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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0441**

State of Minnesota,
Respondent,

vs.

Ishamel Portwood Middlebrook,
Appellant.

**Filed April 27, 2026
Affirmed
Bentley, Judge**

Hennepin County District Court
File No. 27-CR-24-16542

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

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, Bekah Muta (certified law student practitioner), St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Bentley, Judge; and Smith, John, Judge.*

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

Appellant seeks reversal of his convictions for first-degree sale of a controlled substance and fifth-degree possession of a controlled substance. He argues that the district court erred in denying his motion to suppress evidence seized following a warrantless arrest and a subsequent warrantless search of his person. Appellant also contends that he was denied effective assistance of counsel because his trial attorney did not challenge the warrantless search of his car. Because we conclude that officers had probable cause to arrest appellant and conduct a search of his person incident to that arrest, and that appellant has not established an ineffective-assistance-of-counsel claim, we affirm.

FACTS

The evidence admitted at a hearing on appellant Ishamel Portwood Middlebrook's motion to suppress included officer testimony and footage from Minneapolis's Milestone camera system¹ and from the arresting officer's body-worn camera.

Around midnight on July 19, 2024, Officer D. was monitoring a live video feed of an intersection near a park in Minneapolis.² He testified that the area is an open-air drug

¹ Officer testimony described the Milestone camera system as “[a]n extensive camera network throughout the city of Minneapolis,” covering a large portion of “main thoroughfares” downtown, which provides police with a live feed and the ability for playback.

² We refer to the officers by their initials instead of their full names in accordance with our rules of public access. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 8, subd. 2(b) (recommending that appellate opinions limit disclosure of witness identities “to what is necessary and relevant”).

market “where [one] can daily observe people using and selling narcotics.” Officer D. observed a red vehicle that was registered to Middlebrook Management LLC. Officer D. was familiar with the vehicle and Middlebrook from prior investigations and recognized him in the driver’s seat.

At one point, Officer D. observed that “another male approached the window, reached inside, and appeared to hand something to [Middlebrook] and then stood by until [Middlebrook] paid him something back, and then he walked off.” Although the actual exchange was not visible in the footage, Officer D. assumed “based on [his] training and experience that there was a hand-to-hand transaction that took place in the car.” Officer D. then observed the individual, who “appeared to be clutching something” in “the hand that he put inside the vehicle,” walk away and join a group of people, “where he removed tinfoil from his pocket.” The group “[could] be seen smoking what appeared to be narcotics.”

Officer D. asked Officer P. to review the footage. Officer P. was also familiar with Middlebrook based on “a prior narcotics and weapons investigation.” Officer P. explained that, for over an hour, they “continued to monitor and review the milestone camera just to confirm what [they] observed initially.” The Milestone-camera footage shows several other people approaching Middlebrook’s car and interacting with him during that timeframe. When asked at the evidentiary hearing if he saw anything exchanged hand-to-hand, Officer P. said he did not, but he noted that, “[w]hen we saw the people interacting with [Middlebrook], the hand to hand or the interaction was obstructed by the dash of the vehicle.” The officers acknowledged that they could not see what was in the hand of the

individual who later appeared to smoke narcotics, and Officer D. conceded that it was “possible” that the narcotics the individual used came from someone else in the group, though he “didn’t see anyone hand anything else to him.”

The officers left the precinct, approached Middlebrook’s car, and placed him under arrest. Officer P. conducted an initial search of Middlebrook’s person, during which he found nothing, and then placed Middlebrook in the squad car. The officers searched the vehicle and located a scale with a white powdery residue on it and two bags containing a “green leafy substance” with a “strong chemical smell” that Officer P. believed, based on his experience working in narcotics, was K2, “a synthetic cannabinoid or THC.”

At that point, Officer P. conducted a second search of Middlebrook’s person because of his “knowledge from prior narcotics investigations that narcotics dealers will conceal narcotics on their person.” During that second search, Officer P. found over 300 “suspected counterfeit oxycodone pills,” which field-tested positive for fentanyl, and a bag with a “white powdery substance,” which field-tested positive for cocaine.

Respondent State of Minnesota charged Middlebrook with first-degree sale of a controlled substance—heroin or fentanyl, in violation of Minn. Stat. § 152.021, subd. 1(3) (Supp. 2023); first-degree possession of a controlled substance—heroin or fentanyl, in violation of Minn. Stat. § 152.021, subd. 2(a)(3) (Supp. 2023); and two counts of fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (Supp. 2023). Middlebrook moved to suppress the evidence discovered in the warrantless search of his car and the second search of his person, arguing that officers lacked reasonable, articulable suspicion, and, by extension, probable cause, to stop and

arrest Middlebrook in the first instance, and that they lacked probable cause to search his person a second time.

The district court denied the motion to suppress and gave a verbal explanation of its decision at a subsequent hearing. The district court applied a reasonable-suspicion analysis to the initial stop and search of Middlebrook's person, determining that the "officers had reasonable, articulable suspicion to stop and search defendant based on the totality of the circumstances." And the court determined with respect to the second search of Middlebrook's person that the officers "had probable cause to arrest and search defendant based on the totality of circumstances."

