, 2025), the presence of a large amount of cash, *Maryland v. Pringle*, 540 U.S. 366, 371-72 (2003) (discussing probable cause to arrest), lying to law enforcement, *State v. Berg*, 383 N.W.2d 7, 9 (Minn. App. 1986) (discussing probable cause to arrest), and other suspicious behaviors, *State v. Garding*, 12 N.W.3d 697, 705 (Minn. 2024) (determining that defendant running into the woods after interaction with police contributed to probable cause).<sup>2</sup>

Applying this caselaw to the facts here, we conclude that law enforcement had probable cause to search the car for contraband or evidence of a crime. Hentges displayed observable signs of controlled-substance impairment—he was unable to “stand still, continually moved his hands, tensed his muscles, and was uncontrollably moving his jaw” while speaking with the trooper, who was trained to detect controlled-substance impairment. Hentges lied and denied driving when speaking to the trooper, but the

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<sup>2</sup> In a persuasive opinion, this court acknowledged that driving conduct may “contribute to probable cause [to search a vehicle] in conjunction with other circumstances.” *State v. Burrell*, No. A25-0007, 2025 WL 2587997, at \*5 (Minn. App. Sept. 8, 2025), *rev. denied* (Minn. Dec. 17, 2025). Nonprecedential opinions do not bind this court, but we may cite them for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c); *see also State v. Monyak*, 14 N.W.3d 210, 215 n.2 (Minn. App. 2024) (citing Minn. R. Civ. App. P. 136.01, subd. 1(c), in an opinion involving a criminal case). Here, the driver of the silver sedan reported to law enforcement that he saw the BMW “driving at a high rate of speed” and passing the tan sedan just before the three vehicles pulled into the gas station.

gas-station recording showed Hentges exiting the driver’s door of the BMW after it pulled into the gas station. The trooper observed a torch lighter in plain view from outside the BMW, which he recognized as paraphernalia, and he saw an open bottle of liquor on the floor of the BMW.<sup>3</sup> Hentges’s wallet held “a substantial sum of money,” which law enforcement discovered before the search.

In a persuasive opinion, this court concluded, in part, that probable cause supported the search of a vehicle when presented with similar facts that included an open bottle on the floor of the appellant’s vehicle, the appellant’s controlled-substance impairment, and drug paraphernalia in the vehicle. *See State v. Gomez*, No. A22-0371, 2023 WL 2127380, at \*4-5 (Minn. App. Feb. 21, 2023) (concluding that an open bottle on the floor of a vehicle provided probable cause to search the vehicle and that the “totality of the circumstances objectively supported particularized suspicions of drug activity” and therefore established reasonable suspicion to expand the investigation because law enforcement observed that the appellant appeared to be impaired by controlled substances and saw a torch lighter in plain view), *rev. denied* (Minn. May 16, 2023).<sup>4</sup>

Hentges contends that the search of the BMW was unlawful for four reasons, which we discuss in turn.

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<sup>3</sup> Hentges did not mention the open bottle in his brief, nor did the district court mention the bottle in its findings. The state argues in its brief that the open bottle contributes to probable cause. The trooper testified about the bottle at the hearing. Law-enforcement body-worn-camera recordings show that the trooper noticed the bottle and asked the passenger in the BMW about it. Because caselaw indicates that open bottles are relevant to the probable-cause determination, we consider it.

<sup>4</sup> *See supra* note 2 (discussing citation of persuasive nonprecedential opinions).

First, Hentges argues that the district court erred in finding “that the cash in the wallet and the torch lighter informed the [trooper’s] decision to search the vehicle” because law enforcement was unaware of either item until after Hentges was arrested.<sup>5</sup> While Hentges may be correct that the trooper *arrested* Hentges before learning of the cash in Hentges’s wallet and the torch lighter in the BMW, the parties agree that law enforcement found the torch lighter and learned of the cash *before* the BMW was *searched*. As noted in the district court’s findings, multiple law-enforcement officers were investigating suspected criminal activity at the gas station. Under the collective-knowledge doctrine, “the officer who conducts the search is imputed with knowledge of all facts known by other officers involved in the investigation, as long as the officers have some degree of communication between them,” though “[a]ctual communication of information to the officer conducting the search is unnecessary.” *State v. Lemieux*, 726 N.W.2d 783, 789 (Minn. 2007). Therefore, Hentges’s cash and the torch lighter are included in the totality of the circumstances.

