

*This opinion is nonprecedential except as provided by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
A25-1628**

Donald Charles Ancke, III, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 11, 2026
Affirmed
Connolly, Judge**

Chippewa County District Court
File No. 12-CR-22-623

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Benjamin Butler, Assistant Public Defenders, Noah Miller (certified law student practitioner), St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, Jacob Campion, Assistant Attorney General, St. Paul, Minnesota; and

Matthew Haugen, Chippewa County Attorney, Montevideo, Minnesota (for respondent)

Considered and decided by Wheelock, Presiding Judge; Connolly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the denial of his petition for postconviction relief, arguing that the district court abused its discretion by denying the petition because law enforcement

lacked both reasonable, articulable suspicion to expand the scope of appellant's traffic stop and probable cause to conduct a warrantless search of appellant's vehicle. We affirm.

FACTS

On November 12, 2022, a sheriff's deputy stopped appellant Donald Ancke for speeding. The deputy approached the passenger side of appellant's vehicle and, as soon as the window went down, he smelled marijuana. Appellant was the only person in the vehicle. The deputy testified that the odor "wasn't overwhelming, but it was definitely noticeable." The deputy testified that appellant handed him an ID card that said "ID only," he asked appellant if his license would be suspended or revoked, and appellant said it would be revoked. He then asked appellant for proof of his insurance and appellant said it was on his phone and began looking for his phone, which the deputy saw lying in appellant's lap; he then told appellant where the phone was. While appellant looked for his proof of insurance on the phone, the deputy returned to his squad car, where he learned that appellant's driver's license had been revoked and that there had been "prior contacts [with law enforcement] for driving after revocation."

The deputy testified further that, when he returned to appellant's vehicle, appellant was "nervous, jittery" and "seemed shaken about . . . the stop." He provided the deputy with an expired insurance card with the prior owner's name. The deputy asked about the marijuana odor, and appellant said he had been smoking marijuana in the vehicle earlier that day.

The deputy then expanded the traffic stop by asking if there was marijuana in the vehicle. Appellant said the only marijuana in the vehicle was in the "kick panel," between

the driver's seat and the passenger seat. The deputy searched that area and found a "user amount" of marijuana. He then saw a backpack on the front passenger seat, and appellant said there was more marijuana in the backpack. The deputy found two packages of marijuana in the backpack. The deputy then noticed that the infotainment center had been tampered with and had broken screws, pulled it back, and found a firearm. He stopped the search and asked appellant if he was a felon; appellant said that he was and that the firearm was not his. The deputy then arrested appellant. Later, after the deputy had booked appellant, he resumed the search of the vehicle. Under the place where the firearm had been, the deputy found about 125 grams of methamphetamine.

Appellant was charged with two counts of first-degree controlled substance sale, two counts of first-degree controlled substance possession, and unlawful possession of a firearm. He moved to suppress the evidence found in the vehicle. After a hearing, his motion was denied. A jury found appellant guilty on all counts, and he was sentenced to 210 months in prison for aggravated first-degree controlled substance sale.

Appellant moved for postconviction relief, arguing—as he did in his pretrial motion to suppress the evidence found in his vehicle—that the deputy had neither reasonable articulable suspicion to expand the traffic stop to ask appellant if there was marijuana in the vehicle nor probable cause to search appellant's vehicle. Appellant challenges the district court's denial of his postconviction petition.

DECISION

I. Expansion of the Traffic Stop

“When facts are not in dispute, as here, we review a pretrial order on a motion to suppress de novo and determine whether the police articulated an adequate basis for the search or seizure at issue.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted). An officer who stops a vehicle for violation of a traffic law and “has reasonable, articulable suspicion of other . . . illegal activity” may expand the scope of the traffic stop to investigate that other activity. *State v. Smith*, 814 N.W.2d 346, 351 (Minn. 2012).

Reasonable suspicion must be particularized and based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion. In determining whether the reasonable suspicion standard is met, we consider the totality of the circumstances. . . . [A]n analysis of reasonable suspicion is a common-sense and nontechnical approach that considers the factual and practical considerations of everyday life; this standard is not readily, or even usefully, reduced to a neat set of legal rules. Under this standard, trained police officers may draw inferences and deductions that might well elude an untrained person. Reasonable suspicion requires more than a mere hunch but is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause.

State v. Taylor, 965 N.W.2d 747, 752 (Minn. 2021) (quotations and citations omitted).

“[E]ven lawful activity can serve as the basis for reasonable suspicion.” *Id.* at 754.