In support of its decision that the officers had reasonable, articulable suspicion for an initial stop, the district court found that

the defendant and his vehicle were known to the officers based on prior narcotic investigations; the defendant was parked in what the officers considered or testified to be an open drug area; the defendant was parked in this area for approximately an hour and a half; several individuals were observed approaching the defendant's vehicle and engaging in suspicious activity, which reasonably could be inferred, based on the officers' training and experience, to be associated with drug sale activity; lastly, the defendant was observed engaging in a hand-to-hand transaction with an unknown male who walked a short distance away and began to visibly smoke narcotics with other known individuals immediately after engaging in what officers believed to be a hand-to-hand transaction with the defendant.^[3]

³ Later in its decision, when it determined that the officers had probable cause to conduct a second search of Middlebrook's person as a search incident to arrest, the district court also considered evidence discovered in the warrantless search of the car. We do not consider that evidence in our analysis because of our conclusion that the officers had probable cause to arrest Middlebrook and to search his person at the time of the initial stop. We consider only the circumstances known to the officers at that time.

The case proceeded to trial, and a jury found Middlebrook guilty on all counts. The district court adjudicated Middlebrook guilty of first-degree sale of fentanyl and fifth-degree possession of cocaine, but it did not adjudicate the other counts because they constituted lesser-included offenses. The court imposed a sentence of 128 months' imprisonment for the first-degree sale count. It did not impose a sentence for the cocaine-possession charge because the district court concluded that it arose from the same behavioral incident or course of conduct as the first-degree count.

Middlebrook appeals.

DECISION

Middlebrook's arguments on appeal focus on the district court's reasonable-suspicion analysis but, as the state points out, the officers did not conduct a *Terry* stop⁴ when they first approached Middlebrook—they arrested him. Therefore, the lawfulness of his arrest and the subsequent searches of his person turns on whether the officers had probable cause to arrest him at that time, not whether they had reasonable, articulable suspicion to conduct a *Terry* stop or whether they reasonably expanded the scope of a *Terry* stop when they searched Middlebrook's car and conducted a second search of his person. Indeed, Middlebrook argued in the district court proceedings that the officers did not have

⁴ A *Terry* stop “allows a police officer to stop and temporarily seize a person to investigate that person for criminal wrongdoing if the officer reasonably suspects that person of criminal activity.” *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011) (quotation omitted) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)).

probable cause to arrest him at the time of the initial stop, and he asserts the same in his appellate reply brief when responding to the state’s argument.

Even though the district court analyzed the initial stop under the reasonable-suspicion framework, we are not constrained by that legal analysis because, as an appellate court, we “independently review *de novo* the issue of probable cause.” *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998). The state may 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). In conducting our review, appellate courts “review the district court’s findings of . . . fact relating to the probable cause determination for clear error under the clearly erroneous standard,” giving “due weight to inferences drawn from those facts by resident judges.” *Id.* (quoting *Ornelas v. United States*, 517 U.S. 690, 699 (1996)).

With that framing in mind, we first consider whether the officers had probable cause at the time of the initial stop and arrest. We then reach Middlebrook’s ineffective-assistance-of-counsel argument.

I

The Fourth Amendment to the United States Constitution and article I, section 10 of the Minnesota Constitution guarantee the “right of the people to be secure in their persons, houses, papers, and effects” from “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. For a warrantless arrest to be valid under those provisions, the arrest must be supported by probable cause. *State v. Harris*, 121 N.W.2d

327, 330-31 (Minn. 1963). Courts “apply an objective standard for determining the lawfulness of an arrest or a search by taking into account the totality of the circumstances to determine whether the police have probable cause to believe that a crime has been committed.” *State v. Hawkins*, 622 N.W.2d 576, 579-80 (Minn. App. 2001). That inquiry involves a determination of “whether the objective facts are such that under the circumstances a person of ordinary care and prudence would entertain an honest and strong suspicion that a crime has been committed.” *State v. Johnson*, 314 N.W.2d 229, 230 (Minn. 1982) (quotation omitted).

We begin by reviewing the facts known to the officers at the time of Middlebrook’s arrest. The district court found: (1) Middlebrook “and his vehicle were known to the officers based on prior narcotic investigations,” (2) Middlebrook “was parked in what the officers considered or testified to be an open drug area,” (3) Middlebrook remained parked there for “approximately an hour and a half,” and (4) Middlebrook “was observed engaging in a hand-to-hand transaction with an unknown male who walked a short distance away and began to visibly smoke narcotics with other known individuals immediately after engaging in what officers believed to be a hand-to-hand transaction with” Middlebrook.⁵

⁵ The district court made several additional findings regarding other individuals who interacted with Middlebrook during the observation period. Middlebrook argues on appeal that the district court’s findings regarding other transactions are clearly erroneous. Though the Milestone footage in the record shows other individuals interacting with Middlebrook, we need not reach Middlebrook’s argument about the district court’s findings in this regard because we conclude that, even excluding those findings, the evidence is sufficient to establish probable cause.

