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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2089**

State of Minnesota,
Appellant,

vs.

Rahma Abukar Abdi,
Respondent.

**Filed June 1, 2026
Affirmed
Bratvold, Judge**

Olmsted County District Court
File No. 55-CR-25-326

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for appellant)

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Considered and decided by Bratvold, Presiding Judge; Ross, 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NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant State of Minnesota challenges the district court's pretrial order granting respondent Rahma Abukar Abdi's motion to suppress evidence and to dismiss charges of second-degree drug possession and giving a false name to a peace officer. The state argues that the district court erred by determining that law enforcement lacked reasonable, articulable suspicion to pat-frisk Abdi and by suppressing the evidence seized from the pat-frisk and a subsequent search incident to Abdi's arrest. We affirm.

FACTS

The following summarizes the district court's written factual findings after a contested omnibus hearing as well as other evidence admitted at the hearing.

On the morning of January 8, 2025, a Rochester law enforcement officer (first officer) attended training in Rosemount. During the return drive to Rochester, first officer pulled into a gas station and recognized a man, R.J., at the station. First officer called dispatch and "verified [R.J.] had an active arrest warrant." Because he was in plain clothes, first officer called for backup and followed the car in which R.J. was a passenger and which another man, J.C., was driving.

After the car parked, R.J. entered an apartment building through a door that led to two apartments: units five and six. One unit was "upstairs to the left," and the other was "on the bottom floor." Because units five and six share a common entry area, it "was not clear to the officers" whether R.J. entered unit five or six. Eventually, law enforcement learned that R.J. was in unit five and that the driver, J.C., lived in unit six.

Law enforcement “set up a perimeter” around the building to ensure that R.J. “did not escape through a window or back door.” Officers determined that R.J. “was the sole occupant” of his apartment unit and talked to R.J. “through a window and negotiated his surrender.” During negotiations, first officer “heard one of his partners claim they heard [R.J.] ‘say something about a gun.’” After about ten or 20 minutes, R.J. exited the building and was arrested.

Officers searched R.J.’s person and did not find a firearm. Law enforcement was “concerned about the presence of a gun” because R.J. was frantic and anxious, “had taken an extended period to exit the apartment,” and was subject to an arrest warrant for being “a felon in possession of a firearm.” Officers believed that R.J. “either hid the gun or did something with the gun inside the apartment.”

Law enforcement “decided to seek a search warrant” for units five and six and for the car in which R.J. was a passenger. While the warrant applications were in process, law enforcement “maintained the perimeter they had established and documented anything suspicious with it, as well as anybody who came in or out of the building, to preserve the chain of custody.”¹

While law enforcement was maintaining the building perimeter, Abdi walked out of the door shared by units five and six. First officer testified that Abdi exited the building around ten to 30 minutes after R.J. was arrested and that first officer suspected Abdi was “carrying [R.J.’s] gun, trying to simply evade law enforcement by just walking by.” Abdi

¹ First officer testified that a district court judge denied the search-warrant applications for unit six and the car.

spoke to officers, “claimed she was uninvolved and said, ‘I’m just gonna walk down the street and leave.’”

First officer told Abdi that they were seeking a search warrant, asked Abdi “to identify herself, and told her she would be searched before being allowed to go on her way.” Abdi stated that she “did not have an I.D. on her” and gave a false name. Law enforcement checked that name for pending warrants, and the name search was “clear of warrants.” Thus, “the officers were unaware that [Abdi] had a warrant for her arrest.” Abdi told first officer that she had been visiting her friend, V., in unit six. First officer believed that V. lived with J.C., who drove R.J. to the apartment building.

First officer asked another officer (second officer) to conduct a pat-frisk of Abdi. First officer testified that he suspected Abdi “might now be carrying” R.J.’s gun. During the pat-frisk, second officer “felt something she believed might be a pocketknife, which turned out to be a lighter.” Second officer continued the pat-frisk and “could clearly see a Minnesota I.D. card” in Abdi’s coat pocket. Second officer “removed the I.D. from [Abdi’s] pocket” and gave it to first officer. The name on the identification card did not match the name Abdi had given earlier.

Using the identification card from Abdi’s pocket, law enforcement learned that Abdi had an active arrest warrant. After arresting Abdi, officers searched her and found illegal drugs later determined to be 46.2 grams of cocaine and 8.8 grams of methamphetamine.

