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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-384**

State of Minnesota,
Respondent,

vs.

Adan Maysonet,
Appellant.

**Filed April 2, 2012
Affirmed
Randall, Judge***

Steele County District Court
File No. 74-CR-10-383

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Daniel A. McIntosh, Steele County Attorney, Christy M. Hormann, Assistant County Attorney, Owatonna, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Lydia Villalva Lijó, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Bjorkman, Judge; and
Randall, Judge.

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

UNPUBLISHED OPINION

RANDALL, Judge

Appellant challenges the district court's denial of his motion to suppress evidence obtained through what he alleges was an unlawful expansion of a traffic stop and unlawful search and seizure of his vehicle. He was convicted of a first-degree controlled substance crime. We affirm.

FACTS

On February 18, 2010, at approximately 7:22 a.m., Minnesota State Trooper Douglas Rauenhorst was traveling southbound on I-35 in Steele County. He observed a Nissan Altima with California license plates exit to a rest area without signaling. Trooper Rauenhorst exited, and as he closed in on the vehicle, noticed an object hanging from the rearview mirror. He stopped the vehicle for the two offenses.

Trooper Rauenhorst approached the vehicle on the driver's side and confirmed that an air freshener hung from the rearview mirror. He observed two cell phones in the center console and a single carry-on size suitcase on the backseat. The driver identified himself as Ricky Olan-Rodriguez, which was the name on the Massachusetts driver's license he provided. Trooper Rauenhorst later discovered that the driver was appellant Adan Maysonet.

In response to Trooper Rauenhorst's questions, Maysonet said he lived in Texas, had recently purchased the car in California, acquired insurance in California, and was traveling from California to Minneapolis. Throughout the stop, Maysonet effectively communicated in English. His paperwork showed that the car was registered two weeks

earlier in California under the name Nava Jorge Louis with a California address, which was the address of the previous owner. The insurance paperwork contained the same address. Trooper Rauenhorst queried the license plates, and they came back “not on file.” The Massachusetts driver’s license for Ricky Olan-Rodriguez came back valid, but showed an expired felony warrant.

Based on his experience, Trooper Rauenhorst believed that recently purchased vehicles, multiple cell phones, a small amount of luggage, and a travel itinerary including Texas and California, which he knew are states known as source states for illegal drugs, were “hallmarks” of narcotics trafficking. Maysonet’s recent purchase of the vehicle, the California address of the previous owner on the paperwork, Maysonet’s travel itinerary, and Trooper Rauenhorst’s observations of multiple cell phones and lack of major luggage raised his suspicions that Maysonet might be engaged in drug trafficking.

Trooper Rauenhorst issued a warning and returned Maysonet’s items. Then Trooper Rauenhorst asked Maysonet if he could search the vehicle. Maysonet asked whether he could refuse, and Trooper Rauenhorst told Maysonet he could refuse. Maysonet then gave his consent, and Trooper Rauenhorst walked his drug dog around the vehicle twice. The drug dog did not alert that drugs were present during the walk-around.

Trooper Rauenhorst then visually inspected the vehicle. On the driver’s side, he observed scratch marks on the wheel well and handprints on the tire. He saw nothing out of the ordinary inside the vehicle. When he inspected the passenger-side wheel-well area, he noticed that undercoating material looked as though it had been freshly sprayed over a rectangular-shaped area. The vehicle was relatively clean, and Trooper

Rauenhorst thought it looked as though dirt was intentionally placed over the rectangular-shaped area. He also noticed that the tire lug nuts had been tooled with heavily and were worn down, as if they had been taken off.

Trooper Rauenhorst testified that he was familiar with compartments hidden in wheel-well areas and knew that Nissan Altimas had a false area that could contain hidden compartments. He had found such compartments in other Nissan Altimas in the past. Trooper Rauenhorst believed that what he observed was consistent with hidden compartments containing drugs. He completed his inspection of the vehicle exterior and looked in the trunk. At no point did Maysonet ask him to stop the search, and Maysonet assisted him in accessing the trunk.

At this point, Trooper Rauenhorst arranged to have the vehicle towed to a local garage where the tire could be removed and he could continue the search. After this occurred, and Trooper Rauenhorst inspected the rectangular area, he discovered fresh Bondo and a screw head under the fresh undercoating. Trooper Rauenhorst removed the cover and discovered a compartment with a green bag containing methamphetamine.

The state charged Maysonet with two counts of first-degree controlled substance crime for the sale and possession of methamphetamine and one count of giving a false name to a peace officer. Maysonet moved to suppress the drug evidence and his subsequent statement. He did not challenge the basis for the traffic stop, but argued that Trooper Rauenhorst impermissibly expanded the scope of the stop and unlawfully searched and seized his vehicle. After a contested omnibus hearing on May 21, 2010, in which Trooper Rauenhorst testified, the district court denied the motion. The state

dismissed two counts, and a stipulated-facts trial was held on September 13, 2010, on one count of first-degree controlled substance crime for the possession of 25 grams or more of methamphetamine. The court found Maysonet guilty. This appeal follows.

