STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1343

State of Minnesota,
Respondent,

vs.
Anthony Tyrone Robinson,
Appellant.

Filed October 28, 2008
Affirmed
Toussaint, Chief Judge

Crow Wing County District Court
File No. KX-04-2724

Lori Swanson, Attorney General, David L. Phillips, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Donald F. Ryan, Crow Wing County Attorney, Crow Wing County Courthouse, 213 Laurel Street, Suite 31, Brainerd, MN 56401-3564 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Michael F. Cromett, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Shumaker, Presiding Judge; Toussaint, Chief Judge; and Collins, Judge.*

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

U N P U B L I S H E D O P I N I O N

TOUSSAINT, Chief Judge

Appellant Anthony Tyrone Robinson challenges his conviction of a second-degree violation of the controlled-substance statute, Minn. Stat. § 152.022, subd. 1 (2004), on the ground that the district court erred in denying his motion to suppress drugs found during a search of his person. Because nothing in the record suggests that the Illinois arrest warrant relied on by the arresting officer was not active or valid at the time of appellant's arrest and the officer was therefore justified in relying on the information he received from the dispatcher to search and arrest appellant, we affirm.

D E C I S I O N

An appellate court reviewing a pretrial ruling on a motion to suppress evidence "may independently review the facts and determine whether, as a matter of law, the district court erred in suppressing or not suppressing the evidence." *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004).

The United States and Minnesota constitutions prohibit unreasonable searches or seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. While warrantless searches are generally per se unreasonable, a police officer may search "a person's body and the area within his or her immediate control" if the search is "incident to a lawful arrest." *State v. Robb*, 605 N.W.2d 96, 100 (Minn. 2000). Police officers who have probable cause to arrest a suspect may conduct a search incident to an arrest even if the search precedes the arrest. *In re Welfare of G.M.*, 560 N.W.2d 687, 695 (Minn. 1995). A search incident to arrest may extend to small containers located on the person searched, and may

be followed by a warrantless seizure of discovered contraband. *Id.*

In October of 2004, a Brainerd police officer observed appellant's vehicle being driven in an unusual manner. A dispatcher informed the officer that appellant's license was suspended and that there was an outstanding Illinois felony warrant for his arrest. The officer was told that the warrant indicated that appellant should be considered armed and dangerous. The officer was aware of "an issue of a warrant" due to his prior contact with appellant, but "didn't know if this was the same warrant or not."

The officer observed appellant park his vehicle. The officer then parked his squad car behind appellant's vehicle, activating his lights. As the officer was later patting down appellant's clothing, he found a bag later confirmed to contain 12 grams of cocaine. The officer arrested appellant for violating the controlled-substance statute.

At the time of appellant's arrest, the officer knew that Illinois had not pursued a previous arrest warrant. Appellant argues that, if the warrant that dispatch notified the officer of was the same warrant, the officer should have believed that he was not authorized to arrest appellant. Thus, while appellant concedes that there may have been probable cause for the officer to arrest him on the Illinois warrant, he nonetheless argues that it was unreasonable for the officer to arrest him absent information that the current warrant was a different warrant. Appellant cites to the officer's testimony at the omnibus hearing to support his argument.

Additionally, there is no indication in the record that the Illinois warrant was defective, withdrawn, or invalid. The officer testified that, at the time he approached appellant's vehicle, he had reason to believe that the Illinois warrant was a valid, active

warrant and that, based on this belief, he intended to arrest appellant even before the officer conducted the search.

We therefore conclude that when the arresting officer received information from the dispatcher that appellant had a valid arrest warrant pending, and the warrant was flagged with an armed-and-dangerous warning, the officer had a reasonable basis to arrest appellant and conduct a search incident to that arrest.

Affirmed.