The state charged Abdi with two counts: second-degree drug possession under Minn. Stat. § 152.022, subd. 2(a)(1) (2024), and giving a false name to a peace officer under Minn. Stat. § 609.506, subd. 2 (2024). Abdi moved to suppress the evidence

stemming from the pat-frisk and to dismiss the charges, arguing that law enforcement did not have reasonable, articulable suspicion “of criminal activity or weapons possession” when second officer conducted the pat-frisk of Abdi.

In September 2025, the district court held a contested omnibus hearing. The district court received testimony from first and second officers as well as a register of actions that showed Abdi had an active arrest warrant on January 8, 2025. The officers testified to the events summarized above.

In a December 2025 written order, the district court determined that, at the time second officer pat-frisked Abdi, law enforcement lacked reasonable suspicion that Abdi “was committing a crime” or that she “was dangerous.” The district court concluded that the pat-frisk “was an unconstitutional search violating the Fourth Amendment of the U.S. and Minnesota Constitutions.” While the district court recognized that the “attenuation doctrine” is an exception to the exclusionary rule and “allows evidence to be admitted if the police’s conduct and the evidence are interrupted by intervening circumstances,” the court determined that “[t]his exception does not apply.” The district court suppressed the evidence stemming from the pat-frisk and dismissed both charges.

The state appeals.

DECISION

The state seeks reversal of the district court’s order suppressing the evidence found on Abdi along with a remand to reinstate the charges. “When reviewing a district court’s pretrial order on a motion to suppress evidence, we 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). “A finding is clearly erroneous when there is no reasonable evidence to support the finding or when an appellate court is left with the definite and firm conviction that a mistake occurred.” *State v. Rhoads*, 813 N.W.2d 880, 885 (Minn. 2012).

This opinion concludes that the state’s appeal makes the required threshold showing of critical impact, that the pat-frisk search of Abdi was unconstitutional, and that the district court properly applied the exclusionary rule to suppress the evidence stemming from the pat-frisk. Because the state did not raise its arguments about suppression of the identification-card evidence and the dismissal of the false-name charge in district court, they are forfeited and we do not address them.

I. The state satisfied the critical-impact requirement.

When the state appeals a pretrial order, it must show not only error but also “that the order will have a critical impact on its ability to prosecute the case.” *State v. McLeod*, 705 N.W.2d 776, 784 (Minn. 2005) (quotation omitted). The state can satisfy the critical-impact standard if the challenged ruling either “completely destroys the state’s case” or “significantly reduces the likelihood of a successful prosecution.” *Id.* (quotations omitted). Abdi does not argue that the district court’s order lacked critical impact. Because the suppression of the evidence resulted in dismissal of the charges against Abdi, we conclude that the state has shown critical impact. *See Gauster*, 752 N.W.2d at 502 (stating that the dismissal of charges following suppression of evidence meets the critical-impact requirement).

II. The second officer's pat-frisk of Abdi was unconstitutional.

The state argues that the pat-frisk was valid because (A) Abdi lacked a reasonable expectation of privacy in her person and (B) law enforcement had reasonable, articulable suspicion to conduct the pat-frisk. We address each argument in turn.

A. Abdi had a reasonable expectation of privacy at the time of the pat-frisk.

The United States and Minnesota Constitutions prohibit unreasonable government searches and seizures of “persons, houses, papers, and effects.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. “No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.” *Terry v. Ohio*, 392 U.S. 1, 9 (1968) (quotation omitted).

Under the Constitution and applicable caselaw, law enforcement may not search a person without a valid search warrant or an exception to the warrant requirement, such as reasonable suspicion of criminal activity or a search incident to arrest. *Katz v. United States*, 389 U.S. 347, 357 (1967) (“[S]earches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.”); *Terry*, 392 U.S. at 25, 28 (recognizing constitutionality of warrantless search of a person incident to arrest and limited search for weapons based on reasonable suspicion of criminal activity by the person searched).

A person seeking to invoke these constitutional rights must demonstrate “a reasonable expectation of privacy” in their person or in the “area or items searched.” *State*

v. McMurray, 860 N.W.2d 686, 691 (Minn. 2015) (holding that there is no reasonable expectation of privacy in garbage set on curb for collection); *see Terry*, 392 U.S. at 9 (recognizing “the right of every individual to the possession and control of his own person”). Here, the district court determined that the “right to privacy in one’s own person is well established” and “[n]o exception to this expectation of privacy applies in this case.”