In November 2022, when the stop occurred, only 1.4 grams of marijuana could be in a vehicle legally. Minn. Stat. § 152.027, subd. 3 (2022). The combination of the odor of marijuana when the passenger-side window was opened, appellant’s agitation, his

admission that he had smoked marijuana in the vehicle earlier in the day, his record of driving after revocation, and his speeding, taken together, provided a totality of circumstances that supported a reasonable, articulable suspicion that there was more than 1.4 grams of marijuana in the vehicle or that some other illegal activity was occurring.

Appellant relies on *State v. Babineau*, 23 N.W.3d 396, 402 (Minn. App. 2025) (holding that “the odor of marijuana, by itself, does not constitute reasonable, articulable suspicion of criminal activity sufficient to constitutionally justify expanding the scope of an equipment-violation vehicle stop”). But *Babineau* is distinguishable. It involved an inexperienced deputy telling his training officer “that he thought he may have smelled marijuana” but could not provide “a definite yes or no.” *Id.* at 405. In that case the driver had not been speeding or driving erratically. *Id.* at 409. There was also a passenger in the car. *Id.* at 403. Here, the driver, who was alone, had been speeding; the deputy was certain that he smelled the odor of marijuana as soon as the driver opened the vehicle’s window; the driver admitted smoking marijuana in the vehicle earlier in the day; and the legal limit of marijuana in a vehicle at the time was 1.4 grams. In addition, the driver appeared nervous, jittery and shaken. Finally, the driver did not seem to know that his cell phone was in his lap.

Accordingly, the district court did not err in determining that “the totality of the circumstances give[s] reasonable, articulable suspicion and justif[ies] the expansion of the stop in this case.”

II. Search of the Vehicle

[P]olice may search a car without a warrant . . . if there is probable cause to believe the search will result in a discovery of evidence or contraband. Probable cause exists when there are facts and circumstances sufficient to warrant a reasonably prudent person to believe that the vehicle contains contraband.

Probable cause is an objective inquiry that depends on the totality of the circumstances in each case. . . . [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. Therefore, an appellate court must 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.

State v. Lester, 874 N.W.2d 768, 771 (Minn. 2016) (quotations and citations omitted).

Appellant argues that the deputy “did not have probable cause to conduct a warrantless search of [appellant’s] entire vehicle.” He gives four reasons for this. The first, discussed above, was that the deputy lacked reasonable suspicion to suspect illegal activity.

Second, appellant argues that, since the marijuana in the vehicle could have been hemp, medical cannabis, or a “small amount” of marijuana, all of which were legal, the deputy had no reason to suspect there was more than the permitted 1.4 grams of marijuana in the car. But appellant had said that he smoked marijuana (not hemp) earlier that day in the vehicle. These facts, when added to the odor itself, and appellant’s failure to indicate that the substance in the car was either medical cannabis or hemp and therefore legal, supported the deputy’s reasonable suspicion that the vehicle contained more than 1.4 grams of marijuana.

Third, appellant relies on *State v. Schinzing*, 342 N.W.2d 105 (Minn. 1983), to argue that the deputy's search should not have gone further than the kick panel area, where he found a noncriminal amount of marijuana. But appellant misreads *Schinzing*, which actually holds that "discovery of some marijuana in a car gives probable cause to search for more." *Schinzing*, 342 N.W.2d at 110; *see also State v. Armstrong*, 291 N.W.2d 918, 919 (Minn. 1980) (holding that search of a vehicle "was justified by the motor vehicle exception to the warrant requirement"); *State v. Johnson*, 277 N.W.2d 346, 349 (Minn. 1979) (holding that deputy who saw marijuana plants in the trunk of a car had sufficient facts to "reasonably believe that there might be additional marijuana located in other areas of [the] car"); *State v. Schultz*, 271 N.W.2d 836, 837 (Minn. 1978) (noting that officer who "smelled the odor of marijuana emanating from the passenger compartment . . . properly conducted a warrantless search of the passenger compartment for marijuana pursuant to the so-called motor vehicle exception to the warrant requirement").

Fourth, appellant argues that the deputy exceeded the permissible scope of his search by dismantling the infotainment center, due to his knowledge that people often used the space behind an infotainment to hide contraband. Appellant argues that this was not sufficient to justify searching it "without other indicia of *criminal activity*." But the deputy did not rely solely on that knowledge; he also knew that there was marijuana in the vehicle, that appellant had initially lied about the amount of marijuana in the vehicle, that the two packages of marijuana he had found in the backpack were significantly in excess of the allowed 1.4 grams; and that the infotainment center in the vehicle had been tampered with. Appellant has not shown that the deputy exceeded the permissible scope of his search.

Therefore, the deputy had a reasonable, articulable suspicion to expand the traffic stop and probable cause to search appellant's vehicle.

Affirmed.