Second, Hentges contends that the trooper told Hentges he was arrested for DAC-IPS and that law enforcement told Hentges that he was arrested on suspicion of impaired driving only after they arrived at the jail. This argument is unavailing. The trooper

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<sup>5</sup> Hentges argues that it is “unclear at best whether or not the trooper observed the cash in the wallet when Hentges removed his ID.” The district court found, based on the trooper’s body-worn-camera recording, that “a substantial sum of money was visible” when Hentges pulled his identification card out of his wallet. In our review, the body-worn-camera recording does not show whether the trooper could see cash when Hentges pulled out his identification card. But the same recording shows that another officer saw Hentges give his wallet to his girlfriend before his arrest, an officer retrieved the wallet from the girlfriend, and the wallet held considerable cash.

testified, and the district court found, that law enforcement was immediately suspicious that Hentges had been driving under the influence of a controlled substance based on observations of Hentges's impaired behavior at the gas station.

Third, Hentges argues that the cash and the torch lighter do not contribute to probable cause because innocent reasons explain Hentges's possession of both items. But "even noncriminal behavior can be given weight in the totality-of-the-circumstances test." *State v. Holiday*, 749 N.W.2d 833, 843 (Minn. App. 2008). The district court found that torch lighters are "associated with smoking methamphetamine," and the trooper testified that torch lighters are "paraphernalia." This court has determined that a torch lighter can contribute to probable cause and supports the reasonable belief that a vehicle contains methamphetamine. *Johnson*, 15 N.W.3d at 853. Further, the United States Supreme Court has stated that a large "quantity of drugs *and cash*" in a car indicates a "likelihood of drug dealing." *Pringle*, 540 U.S. at 373 (emphasis added).

Fourth, Hentges argues that searching the BMW for evidence of a DWI offense was unlawful because only physical testing of Hentges's blood or urine would yield evidence of his impairment.<sup>6</sup> This argument ignores the substantial cash in Hentges's wallet, the

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<sup>6</sup> Persuasive opinions of this court have upheld a search of a car incident to arrest after concluding that signs of a driver's impairment by controlled substances support the reasonable belief that contraband—drugs or drug paraphernalia—may be present in the driver's car. *See supra* note 2 (discussing citation of persuasive nonprecedential opinions). The same persuasive opinions rejected the argument that only physical testing of the impaired driver's blood or urine would yield evidence of impairment. *State v. Spencer*, No. A20-1175, 2021 WL 3277201, at \*5 (Minn. App. Aug. 2, 2021) (stating that "[e]vidence of drugs or drug paraphernalia in Spencer's car is circumstantial evidence that Spencer was driving while impaired, and based on [the trooper's] observations" that Spencer was impaired by controlled substances, "it was reasonable for [the trooper] to

torch lighter and open liquor bottle in “plain view” from outside the BMW, along with Hentges’s lies to law enforcement. We must consider the totality of the circumstances in determining whether there is probable cause to believe a car contains contraband or evidence of a crime. *Lester*, 874 N.W.2d at 771. Signs of driver intoxication and drug and alcohol use may factor into the totality of the circumstances, along with drug paraphernalia and open alcohol containers. *See State v. Charley*, 278 N.W.2d 517, 519 (Minn. 1979) (concluding that the “circumstances leading to the search . . . when combined with the facts that gave the officer probable cause to believe defendant was under the influence of a drug, provided the officer with probable cause [to search the vehicle]”).

Considering the totality of the circumstances, we conclude that there was probable cause to search the BMW under the automobile exception. Because the search was lawful based on probable cause that the BMW contained contraband or evidence of a crime, we need not address the parties’ arguments about the lawfulness of the impoundment. Thus, the district court did not err in denying Hentges’s motion to suppress.

**Affirmed.**

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believe evidence of that crime would be in the vehicle”); *State v. Giles*, No. A18-0803, 2019 WL 1758003, at \*5 (Minn. App. Apr. 22, 2019) (“Giles [the car passenger] contends that the only place [the officer] could find evidence of DWI was in ‘[the driver’s] body, not in her vehicle.’ Evidence of drugs or drug paraphernalia in [driver’s] car is circumstantial evidence that [driver] was driving while impaired.”), *rev. denied* (Minn. July 16, 2019).