On appeal, the state argues that Abdi, as a fugitive from an active arrest warrant, did not have a reasonable expectation of privacy and that, therefore, no warrant or exception was required. Abdi counters that “no court has ever held that the mere existence of an arrest warrant, which law enforcement is not aware of” at the time of a search, “diminishes an individual’s expectation of privacy and allows law enforcement to conduct a search of the individual.”

In support of its position, the state makes three arguments, which we consider in turn. First, the state asks us to extend caselaw holding that probationers, along with a few other individuals, have a diminished expectation of privacy and may be subjected to warrantless searches. *See State v. Anderson*, 733 N.W.2d 128, 139-40 (Minn. 2007) (holding that reasonable suspicion may support law enforcement’s warrantless search of a probationer’s house).² We decline to extend probationer caselaw to persons subject to

² The state also cites caselaw that is distinguishable and not helpful. *See, e.g., State v. Stephenson*, 760 N.W.2d 22, 23 (Minn. App. 2009) (holding that appellant lacked a subjective or reasonable expectation of privacy in a home he owned but was precluded from by an order for protection); *United States v. Ward*, 561 F.3d 414, 420 (5th Cir. 2009) (holding that “prison escapees cannot invoke the protections of the Fourth Amendment” and claim a reasonable expectation of privacy in a motel room); *United States v. Causey*, 834 F.2d 1179, 1185 n.11 (5th Cir. 1987) (stating that a defendant who is arrested subject to a valid warrant cannot “complain that the police finally got round to executing a valid

arrest warrants. No precedential caselaw holds that persons subject to an arrest warrant lack a reasonable expectation of privacy in their person. Rather, long-standing caselaw provides that law enforcement may conduct a warrantless search incident to the execution of a valid arrest warrant. *Katz*, 389 U.S. at 357 & n.20. Abdi was pat-frisked *before* her arrest warrant was executed.

Second, the state relies on the collective-knowledge doctrine and argues that, because “*somebody* in the warrants division” knew Abdi had an active arrest warrant, that knowledge should be imputed to the officer who pat-frisked Abdi. *See State v. Conaway*, 319 N.W.2d 35, 40 (Minn. 1982) (stating that the collective-knowledge doctrine pools the knowledge of the police force in establishing the basis for seizure of a person). The state did not make this argument to the district court, so we need not consider it on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that appellate courts generally will not consider matters not argued to and considered by the district court).

In any event, this argument is unavailing. 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.” *State v. Lemieux*, 726 N.W.2d 783, 789 (Minn. 2007) (emphasis added). Nothing in the record establishes that the officers involved in this investigation knew of Abdi’s arrest warrant at the time of her pat-frisk. Thus, the collective-knowledge doctrine does not apply.

warrant”). None of these cases consider or address a warrantless search of a person. Abdi was not a prison escapee and does not challenge the execution of the arrest warrant.

Third, the state argues that advancements in new technology, including facial-recognition technology, “diminish a fugitive’s reasonable expectation that they can go out in public, in broad daylight, without being identified.” But no record evidence suggests that officers used facial-recognition technology to identify Abdi before the pat-frisk. More fundamentally, this technology merely accelerates law enforcement’s ability to identify a person or determine whether someone has an arrest warrant. New technology does not erode the long-standing requirement that officers have either reasonable suspicion or probable cause for a valid arrest before a warrantless search may be conducted. *See Terry*, 392 U.S. at 20-22; *Katz*, 389 U.S. at 357.

In sum, we conclude that Abdi had a reasonable expectation of privacy in her person at the time of the pat-frisk.

B. Law enforcement did not have reasonable suspicion to conduct a pat-frisk of Abdi.

“Absent a warrant, the State has the burden to show that a search or seizure falls within one of the specifically established and well delineated exceptions to the warrant requirement.” *State v. Sargent*, 968 N.W.2d 32, 37 (Minn. 2021) (quotation omitted). A law enforcement officer may conduct a brief pat-frisk to search for weapons if the officer has (1) “a reasonable, articulable suspicion” that the person to be searched “might be engaged in criminal activity” and (2) a reasonable belief that the person might be armed and dangerous. *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992) (citing *Terry*, 392 U.S. at 30). If both requirements are met, the officer may temporarily detain the person and “conduct a carefully limited search of the outer clothing” to “discover weapons which

might be used to assault” the officer. *Terry*, 392 U.S. at 30. This limited search for weapons is known as a pat-frisk. A pat-frisk allows “the officer to pursue his investigation without fear of violence”—not to discover evidence of a crime. *State v. Flowers*, 734 N.W.2d 239, 251 (Minn. 2007).

