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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1444**

State of Minnesota,
Respondent,

vs.

Josiah Kyllonen Chavis,
Appellant.

**Filed September 8, 2026
Affirmed
Smith, Tracy M., Judge**

Ramsey County District Court
File No. 62-CR-23-4651

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

John Choi, Ramsey County Attorney, Annika K. Johnson, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Chief Judge;
and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the judgment of conviction for unlawful possession of a
firearm, appellant Josiah Kyllonen Chavis argues that the district court erred by denying
his motion to suppress evidence because the trooper unlawfully (1) expanded the scope of

the initial traffic stop, (2) pat-frisked Chavis, (3) seized the magazine and the attached firearm from Chavis's fanny pack, and (4) searched Chavis's vehicle, all without a warrant. Because we conclude that the police lawfully expanded the traffic stop under the *Terry* exception to the warrant requirement, the pat-frisk was also lawful under *Terry*, the firearm was lawfully seized pursuant to the plain-view exception to the warrant requirement, and any error in searching the vehicle was harmless, we affirm.

FACTS

The following recitation of the facts is derived from the evidence submitted at Chavis's contested omnibus hearing.

On August 8, 2023, at around 11:45 p.m., a State Patrol Trooper was on patrol and observed a vehicle speed by him. Radar indicated that the car was traveling at 78 miles per hour in the 60-mile-per-hour zone. The trooper activated his lights and initiated a traffic stop. When the car pulled over, the trooper approached the driver's side of the vehicle. The driver, later determined to be Chavis, rolled down his window a few inches. Chavis was wearing a black T-shirt and camouflage pants. Another male sat in the front passenger seat, wearing a black hooded sweatshirt, black pants, and a ski mask.

The trooper observed that Chavis was "slightly nervous" and "slow and lethargic" and that his eyes were "bloodshot, watery, glossy." The trooper also felt "a very, very large amount" of hot air emanate from the vehicle when Chavis rolled the window down, "[l]ike, they just had it cranked on high heat." The trooper thought the hot air and clothing were strange because it was a warm day. Based on his experience, he thought they may have been trying to conceal an odor.

Chavis provided his license and proof of insurance. When Chavis retrieved the license from a fanny pack on his lap, the trooper observed what he believed to be the magazine of a firearm in the fanny pack and asked Chavis, "Any weapons in the car or anything like that?" Chavis did not audibly respond. Chavis appeared to have difficulty pulling up his insurance information on his phone and took about a minute and a half to find it. The trooper believed that Chavis may have been impaired by narcotics use, but he did not notice the odor of alcohol or any other substance. The trooper asked Chavis if he had consumed any alcohol or narcotics, "including marijuana." Chavis stated that he had smoked marijuana six hours earlier.

The trooper then asked Chavis a second time if he had a weapon. Chavis responded "No, sir." The trooper told Chavis to keep his hands on the steering wheel and radioed for backup. The trooper instructed Chavis not to move and asked Chavis what was in his fanny pack, saying, "It looks like a magazine." The trooper could not hear Chavis's response.

The trooper then again told Chavis to keep his hands on the steering wheel, opened the front driver's door, and asked Chavis to step out of the vehicle. As Chavis exited, his fanny pack fell to the ground. The trooper placed Chavis's hands behind his back and placed him in handcuffs. The trooper patted Chavis down for weapons and asked, "What's in your bag that looks like the magazine of a weapon?" Chavis again denied having a weapon.

The trooper then retrieved the fanny pack, which was already unzipped, and found a loaded firearm inside. The trooper asked Chavis, "You got a permit?" Chavis indicated that he did not. The trooper informed Chavis that he was under arrest for carrying a firearm

without a permit. After removing the passenger, the trooper searched the vehicle. He found a hatchet in the driver's door compartment and about a pound of marijuana in some shopping bags in the back seat.

Respondent State of Minnesota charged Chavis with two counts—possession of a firearm as an ineligible person and possession of ammunition as an ineligible person, both under Minnesota Statutes section 624.713, subdivision 2(b) (2022). Chavis moved to suppress all evidence obtained from the stop. After a hearing, the district court denied Chavis's motion. Chavis then stipulated to the state's case to obtain review of the order denying his motion to suppress pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 4. The district court found him guilty of both counts but sentenced him on just one count, imposing an executed prison term of 60 months.¹

This appeal follows.