Middlebrook argues that those facts do not support probable cause because the officers also admitted that they could not see the hand-to-hand transaction as it was obscured by the dashboard, and they could not definitively say that the Middlebrook supplied the narcotics that the individual then smoked with the group. But probable cause does not require such definitiveness. When assessing whether probable cause existed, “the 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.” *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016). Courts may then consider those reasonable inferences when making a probable-cause determination. *Id.* Here, the district court found Officer D. credible, including the inference Officer D. drew that a hand-to-hand transaction took place. On appeal, we are required to “give due weight to reasonable inferences drawn by police officers and to a district court’s finding that the officer was credible and the inference was reasonable.” *Id.* at 771 (quotation omitted). Therefore, even if the officers did not see an actual exchange of narcotics because of the dashboard, we accept the district court’s credibility finding and the officers’ inference that a hand-to-hand transaction took place.

Middlebrook also argues that, even accepting the officers’ inference that a hand-to-hand transaction occurred, one such exchange is insufficient to support probable cause to arrest. But the totality of the circumstances here includes more than just one exchange. Our caselaw provides a helpful comparison on this point. In *Hawkins*, this court concluded that police had probable cause to arrest Hawkins based on the following facts:

The officers watched Hawkins for about 15 minutes riding a bicycle around an intersection. Hawkins whistled and waved at approaching vehicles, which [Officer] Willis testified is a common way for street-level narcotics dealers to get people's attention and let them know that they are selling narcotics. Hawkins also conducted two hand-to-hand transactions with other individuals in a manner that Willis concluded was consistent with a drug transaction and not with innocent behavior.

622 N.W.2d at 581. The facts supporting probable cause here are at least as compelling as those in *Hawkins*. The officers observed what they believed, based on their training and experience, to be a hand-to-hand transaction; the officers knew Middlebrook from previous narcotics cases; the transaction occurred in a known open-air drug market; and officers saw the other party to the transaction almost immediately use suspected narcotics.

Middlebrook maintains that there may be innocent explanations for the behavior observed by the police. But this court rejected a similar argument in *Hawkins*, underscoring that officers may draw conclusions based on their expertise and experience, even when there might be an innocent explanation for the observed conduct. *Id.* at 580.

Considering the surrounding circumstances in their entirety, we conclude that the facts here would “permit a prudent person to reasonably believe” that Middlebrook “had engaged in the sale of drugs.” *Id.* at 581. Thus, the officers had probable cause to arrest Middlebrook when they arrived on scene and their subsequent searches of Middlebrook's person were lawful. *State v. Bernard*, 859 N.W.2d 762, 767 (Minn. 2015) (noting that, under the search-incident-to-lawful-arrest exception to the warrant requirement, “the police are authorized to conduct a full search of the person who has been lawfully arrested”

(quotation omitted)), *aff'd sub nom. Birchfield v. North Dakota*, 579 U.S. 438 (2016). We therefore affirm the district court's denial of Middlebrook's motion to suppress.

II

Middlebrook also argues that his trial counsel was ineffective for not challenging the warrantless search of his vehicle. The state argues that Middlebrook's trial attorney did not engage in objectively unreasonable conduct in focusing his strategy on the "general probable cause determination" rather than separately challenging the search of the car, and that, regardless, Middlebrook cannot show prejudice because the argument was meritless. We agree with the state that Middlebrook has not established prejudice.

To succeed on an ineffective-assistance-of-counsel claim, one must prove both that counsel's conduct was objectively unreasonable and that there is a reasonable probability that, but for counsel's unreasonable conduct, the outcome would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 694 (1984); *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003). The Minnesota Supreme Court has held that whether someone was prejudiced by counsel's failure to move to suppress specific evidence depends on whether the district court "would have granted a motion to suppress the . . . evidence if one had been made." *Johnson v. State*, 673 N.W.2d 144, 148 (Minn. 2004).

Here, even assuming that the actions of Middlebrook's trial counsel were objectively unreasonable, we conclude that his ineffective-assistance claim must fail because Middlebrook has not established that such conduct resulted in prejudice. *See Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013) ("We need not address both the performance and prejudice prongs if one is dispositive."). Even if trial counsel here had

separately challenged the warrantless search of the vehicle in the motion to suppress, it likely would have failed in light of our conclusion that the officers had probable cause to arrest Middlebrook and search his person. Having established probable cause at the time of arrest, any number of exceptions to the warrant requirement may have applied to a search of the vehicle, making it lawful. *See, e.g., Arizona v. Gant*, 556 U.S. 332, 351 (2009) (search of vehicle incident to lawful-arrest exception); *Lester*, 874 N.W.2d at 771 (automobile exception); *State v. DeWald*, 463 N.W.2d 741, 748 (Minn. 1990) (instrumentality-of-a-crime exception related to vehicles). Accordingly, Middlebrook is not entitled to relief based on ineffective assistance of counsel.

Affirmed.