To determine whether reasonable suspicion supported a pat-frisk, courts perform “an objective examination of the totality of the circumstances” known to law enforcement at the time of the search. *State v. Lemert*, 843 N.W.2d 227, 230 (Minn. 2014). Courts examine reasonable suspicion “from the perspective of a trained police officer, who may make inferences and deductions that might well elude an untrained person.” *Id.* (quotation omitted). Although the threshold for reasonable suspicion is “not high,” *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011) (quotation omitted), it requires “more than an unarticulated hunch.” *State v. Johnson*, 444 N.W.2d 824, 825-26 (Minn. 1989) (quotation omitted). Reasonable suspicion “must be directed at the person to be frisked.” *In re Welfare of C.T.B.*, 24 N.W.3d 651, 656 (Minn. 2025) (quotation omitted). The person’s “[m]ere proximity to, or association with, a person who may have previously engaged in criminal activity is not enough to support reasonable suspicion, absent some other factor.” *Id.* (quotation omitted).

Relying on first officer’s testimony, the district court found that law enforcement continued to investigate after R.J.’s arrest, seeking a firearm that R.J. “was not allowed to possess”—i.e., they sought to “collect evidence of a crime they suspected [R.J.] had committed.” The district court determined that first officer’s suspicion that Abdi “was trying to remove evidence from the crime scene” was not specific to Abdi because it

“would have applied to anyone leaving” the apartment building. The district court also determined that, even if it were reasonable to believe that R.J. gave Abdi a firearm, first officer “had no reason to believe [Abdi] was dangerous.”

On appeal, the state argues that “there was a reasonable and articulable basis to frisk Abdi.” The state lists these circumstances: R.J. “was frantic, anxious, and uncooperative when he evaded apprehension by entering the apartment”; R.J. “mentioned a gun and officers knew that [his] arrest warrant was related to a gun possession charge”; “it took time to convince [R.J.] to surrender”; R.J. “left the apartment without a gun”; and Abdi “came out of the same common entrance leading to only two apartments.”

Abdi counters that these circumstances did not establish reasonable suspicion as to Abdi and that “law enforcement had no other information that would create *any* suspicion that [Abdi] was involved in criminal activity, was armed, or was dangerous.” Abdi emphasizes that a pat-frisk “is not an investigatory tool to obtain evidence related to an investigation,” including the firearm R.J. allegedly possessed.

We conclude that the circumstances cited by the state to support the reasonableness of the pat-frisk pertain almost exclusively to R.J., not Abdi, and therefore do not establish reasonable suspicion to search Abdi. *See id.* (stating that the officer’s suspicion must be “directed at the person to be frisked” (quotation omitted)). We also conclude that no particularized evidence suggests Abdi was engaged in criminal activity at the time of the pat-frisk and that her “mere proximity” to R.J. before he was arrested did not establish reasonable suspicion justifying a pat-frisk. *Id.* at 658.

The supreme court's decision in *C.T.B.* is instructive. There, law enforcement officers responded to a dispatch report of a man "pointing a handgun at people at a light rail station." *Id.* at 654. A few minutes later, officers saw the same man inside a nearby pizza restaurant. *Id.* One of the officers also saw three or four other people, including C.T.B., "all close to each other, roughly within a conversational distance of the original suspect." *Id.* (quotation marks omitted). The officer testified that, based on his experience, he knew "if there's multiple individuals at one place and there's someone known to have a firearm, that sometimes it could be passed around to a different individual, especially when that suspect knows that [law enforcement is] looking for him or he was involved in an incident recently." *Id.* Relying on these observations, an officer pat-frisked C.T.B. and found a handgun in his sweater pocket. *Id.* The state charged C.T.B. with unlawful possession of a firearm. *Id.* at 653.