DECISION

Chavis challenges the district court's order denying his motion to suppress the evidence from his traffic stop. "When reviewing a pretrial order on a motion to suppress evidence, [appellate courts] review the district court's factual findings under a clearly erroneous standard and its legal determinations de novo." *State v. deLottinville*, 890 N.W.2d 116, 119 (Minn. 2017). Appellate courts "give great deference to a district court's findings of fact and will not set them aside unless" the court is "left with the definite and

¹ Chavis does not assert that he was erroneously convicted of both possession counts.

firm conviction that a mistake occurred.” *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010).

Unlawfully obtained evidence generally must be suppressed. *State v. Harris*, 590 N.W.2d 90, 97 (Minn. 1999). The United States and Minnesota Constitutions prohibit “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. A warrantless search or seizure is presumptively unreasonable. *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003) (citing *Katz v. United States*, 389 U.S. 347, 357 (1967)). But a warrantless search or seizure may be lawful if it falls within one of the exceptions to the warrant requirement. *State v. Sargent*, 968 N.W.2d 32, 37 (Minn. 2021). The state bears the burden of showing that an exception applies. *Id.* When the facts are undisputed, appellate courts review de novo whether an adequate basis for the search or seizure at issue exists. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007).

Chavis challenges four determinations by the district court: (1) that the trooper did not unlawfully expand the scope of the stop under the *Terry* exception to the warrant requirement, (2) that the trooper lawfully pat-frisked Chavis under *Terry*, (3) that the trooper lawfully seized the magazine and the attached firearm under the plain-view exception to the warrant requirement, and (4) that the trooper lawfully searched the vehicle under the automobile exception to the warrant requirement. We address each argument in turn.

I. The district court did not err by determining that the trooper lawfully expanded the scope of the stop.

Chavis argues that the district court erred by determining that the trooper lawfully expanded the scope of the traffic stop by asking Chavis about weapons and alcohol or narcotics use.

One exception to the warrant requirement is the *Terry* exception. *Sargent*, 968 N.W.2d at 37-38; *see Terry v. Ohio*, 392 U.S. 1 (1968). Under *Terry*, an officer may conduct a brief traffic stop without a warrant if there exists reasonable, articulable suspicion of wrongdoing. *State v. Askerooth*, 681 N.W.2d 353, 364 (Minn. 2004).

“An initially valid stop may become invalid if it becomes intolerable in its intensity or scope.” *Id.* (quotations omitted). “[E]ach incremental intrusion during a traffic stop [must] be tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness, as defined in *Terry*.” *Id.* at 365. Thus, “an intrusion not strictly tied to the circumstances that rendered the initiation of the stop permissible must be supported by at least a reasonable suspicion of additional illegal activity.” *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012). To be reasonable, the basis for an officer’s suspicion must satisfy an “objective, totality-of-the-circumstances test”: “whether ‘the facts available to the officer at the moment of the seizure [would] warrant a [person] of reasonable caution in the belief that the action taken was appropriate.’” *Id.* at 351-52 (quoting *Askerooth*, 681 N.W.2d at 364). Appropriateness “is based on a balancing of the government’s need to search or seize and the individual’s right

to personal security free from arbitrary interference by law officers.” *Id.* at 352 (quotation omitted).

The district court found that the trooper credibly testified that he saw the magazine of a firearm while talking with Chavis. The district court determined that the trooper reasonably concluded based on his training and experience that the magazine that he saw may have been attached to a weapon. The district court also found there to be several additional circumstances supporting reasonable suspicion of criminal activity, including that Chavis physically appeared inebriated, that the heat was on in the car on a hot day, and that Chavis was wearing a dark shirt and camouflage pants and the passenger was wearing dark clothing and a ski mask. As a result, the district court concluded that “[i]t was reasonable for [the trooper] to ask about firearms after he saw what he believed to be a magazine attached to a firearm.”

Chavis argues that the stop was unlawfully expanded at three distinct points.

