

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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STATE OF ARIZONA, *Appellee*,

*v.*

ROCHELLE JARRETT, *Appellant*.

No. 1 CA-CR 19-0439

FILED 12-22-2020

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Appeal from the Superior Court in Yuma County

No. S1400CR201800392

The Honorable David M. Haws, Judge

**AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Nicholas Chapman-Hushek  
*Counsel for Appellee*

Yuma County Public Defender's Office, Yuma  
By Raymond A. Hanna  
*Counsel for Appellant*

STATE v. JARRETT  
Decision of the Court

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**MEMORANDUM DECISION**

Chief Judge Peter B. Swann delivered the decision of the court, in which Presiding Judge Samuel A. Thumma and Judge Randall M. Howe joined.

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**S W A N N**, Chief Judge:

¶1 Rochelle Jarrett appeals her convictions and probation terms for one count of possession of dangerous drugs (methamphetamine) and one count of possession of drug paraphernalia. Jarrett contends that the superior court abused its discretion by denying her motion to suppress. We disagree and therefore affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 Jarrett was driving down the road in the early morning of September 11, 2017, when she began to feel sick. She pulled over, turned the car off, and switched seats with the passenger, who did not have a driver's license. A little while later, a Yuma County Sheriff Deputy noticed the parked car and pulled over to see if the occupants needed assistance.

¶3 Jarrett, who was sitting in the front passenger's seat, told the deputy that she felt shaky and that she might have a seizure. She further explained that she was on a new medication but had left it at home. She declined the deputy's offer to call an ambulance.

¶4 The deputy then asked if there were any weapons in the car and both Jarrett and the passenger answered no. The deputy followed up by asking if there were any drugs in the car. The passenger responded no but looked down at Jarrett's purse, and Jarrett responded, "No, I just ate."

¶5 Based on Jarrett's non-responsive answer and her need for medical attention, the deputy called for a drug-detection dog and a medical unit to respond. While the deputy waited for additional units to arrive, Jarrett began vomiting outside of the car.

¶6 The passenger told the deputy that Jarrett was getting very sick and that her boyfriend was on his way. The deputy informed Jarrett that she would need to wait for the ambulance and that she could refuse treatment when it arrived. The deputy also told Jarrett that her boyfriend

STATE v. JARRETT  
Decision of the Court

would have to park farther down the road and wait until he was done with his investigation.

¶7 When Jarrett’s boyfriend arrived, the deputy asked him to wait at a nearby gas station. The ambulance arrived approximately three minutes later. Jarrett refused medical treatment. Then, approximately six minutes after the ambulance arrived, an officer led a drug-detecting dog around the car’s exterior. The dog gave a positive alert for the presence of drugs, and officers eventually discovered a small plastic wrapper containing methamphetamine. Jarrett was subsequently arrested.

¶8 After a two-day trial, the jury found Jarrett guilty as charged, and the court sentenced her to 36 months of supervised probation. Jarrett appeals.

**DISCUSSION**

I. JARRETT’S PROLONGED DETAINMENT WAS SUPPORTED BY A REASONABLE SUSPICION OF CRIMINAL ACTIVITY.

¶9 Jarrett contends that the superior court erred by denying her motion to suppress. Specifically, she argues that the deputy lacked reasonable suspicion to extend her detainment to conduct a drug-dog sniff around the car’s exterior.

¶10 While we consider only the evidence presented at the suppression hearing and defer to the superior court’s factual findings and credibility determinations, we review mixed questions of law and fact and the superior court’s ultimate legal conclusion de novo. *State v. Spencer*, 235 Ariz. 496, 498, ¶ 8 (App. 2014).

¶11 A police officer is permitted to conduct “a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000). “By definition, reasonable suspicion is something short of probable cause.” *State v. Teagle*, 217 Ariz. 17, 23, ¶ 25 (App. 2007) (citation omitted). Although reasonable suspicion is more than a “hunch,” it only requires that an officer articulate “some minimal, objective justification for an investigatory detention.” *Id.* To determine reasonable suspicion, a court must look at all relevant factors (each of which could have a potentially innocent explanation) and examine them collectively. *Id.* at 24, ¶ 25. We afford deference to a law enforcement officer’s ability to distinguish between innocent and suspicious actions. *Id.* at 24, ¶ 26.

STATE v. JARRETT  
Decision of the Court

¶12 Here, the deputy's initial contact with Jarrett was permissible as a community caretaking function. *See State v. Organ*, 225 Ariz. 43, 46, ¶ 12 (App. 2010) (recognizing that because of the "frequency with which vehicles can become disabled or involved in an accident, local law enforcement may appropriately and lawfully engage in . . . community caretaking functions" that are "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute" (citation omitted)).

¶13 Jarrett contends, however, that her detention began once she informed the deputy that she did not need medical attention. But both Jarrett (who was sick) and the passenger (who did not have a license) were unable to drive. The deputy was thus permitted to ensure they secured an alternative means of transportation. Once Jarrett's boyfriend arrived to pick her up, however, the deputy was required to have a reasonable, articulable suspicion that Jarrett was engaged in criminal behavior to continue to detain her. *See, e.g., State v. Woods*, 236 Ariz. 527, 530, ¶ 11 (App. 2015).

¶14 Here, based on the totality of the circumstances, the deputy had such a suspicion. Jarrett and the passenger were sitting in a dark car on the side of the road in the middle of the night. The deputy testified that he considered the lack of four-way flashers to be a hazard, and that he made initial contact with the occupants because it was unusual for a car to be parked on the road in the middle of the night. When the deputy asked if there were any drugs in the car, the passenger looked at Jarrett's purse. And when the deputy asked Jarrett if there were any drugs in the car, she gave a non-responsive answer by stating, "No, I just ate." Taken together, Jarrett's behavior, the circumstances surrounding the initial contact, and Jarrett and the passenger's responses to the deputy's questioning established a reasonable suspicion that Jarrett was engaged in criminal activity. Accordingly, the superior court did not err by denying the motion to suppress.

II. THE DEPUTY HAD PROBABLE CAUSE TO SEARCH THE CAR.

¶15 Jarrett also contends that the deputy lacked probable cause to search the car. Under the automobile exception to the warrant requirement, a police officer may conduct a warrantless search of a vehicle if the officer has probable cause to believe that the car contains contraband. *California v. Acevedo*, 500 U.S. 565, 580 (1991). And a drug-detecting canine's exterior sniff of a vehicle is not itself a search under the Fourth Amendment and thus does not implicate the warrant requirement. *Teagle*, 217 Ariz. at 27,

STATE v. JARRETT  
Decision of the Court

¶ 36 n.7. Once the dog alerted outside the car, officers had probable cause to search the interior of the car. *State v. Weinstein*, 190 Ariz. 306, 310–11 (App. 1997). Thus, the superior court did not err by determining that the deputy had probable cause to search the car.

CONCLUSION

¶16 For the foregoing reasons, we affirm Jarrett’s convictions and probation terms.



AMY M. WOOD • Clerk of the Court  
FILED: AA