C.T.B. moved to suppress the handgun, arguing that the pat-frisk was unconstitutional because "the officers lacked a reasonable, articulable suspicion that he was armed and dangerous" and his "mere physical proximity" to the original suspect was "not enough to support reasonable, articulable suspicion to conduct a warrantless search." *Id.* at 653-54. The district court denied C.T.B.'s motion to suppress. *Id.* at 654. This court affirmed, concluding that "the totality of the circumstances made it objectively reasonable for the police to think that the suspect had handed the firearm to one of the young men who was standing with the suspect when the police approached, including C.T.B." *Id.* at 655 (quotation omitted).

The supreme court reversed, holding that “C.T.B.’s mere proximity to the original suspect, combined with the officer’s general knowledge that people in groups may pass weapons to others to avoid detection, was not sufficient to create a reasonable, articulable suspicion to justify a *Terry* pat-frisk.” *Id.* at 658. The supreme court emphasized that there must be reasonable suspicion “*directed at the person to be frisked*” and that an officer’s knowledge that “weapons *can* be passed to evade detection, without more,” does not allow police to pat-frisk “every individual standing near the original suspect.” *Id.* (quotation omitted).

The suspicion underlying Abdi’s pat-frisk is even more speculative than the suspicion described in *C.T.B.* First, unlike the officers in *C.T.B.*, who received a report of a man brandishing a gun, first officer testified that he heard another officer state that R.J. said “something about a gun” or “something mentioned about a gun.” Even if these vague statements “about a gun” support reasonable suspicion that R.J. possessed a gun, they do not support reasonable suspicion that Abdi possessed R.J.’s gun when she exited the apartment building. First officer had no more than an unarticulated hunch that Abdi was carrying a gun. *See Johnson*, 444 N.W.2d at 827 (stating that an officer must have a “particular and objective basis for suspecting the particular person stopped of criminal activity” (quotation omitted)). And a mere hunch does not establish reasonable suspicion to conduct a pat frisk. *C.T.B.*, 24 N.W.3d at 656.

Second, Abdi’s proximity to R.J. was slight at best and supported only by speculation from law enforcement. The district court found that law enforcement officers knew the shared apartment door led to two units, that R.J. was alone in his unit before he

was arrested, and that Abdi admitted visiting V. in unit six. But the record did not establish that Abdi and R.J. knew each other, were in the same room, or were even in the same apartment unit. We acknowledge that R.J.’s driver, J.C., lived in the unit that Abdi was visiting before the pat-frisk. Still, no facts connected Abdi to R.J.

The state also argues that it was “reasonable to stop and frisk Abdi, not only for officer safety, but to effectively freeze the scene” while law enforcement obtained a search warrant. In its brief, the state offers no authority to support its freeze-the-scene argument. And the state did not present this issue to the district court. Therefore, we decline to consider it on appeal. *See State v. Myhre*, 875 N.W.2d 799, 806 (Minn. 2016) (declining to address issues raised in an appellate brief “but were not adequately argued or explained”); *Roby*, 547 N.W.2d at 357 (declining to address issues that were not raised in district court).

In short, law enforcement may not use a pat-frisk to investigate a crime. *See Flowers*, 734 N.W.2d at 251 (stating that a pat-frisk is not an investigatory tool). Record evidence supports the district court’s finding that officers pat-frisked Abdi to find evidence of R.J.’s crime, not for officer-safety purposes and not based on reasonable suspicion. Because officers searched Abdi to investigate and acquire evidence against R.J. based on mere speculation and a hunch that Abdi possessed R.J.’s firearm, the pat-frisk was unconstitutional under *Terry*. 392 U.S. at 25, 28.

III. The evidence from Abdi’s pat-frisk and the search incident to her arrest must be suppressed.

The state argues that, even if the pat-frisk were unconstitutional, the district court should not have applied the exclusionary rule to suppress the evidence that law

enforcement obtained. “The exclusionary rule prohibits evidence obtained in violation of an individual’s constitutional rights from being used in a criminal proceeding against the victim of the illegal search or seizure.” *State v. Douglas*, 29 N.W.3d 187, 191 (Minn. 2025); *see Wong Sun v. United States*, 371 U.S. 471, 484-88 (1963) (setting out the exclusionary rule, otherwise known as the fruit-of-the-poisonous-tree doctrine). The exclusionary rule allows courts to suppress evidence “obtained either during or as a direct result of an unlawful” search or seizure. *State v. McDonald-Richards*, 840 N.W.2d 9, 15 (Minn. 2013) (quotation omitted).