First, Chavis argues that the stop was unlawfully expanded when, within the first ten seconds of engaging with Chavis, the trooper asked if Chavis had any weapons in the car. Citing *State v. Fort*, 660 N.W.2d 415, 419 (Minn. 2003), Chavis asserts that “[p]olice are not permitted, during the course of a traffic stop, to inquire whether occupants of a motor vehicle have a firearm or permit to carry without sufficient justification.” But *Fort* is distinguishable. In *Fort*, the Minnesota Supreme Court held that officers unlawfully expanded the scope of a traffic stop by asking the suspect about weapons and narcotics. 660 N.W.2d at 419. The court reasoned that “the officer never said he suspected any crime

other than the traffic violations” and “[i]nvestigation of the presence of narcotics and weapons had no connection to the purpose for the stop.” *Id.* But that is not the case here.

In this case, the trooper observed the magazine of a firearm in the fanny pack when Chavis retrieved his driver’s license. Based on that observation, the trooper reasonably suspected that Chavis was carrying a weapon. Additionally, the trooper had already observed that Chavis appeared inebriated, that Chavis and the passenger’s attire included dark and camouflage clothes and a ski mask, and that Chavis and the passenger may have been trying to conceal an odor by having the heat on in the vehicle. Under these circumstances, the trooper had a reasonable suspicion of additional illegal activity beyond the traffic violation and it was reasonable to ask whether Chavis had any weapons.

Chavis argues, though, that the district court clearly erred in its factual findings. He asserts that the finding that the trooper “saw a magazine” in the first ten seconds of his encounter with Chavis is unsupported because the trooper’s testimony was “not credible or believable.” The trooper’s body-worn-camera (BWC) video does not capture whether the magazine was visible or not. But the district court based its finding on the trooper’s testimony, which it found credible. Chavis challenges that finding, arguing that the trooper’s later reaction—giving forceful commands and radioing for backup—is what the trooper would have done immediately had he truly seen the magazine within the first ten seconds. But, at the hearing, the trooper explained his restrained reaction, testifying that he started by trying “to determine whether [Chavis] was a permit holder and give him the opportunity to inform [the trooper] of any weapons [he] needed to be aware of in the vehicle.” The district court specifically found this testimony credible. We must defer to the

district court's factual findings unless they are shown to be clearly erroneous, *Andersen*, 784 N.W.2d at 334, and Chavis has not shown that here.

Second, Chavis argues that the trooper unlawfully expanded the scope of the stop “when he asked [Chavis] if he had consumed alcohol or used narcotics.”² Chavis argues that his conduct during the stop did not indicate impairment. But the district court found that Chavis physically appeared inebriated and “struggled to pull up his insurance information on his phone.” Chavis argues that these findings are clearly erroneous because the BWC video shows that Chavis was “coherent and calm” and he provided his insurance “without trouble.” But the BWC video does not illustrate clear error in the district court's findings about Chavis's demeanor and conduct. And the findings are supported by the trooper's testimony. Chavis has not shown that the district court clearly erred in accepting the trooper's testimony regarding his conduct.

Moreover, the totality of the circumstances includes other facts that support a reasonable suspicion of impairment: Chavis physically appeared inebriated, rolled the window down only a few inches, and apparently had the heat on in the vehicle on a warm summer day. The trooper testified that, based on his observations, training, and experience, he began “asking questions towards expanding of an impaired driving stop.” *Cf. Fort*, 660 N.W.2d at 419 (holding the officer's question about narcotics unlawful because the officer never said that he suspected any additional crime). Under the totality of the circumstances,

² Though the district court did not directly discuss this argument, Chavis raised it in his motion to suppress and the district court concluded that the trooper did not unlawfully expand the scope of the stop.

the trooper had a reasonable suspicion that Chavis was driving under the influence or trying to hide the smell of narcotics. Therefore, the trooper did not unreasonably expand the scope of the stop by asking if Chavis had consumed alcohol or narcotics.

Third, Chavis argues that the trooper unlawfully expanded the scope of the stop “when he again asked [Chavis] if he had a weapon in the vehicle, . . . opened the door, [and] removed and cuffed [Chavis] some twenty seconds later.” Chavis argues that observing only the magazine, rather than a firearm, is “insufficient to support expanding the traffic stop into a criminal investigation.”³ While possession of a magazine may not be illegal, it is a crime to, without a permit, possess a firearm in a vehicle. Minn. Stat. § 624.714, subd. 1a (2022). And, at the time that the trooper asked about weapons for the second time, he had observed the magazine *and* Chavis had not responded when asked about it. These facts—in addition to those noted above—contributed to a reasonable suspicion that Chavis was carrying a firearm without a permit. Under the totality of the circumstances, the trooper had a reasonable suspicion of additional criminal activity and was justified in asking Chavis about weapons for a second time.