D E C I S I O N

This court's review following a stipulated-facts proceeding is limited to whether the district court properly denied appellant's suppression motion. *See* Minn. R. Crim. P. 26.01, subd. 4(f). "When reviewing pretrial orders on motions to suppress evidence, we may independently review the facts and determine, as a matter of law, whether the district court erred in . . . not suppressing . . . the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999).

Expansion of the Traffic Stop

Maysonet argues that the district court erred in denying his motion to suppress because Trooper Rauenhorst unlawfully expanded the scope of the traffic stop. Both the United States and Minnesota Constitutions protect against "unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. "The scope of the search must be strictly tied to and justified by the circumstances which rendered its initiation permissible." *State v. Wiegand*, 645 N.W.2d 125, 136 (Minn. 2002) (quotations omitted). Expansion of the scope of a routine traffic stop to investigate other suspected criminal activity is permissible only if the officer has a reasonable, articulable suspicion of such other criminal activity. *State v. Fort*, 660 N.W.2d 415, 419 (Minn. 2003). The officer must develop a reasonable, articulable suspicion of other illegal activity during the time necessary to resolve the originally suspected offense. *Wiegand*, 645 N.W.2d at 136.

“Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate at the omnibus hearing that he or she had a particularized and objective basis for suspecting [a] person of criminal activity.” *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011) (quotations omitted). “[A] determination of reasonable suspicion requires that the court consider the totality of the circumstances.” *State v. Martinson*, 581 N.W.2d 846, 852 (Minn. 1998).

Maysonet concedes that the initial traffic stop was lawful, but asserts that Trooper Rauenhorst unlawfully expanded its scope by asking for consent to search the vehicle. Maysonet contends that when the traffic stop was resolved, Trooper Rauenhorst did not have an articulable, reasonable suspicion of any other criminal activity to permit his request for consent to search the vehicle. We disagree.

The record shows that during the initial traffic stop, Trooper Rauenhorst made several observations: evidence of a recently purchased vehicle and recently purchased insurance; insurance and registration documents containing the previous owner’s address; two cell phones in the center console; a single piece of carry-on luggage on the back seat; and a travel itinerary that included California, Minnesota, and Texas. Trooper Rauenhorst testified that these observations are consistent with narcotics trafficking. He said that California and Texas are considered source states for drug trafficking operations. He testified that based on his training and experience concerning narcotics investigations, these observations, when considered together, raised his suspicion that Maysonet was involved in the criminal activity of drug trafficking.

The totality of Trooper Rauenhorst's observations and his experience in narcotics trafficking provided an objective basis for him to develop a reasonable, articulable suspicion that Maysonet was engaged in the criminal activity of drug trafficking. Trooper Rauenhorst made the observations and developed suspicions before he concluded the traffic stop. Thus, Trooper Rauenhorst did not unlawfully expand the scope of the initial stop when he asked for Maysonet's consent to search the vehicle.

Maysonet argues that, individually, each of Trooper Rauenhorst's observations was insufficient to support a reasonable, articulable suspicion of illegal activity. We agree that a "one at a time" analysis makes the state's case weaker. But when making a reasonable suspicion determination, we consider the totality of the circumstances. The Minnesota Supreme Court has recognized that in some circumstances, where "each individual factor is consistent with innocent travel, all of the factors together may amount to reasonable suspicion." *Martinson*, 581 N.W.2d at 852. And "innocent factors in their totality, combined with the investigating officer's experience in apprehending drug traffickers, can be sufficient bases for finding reasonable suspicion." *Id.* (quotations omitted). Trooper Rauenhorst made a series of observations about Maysonet and the circumstances of Maysonet's trip, which based on his experience, when considered in the aggregate, aroused his suspicions that Maysonet was involved in the criminal activity of drug trafficking.

Maysonet also argues that Trooper Rauenhorst impermissibly relied on his belief that Maysonet fit the profile of a drug courier. He cites *State v. Williams*, 525 N.W.2d 538, 547 (Minn. 1994), for its holding that evidence of a "drug courier profile" is

inadmissible at trial in the prosecution's case-in-chief as evidence of a defendant's guilt. "A drug courier profile is an informally compiled abstract of characteristics thought typical of persons carrying illicit drugs." *Id.* at 545 (quotations omitted). Maysonet's argument is unavailing. First, *Williams* recognized that drug courier profiles can trigger a police officer's suspicions about an individual or assist officers in identifying potential drug carriers. *Id.* Second, the court stated that "the issue is not the propriety of the conduct of the police in approaching defendant and obtaining her consent to a search of her purse and her carry-on bag. The issue is the propriety of the prosecutor's eliciting the drug courier profile evidence not at a pretrial suppression hearing *but during the state's case-in-chief at trial.*" *Id.* at 547 (emphasis added).