The district court rejected the state’s challenge to application of the exclusionary rule. Whether the exclusionary rule supports the suppression of evidence is a question of law that appellate courts review de novo. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). The central question is “whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.” *Wong Sun*, 371 U.S. at 488 (quotation omitted). It is the state’s burden to “demonstrate that the connection between the unlawful conduct and the challenged evidence is so attenuated as to dissipate the taint of the unlawful conduct.” *State v. Barajas*, 817 N.W.2d 204, 218 (Minn. App. 2012) (quotation omitted), *rev. denied* (Minn. Oct. 16, 2012).

A. The state forfeited its exclusionary-rule challenge to the false-name evidence obtained during the pat-frisk.

For the first time on appeal, the state challenges suppression of the false-name evidence. Generally, appellate courts only consider issues presented to and considered by the district court. *Roby*, 547 N.W.2d at 357. In district court, the state argued only that, if the pat-frisk was unlawful, “the evidence seized *following the defendant’s arrest* on a valid warrant should not be suppressed.” (Emphasis added.) The state maintained that “the existence of a valid arrest warrant for [Abdi] attenuated the connection between the [pat-frisk] and the *drugs seized*.” (Emphasis added.) Because the state did not challenge suppression of the identification card found in the pat-frisk, we decline to address the issue on appeal.

The state also argues for the first time on appeal that the false-name charge should not be dismissed even if the identification card is suppressed. The state urges that “Abdi’s criminal act of giving a false name and birth date to a police officer were *complete* prior to the [pat-frisk] that revealed Abdi’s ID card” and that suppression of “Abdi’s identification card itself would not prevent the State from proving the elements at trial and establishing Abdi’s identity by other independent means.” Because the state also did not present this issue to the district court, we decline to consider it. *See id.*

B. The *Warndahl* factors support suppression of the drug evidence.

As to the drug evidence obtained after the pat-frisk, the state argues that the exclusionary rule “should not be applied, based on the attenuation doctrine.” The state cites *Utah v. Strieff*, which provides that evidence “is admissible when the connection between

unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening circumstance, so that the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.” 579 U.S. 232, 238 (2016) (quotation omitted).

Abdi asserts that “there is no binding precedent adopting the attenuation doctrine as a valid exception to the exclusionary rule in Minnesota.” But Minnesota courts have long recognized that some evidence is too attenuated from an illegal search or seizure to be suppressed under the exclusionary rule. *See State v. Engel*, 18 N.W.3d 540, 550 (Minn. App. 2025) (listing caselaw and recognizing that “intervening circumstances” can “purge” certain evidence from the “taint” of an unlawful search or seizure), *rev. granted* (Minn. June 17, 2025).

To determine whether evidence should be suppressed, courts weigh four factors, often called the *Warndahl* factors: (1) “the purpose and flagrancy of police misconduct”; (2) “intervening circumstances”; (3) “whether law enforcement would have obtained the evidence without the illegal conduct”; and (4) “the temporal proximity between the illegal conduct and allegedly resulting evidence.” *State v. Leonard*, 943 N.W.2d 149, 161 (Minn. 2020); *see also State v. Warndahl*, 436 N.W.2d 770, 776 (Minn. 1989) (listing four factors). “No single factor is dispositive,” and “we must balance all of these factors.” *State v. Bergerson*, 659 N.W.2d 791, 797 (Minn. App. 2003). We therefore consider the *Warndahl* factors to determine whether the exclusionary rule applies to the drug evidence seized from Abdi.

Purpose and Flagrancy of Police Misconduct

The purpose and flagrancy of police misconduct in conducting an unlawful search “is especially important, because the aim of the exclusionary rule is to deter police misconduct by removing the incentive to disregard constitutional guarantees.” *State v. Bale*, 267 N.W.2d 730, 733 (Minn. 1978). A “purposeful or flagrant violation” of a person’s Fourth Amendment rights favors suppression, while law enforcement negligence does not. *Strieff*, 579 U.S. at 241-42.

The state argues that law enforcement officers “were engaged in an active criminal investigation searching for a firearm” and thus the pat-frisk of Abdi was not “systemic, purposeful, and flagrant misconduct.” Abdi counters that “law enforcement abused its power” by “searching her without any suspicion” that she “had committed any crime, was armed, or was dangerous.”