In sum, the district court did not err by determining that the trooper lawfully expanded the scope of the traffic stop.

³ Chavis argues that there is clear error in the district court’s statement that, “[e]ven though [the trooper] could see the firearm, [Chavis] denied having it,” because the trooper had seen only a magazine at that point in the stop. But the rest of the district court’s findings and analysis properly reflect that the trooper had seen a magazine and only hypothesized that it may be attached to a weapon. Any error in that one misstatement is harmless. *See* Minn. R. Crim. P. 31.01 (requiring us to disregard “error that does not affect substantial rights”).

II. The district court did not err by determining that the trooper lawfully pat-frisked Chavis.

Chavis argues that the district court erred by determining that he was lawfully pat-frisked under *Terry*. In his brief to this court, it appears that he makes this argument as part of his challenge to the search of his vehicle, but it is unclear. In any event, the district court found the pat-frisk to be constitutionally valid, and we see no error in that determination.

The *Terry* exception to the warrant requirement for investigative stops also “allows a police officer to conduct a pat-frisk of a person, meaning a carefully limited search of the outer clothing in an attempt to discover weapons, when the officer has a reasonable articulable suspicion that the person is armed and dangerous and criminal activity may be afoot.” *In re Welfare of C.T.B.*, 24 N.W.3d 651, 656 (Minn. 2025) (quotation omitted).

Here, the district court noted that Chavis denied having a weapon despite the fact that the trooper had observed the magazine. The district court determined that it was not unreasonable for the trooper to suspect that Chavis illegally possessed a firearm or other weapons. As a result, the district court concluded that the pat-frisk of Chavis’s person was justified by safety concerns.

Chavis argues that there was “no particularized and objective basis for suspecting that [Chavis] was engaged in criminal activity.” But, at the time of the pat-frisk, the trooper had observed the magazine and Chavis had denied having any weapons. These facts support a reasonable suspicion that Chavis was unlawfully carrying a firearm. And this is in addition to the facts described above that contributed to a reasonable suspicion that Chavis was driving under the influence or trying to hide the smell of narcotics. Together,

these facts created a reasonable, articulable suspicion that Chavis was involved in criminal activity.

Chavis also argues that these facts do not indicate that the trooper was in danger. But the trooper had observed a magazine, and it was reasonable for the trooper to suspect that the magazine was attached to a firearm or that Chavis was carrying the firearm. The trooper therefore had a reasonable suspicion that Chavis was armed and dangerous.

The district court did not err by determining that the trooper lawfully pat-frisked Chavis because the trooper had a reasonable articulable suspicion that Chavis was involved in criminal activity and was armed and dangerous.

III. The district court did not err by determining that the trooper lawfully seized the magazine and the attached firearm under the plain-view exception.

Chavis argues that the plain-view exception does not support the seizure of the magazine and the attached firearm.

Police may conduct a warrantless seizure of an object under the plain-view exception. *State v. Holland*, 865 N.W.2d 666, 671 (Minn. 2015). To satisfy the exception, three criteria must be met. *Id.* “First, the police must be lawfully in the position from which they have a view of the object.” *Id.* “Second, the officer must have a lawful right of access to the object.” *Id.* “And finally, the object’s incriminating nature must be immediately apparent.” *Id.* (quotation omitted). Regarding the third prong, the “police must have probable cause to believe the item seized is of an incriminating nature in order to support a warrantless seizure under the plain-view exception.” *Id.* Probable cause exists “if the facts available to the officer would warrant a person of reasonable caution in the belief that

certain items may be useful as evidence of crime.” *Id.* (emphasis omitted) (quotation omitted).

Chavis argues that the first and second prongs of the exception are not satisfied because the trooper had unlawfully expanded the scope of the stop at the point when he saw the magazine. But, as discussed above, the district court did not err by determining that the trooper lawfully expanded the scope of the stop. Furthermore, the trooper observed the magazine before any of the points at which Chavis argues the stop was unlawfully expanded. There was accordingly no error in the district court’s conclusion that the trooper was in a lawful position and had a lawful right of access when he viewed the magazine.