Probable Cause to Continue Search

Maysonet argues that the district court erred in denying his suppression motion because probable cause did not exist for Trooper Rauenhorst to tow the vehicle and continue the search of the rectangular-shaped area. Maysonet concedes that he consented to a search of the vehicle. He asserts, however, that Trooper Rauenhorst's "observation of a rectangular-shaped area with fresh undercoating in a wheel well" is the only "significant fact" he discovered during the search, and that fact is "insufficient to support a probable cause determination."

Under the automobile exception to the warrant requirement, "[w]hen probable cause exists to believe that a vehicle contains contraband, the Fourth Amendment permits the police to search the vehicle without a warrant." *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). "Probable cause is defined as some showing by evidence which fairly

and reasonably tends to show the existence of the facts alleged.” *State v. Pederson-Maxwell*, 619 N.W.2d 777, 781 (Minn. App. 2000) (quotation omitted). We have also stated that “[p]robable cause exists where, in the totality of the circumstances, the officer[] conditioned by his observations and information, and guided by the whole of his police experience, reasonably could have believed that a crime had been committed by the person to be arrested.” *State v. Nace*, 404 N.W.2d 357, 360 (Minn. App. 1987), *review denied* (Minn. June 25, 1987). If a police officer has probable cause to search a motor vehicle for contraband, he may search “every part of the vehicle and its contents that may conceal the object of the search.” *State v. Bigelow*, 451 N.W.2d 311, 312 (Minn. 1990) (emphasis omitted).

The district court concluded that Trooper Rauenhorst’s discovery of a rectangular-shaped area in the wheel well covered in fresh undercoating that appeared to have dirt placed on it, in addition to Trooper Rauenhorst’s previous observations, “fairly and reasonably tended to show that the car was being used for drug trafficking. As a result, Trooper Rauenhorst had probable cause to believe that a more in-depth search would produce further evidence of a crime.”

Under the totality of the circumstances, which include each of Trooper Rauenhorst’s observations and his experience in apprehending individuals engaged in drug trafficking, when Trooper Rauenhorst arranged to have the vehicle towed to a local garage in order to continue the search, probable cause existed to continue the search of the vehicle. Significantly, before he began the vehicle search, Trooper Rauenhorst made numerous observations that resulted in a reasonable articulable suspicion that Maysonet

was involved in drug trafficking. These observations included Maysonet's statement that he had recently purchased the vehicle and insurance; insurance and registration documents containing the previous owner's address; two cell phones in the center console; a small amount of luggage; and a travel itinerary that included source states for drug trafficking operations. After Maysonet gave Trooper Rauenhorst consent to search the vehicle, Trooper Rauenhorst observed scratch marks on the driver's side wheel well and handprints on a tire. He observed a rectangular-shaped area in the passenger side wheel-well area, with fresh undercoating spray and what looked like dirt placed over it. He also noticed that the tire lug nuts had been tooled heavily and were worn down, as if they had been taken off.

In addition to each of these observations, the record shows that Trooper Rauenhorst was familiar with compartments hidden in wheel well areas, knew that Nissan Altimas had a false area that could contain hidden compartments, and had found such compartments in other Nissan Altima vehicles. Trooper Rauenhorst testified that what he observed in the wheel well was consistent with hidden compartments containing drugs. After making all of the noted observations, and in light of his experience, Trooper Rauenhorst had the vehicle towed to a local garage where the tire was removed and he continued the search of the rectangular-shaped area.

Under the totality of the circumstances, Trooper Rauenhorst reasonably believed that the rectangular-shaped area in the wheel well with fresh undercoating and dirt over it contained contraband. When Trooper Rauenhorst arranged to have the car towed, probable cause existed to lawfully continue the search of the vehicle. Because we

determine that probable cause existed to search the vehicle, towing the car to a local garage to continue the search was lawful. *See State v. Johnson*, 324 N.W.2d 199, 202 (Minn. 1982) (stating rule that “if police may search a vehicle at the scene without first obtaining a warrant, then they constitutionally may do so later at the station without obtaining a warrant”); *see also Bigelow*, 451 N.W.2d at 312 (stating that probable cause to search a vehicle for contraband permits search of every part of the vehicle and its contents that may conceal the object of the search).

Scope of Consent to Search Vehicle

Maysonet alleges that even if Trooper Rauenhorst lawfully asked for his consent to search the vehicle, the search exceeded the scope of his consent because his consent did not extend to the search and seizure that took place after Trooper Rauenhorst observed the rectangular-shaped area in the wheel well. Because we determine that Trooper Rauenhorst had probable cause to continue the search after discovering the rectangular-shaped area, the search was lawful even absent consent, and Maysonet’s argument fails. *See Flowers*, 734 N.W.2d at 248 (stating that “[w]hen probable cause exists to believe that a vehicle contains contraband, the Fourth Amendment permits the police to search the vehicle without a warrant”).

The district court properly denied Maysonet’s suppression motion.

Affirmed.