We agree with Abdi. As discussed above, second officer’s pat-frisk of Abdi was not supported by federal or Minnesota caselaw. This record shows that law enforcement pat-frisked Abdi in a purposeful attempt to find evidence of R.J.’s crime—not in a reasoned effort to ensure officer safety. Caselaw rejects using pat-frisk searches to investigate crimes. *Flowers*, 734 N.W.2d at 251. At the time of the pat-frisk, law enforcement officers knew only that Abdi had been in the same apartment building as R.J. Yet “[m]ere proximity to . . . a person who may have previously engaged in criminal activity is not enough to support reasonable suspicion” of criminal activity. *Diede*, 795 N.W.2d at 844. And law enforcement lacked reasonable suspicion of criminal activity by Abdi under *Terry*. 392 U.S. at 28. Because officers purposefully pat-frisked Abdi to obtain evidence of R.J.’s

crimes and did so in violation of clearly established caselaw, the search was flagrant and purposeful police misconduct.³ This factor favors suppressing the drug evidence.

Intervening Circumstances

The state argues that the “active felony warrant for Abdi’s arrest was a critical intervening circumstance that is wholly independent of the allegedly illegal stop and frisk.”⁴ Abdi counters that the arrest warrant was not an intervening circumstance because “the record unequivocally demonstrates that law enforcement learned of the arrest warrant by conducting an unconstitutional search.”⁵

³ Abdi also contends that the warrant check of Abdi, which occurred before the pat-frisk, “on its own, was flagrant misconduct.” Abdi relies on *State v. Johnson*, which held that law enforcement needs reasonable suspicion to conduct a warrant check. 645 N.W.2d 505, 511 (Minn. App. 2002). Abdi did not present this argument in her motion to suppress, the district court did not analyze the issue, and the state did not address the issue on appeal. We therefore decline to consider this issue. *See Roby*, 547 N.W.2d at 357.

⁴ On appeal, the state argues that *other* intervening circumstances existed, including (1) Abdi’s voluntary disclosure of the drug evidence after her arrest and (2) Abdi’s decision to lie to officers about her name and possession of an identification card.

We acknowledge that the commission of a new crime by a defendant generally purges the taint of an unlawful search or seizure, especially in the context of a defendant fleeing or resisting law enforcement. *See City of St. Louis Park v. Berg*, 433 N.W.2d 87, 89 (Minn. 1988) (“This court has rejected the contention that evidence of a defendant’s resistance to an illegal arrest must be suppressed as forbidden fruit of a Fourth Amendment violation by the police.”). The state, however, did not present these *other* intervening circumstances to the district court, so they are forfeited on appeal. *See Roby*, 547 N.W.2d at 357 (stating that appellate courts generally will not consider matters not argued to and considered by the district court).

⁵ By contrast, Abdi conceded in district court that the arrest warrant was “a critical intervening factor that sufficiently attenuates the link between the unlawful [pat-frisk] and discovery of the ID card and drugs.” *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that, generally, a party may not shift theories on appeal). Because it is the state’s burden to prove that the attenuation doctrine applies, *Barajas*, 817 N.W.2d at 218, and we review this issue de novo, *Askerooth*, 681 N.W.2d at 359, we do not deem this issue

The facts in this appeal have strong parallels to those in *Streich*, in which the United States Supreme Court determined that a preexisting arrest warrant was an intervening circumstance. 579 U.S. at 240. In *Streich*, law enforcement received an anonymous tip that there was drug activity at a house. *Id.* at 235. For about a week, an officer surveilled the house and observed visitors leaving minutes after arriving. *Id.* The officer saw Streich leave the house, detained him, and asked for his identification. *Id.* The officer discovered that Streich had an outstanding warrant for a traffic violation and arrested him. *Id.* When the officer searched Streich incident to his arrest, the officer found drugs and drug paraphernalia, and the State of Utah later charged Streich with related offenses. *Id.* at 235-36. Streich moved to suppress the evidence, arguing that the detention and subsequent search was unlawful. *Id.* at 236. The district court acknowledged that the stop was unlawful but refused to apply the exclusionary rule to the drug evidence seized by law enforcement. *Id.* The Utah Supreme Court reversed and ordered suppression of the drug evidence. *Id.*