As for the third prong, Chavis argues that the magazine’s incriminating nature was not immediately apparent because the trooper did not see a firearm and, even if he had seen a firearm, there was not probable cause that the firearm was contraband.

The district court determined that the officer had probable cause to believe the magazine was of an incriminating nature. It reasoned that, “[g]iven the circumstances of the stop, and especially that [Chavis] denied having a weapon multiple times, it was not unreasonable for [the trooper] to conclude that the magazine and any attached firearm were contraband or connected to another crime.” It also determined that it was “not unreasonable for [the trooper] to conclude that the gun was incriminating simply because [of] the nature of the object, and that nature was immediately apparent upon seeing the gun.” Accordingly, the district court concluded that the plain-view exception applied to the trooper’s seizure of the magazine and the attached firearm.

The district court cited *State v. Milton*, 821 N.W.2d 789 (Minn. 2012), in support of its decision. In *Milton*, the Minnesota Supreme Court stated that “it would not be unreasonable for [the officer] to have believed that the shell casings that she found discarded near a multifamily residence within city limits were by their very nature ‘incriminating.’” 821 N.W.2d at 802 (citing *United States v. Brooks*, 645 F.3d 971, 976 (8th Cir. 2011) (“Hidden guns, even badly hidden guns, are by their nature incriminating.”)). Accordingly, the court held that the officer “had probable cause to believe that the shell casings may have been useful as evidence of a crime and thus that the incriminating nature of the shell casings was immediately apparent.” *Id.* Under *Milton*, the magazine in Chavis’s fanny pack alone may have been incriminating by its nature.

But we need not decide whether that is the case because all the facts available to the trooper—in addition to the magazine’s nature as an instrument of a firearm—justified probable cause that the magazine may have been tied to criminal activity. Chavis was nervous and denied having a weapon, even though the trooper had seen the magazine. Chavis’s and the passenger’s attire included dark and camouflage clothes and a ski mask. And the two men may have been trying to conceal an odor by rolling the window down only a few inches and having the heat on in the car. Together, these facts would justify a reasonable person in believing that the magazine may be useful as evidence of crime. *See Holland*, 865 N.W.2d at 671.⁴

⁴ Chavis also asserts that the trooper was unable to articulate why the object’s incriminating nature was immediately apparent to him. But probable cause is an objective standard. *See Holland*, 865 N.W.2d at 671. The trooper’s subjective explanation of whether the object was incriminating is irrelevant.

In sum, the district court did not err by determining that the trooper lawfully seized the magazine and the attached firearm under the plain-view exception.

IV. Any error by the district court regarding the search of the vehicle is harmless beyond a reasonable doubt.

Chavis argues that the district court erred by determining that the trooper lawfully searched the vehicle under the automobile exception. We need not evaluate this argument because any error was harmless beyond a reasonable doubt.

“Any error that does not affect substantial rights must be disregarded.” Minn. R. Crim. P. 31.01. “When an error implicates a constitutional right, [appellate courts] will award a new trial unless the error is harmless beyond a reasonable doubt.” *State v. Davis*, 820 N.W.2d 525, 533 (Minn. 2012). The error alleged here—failure to suppress evidence obtained from an unlawful search—implicates a constitutional right, so the harmless-beyond-a-reasonable-doubt standard applies. *See State v. McInnis*, 962 N.W.2d 874, 886 (Minn. 2021) (applying the harmless-beyond-a-reasonable-doubt standard to the district court’s failure to suppress a confession that violated the Fifth Amendment). “An error is harmless beyond a reasonable doubt if the . . . verdict was surely unattributable to the error.” *Id.* (quotations omitted). To determine whether error is harmless beyond a reasonable doubt, courts “look to the basis on which the factfinder rested its verdict and determine what effect the error had on the actual verdict.” *Id.* (quotation omitted).

Chavis was convicted of unlawful possession of a firearm and ammunition. The evidence supporting these convictions was the firearm and ammunition retrieved from the fanny pack that fell on the ground. And the trooper seized this evidence before searching

the vehicle. No evidence found or seized as a result of the trooper's search of the vehicle was ever submitted to the district court. Accordingly, even if the district court erred by determining that the trooper lawfully searched the vehicle under the automobile exception, Chavis's convictions were "surely unattributable to the error." *Id.* (quotations omitted).

Affirmed.