The United States Supreme Court considered, in part, “how the attenuation doctrine applies where an unconstitutional detention leads to the discovery of a valid arrest warrant.” *Id.* at 237. The Supreme Court determined that Streich’s arrest warrant strongly favored allowing the incriminating evidence because “the warrant was valid, it predated [the officer’s] investigation, and it was entirely unconnected with the stop.” *Id.* at 240. The Supreme Court reversed the decision to suppress the drug evidence against Streich,

conceded by Abdi and consider whether Abdi’s arrest warrant was an intervening circumstance.

reasoning that, once the officer “discovered the warrant, he had an obligation to arrest Strieff.” *Id.*

The warrant for Abdi’s arrest was valid, predated the investigation of R.J., and was unrelated to the pat-frisk. After law enforcement officers learned about Abdi’s warrant—an intervening circumstance—they had a duty to arrest Abdi. And like the drug evidence in *Strieff*, law enforcement discovered the drug evidence on Abdi during a search incident to her arrest. Thus, the arrest warrant was an intervening circumstance that weighs against suppression of the drug evidence.

Whether Police Would Have Obtained the Evidence Without Unlawful Conduct

Neither party addresses whether law enforcement would have obtained the drug evidence without unlawful police conduct. As discussed above, law enforcement officers lacked reasonable suspicion of any criminal activity or dangerousness by Abdi to justify the pat-frisk. If the officers had not performed the unlawful pat-frisk, they likely would not have found Abdi’s identification card, learned her real name, discovered the active arrest warrant, conducted a search incident to arrest, and discovered the drug evidence. We therefore conclude that this factor favors suppression of the evidence.

Temporal Proximity Between the Unlawful Search and the Evidence

Close temporal proximity between the unlawful search and discovery of evidence of a crime by a defendant generally favors applying the exclusionary rule; conversely, if “substantial time elapses” between the search and discovery of evidence, that fact weighs against applying the exclusionary rule. *Strieff*, 579 U.S. at 239 (quotation omitted) (concluding that the discovery of drug evidence “only minutes after the illegal stop”

avored suppression); *see also Leonard*, 943 N.W.2d at 162 (concluding that a two-hour time period between an illegal search and the resulting discovery of evidence favored suppression).

The state argues that, “as to the temporal proximity, the drugs were not discovered at the scene during the initial [pat-frisk] nor during the initial search incident to arrest.”⁶ Abdi counters that the state did not meet its burden to present “any evidence regarding how and when law enforcement obtained” the drug evidence. Abdi maintains that the record “only establishes” that she “was searched, arrested, and that law enforcement found—at some unknown time and location—controlled substances on her person.”

The record shows that law enforcement did not discover the drug evidence during the pat-frisk. Instead, law enforcement discovered the drug evidence during a separate search incident to Abdi’s arrest. This suggests that the evidence was temporally removed from the unlawful search. Even so, the record does not show the circumstances of the search incident to Abdi’s arrest. Thus, we conclude that absence of temporal proximity slightly favors allowing the drug evidence.

Evaluating all four *Warndahl* factors, two favor allowing the drug evidence and two favor suppression. Abdi’s preexisting arrest warrant was an intervening circumstance that limited the taint of the unlawful pat-frisk. And law enforcement did not discover the drug

⁶ The state asserts that law enforcement discovered the drug evidence “when Abdi was in a squad car” on the way to jail and told officers that “she had contraband.” To support this argument, the state cites the criminal complaint. This is not evidence. *See State v. Pierce*, 792 N.W.2d 83, 89 (Minn. App. 2010) (stating that “a criminal complaint is an assertion, not evidence”). Because the record does not support the state’s assertions, we decline to consider them in our analysis.

evidence during the pat-frisk but during a subsequent search incident to arrest, suggesting that the evidence was somewhat attenuated from the pat-frisk. But caselaw establishes that law enforcement engaged in flagrant and purposeful misconduct by pat-frisking Abdi without reasonable suspicion that she was armed, dangerous, or committing a crime. And law enforcement likely would not have discovered the drug evidence without the unlawful police conduct. On balance, we conclude these last two factors tip the scales and favor suppressing the drug evidence.

Thus, the district court did not err in granting Abdi's motion to suppress the evidence and to dismiss the drug and false-name charges.

Affirmed.