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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1438**

State of Minnesota,
Respondent,

vs.

Gerald Michael Feran, II,
Appellant.

**Filed July 24, 2017
Affirmed
Bjorkman, Judge**

Hennepin County District Court
File No. 27-CR-15-35104

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

Michael O. Freeman, Hennepin County Attorney, Kelly O'Neill Moller, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, Christopher Reisdorfer (certified student attorney), St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, 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UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges his prohibited-person-in-possession-of-a-firearm conviction, arguing that the firearm should have been suppressed because the officers impermissibly expanded the scope of the traffic stop. We affirm.

FACTS

On December 14, 2015, at approximately 3:20 p.m., an identified caller told a 911 operator that a suspicious vehicle with Texas license plates was blocking her driveway and the female driver was throwing something into the caller's trashcan. Minneapolis Police Officers Todd Harder and Aaron Womble responded and observed a vehicle matching the caller's description leaving the alley. Officer Harder followed the vehicle for less than a minute before initiating the stop.

The officers simultaneously approached the vehicle. As Officer Harder neared the driver's door, appellant Gerald Michael Feran II opened the door, stating that his window did not work. Officer Harder asked Feran for his driver's license; Feran indicated that he did not have one. After asking Feran his name, Officer Harder observed what appeared to be a 12-inch-long metal knife¹ on the floor between the driver's seat and the vehicle's frame, and a syringe containing a brown substance, which Officer Harder believed to be heroin, inside the driver's door compartment. Out of concern for officer safety, Officer Harder asked Feran to exit the vehicle. Feran complied, and Officer Harder saw a firearm

¹ This item was later determined to be a metal file.

on the driver's seat. Officer Harder yelled, "Gun!" to alert Officer Womble, who was standing near the passenger's side of the vehicle. The officers handcuffed Feran and secured the two passengers.

Respondent State of Minnesota charged Feran with being a prohibited person in possession of a firearm. Feran moved to suppress the firearm, arguing that the officers unlawfully expanded the scope of the stop. The district court denied the motion, concluding that requesting Feran's driver's license was reasonably related to and justified by the circumstances giving rise to the stop. Following a bench trial, the district court found Feran guilty and sentenced him to 60 months in prison. Feran appeals.

D E C I S I O N

"When reviewing a pretrial order on a motion to suppress evidence, we 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). We review the district court's factual findings for clear error, and its legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). When, as in this case, the underlying facts are not disputed, we review the denial of a motion to suppress evidence de novo. *Id.*

Feran does not challenge the validity of the stop, but argues Officer Harder impermissibly expanded its scope by asking the male driver for his driver's license. Expansion of a traffic stop beyond its original purpose is permissible if an officer has reasonable, articulable suspicion of other criminal activity. *State v. Wiegand*, 645 N.W.2d 125, 135 (Minn. 2002). An officer's suspicion cannot be based on a hunch; it must be

objectively reasonable under the totality of the circumstances. *State v. Smith*, 814 N.W.2d 346, 351 (Minn. 2012). Evidence discovered during an invalid search must be suppressed. *Askerooth*, 681 N.W.2d at 370. Feran contends that the officer impermissibly expanded the scope of the traffic stop by asking Feran for his driver's license and by focusing on anyone other than the female occupant. We are not persuaded.

First, police officers are entitled to ask for a driver's license when they stop a vehicle. Our supreme court has held that asking for a driver's license is a standard procedure in traffic-stop cases, observing that any rule limiting when an officer may ask to see a license would create unnecessary confusion. *State v. Schinzing*, 342 N.W.2d 105, 109 (Minn. 1983). And we have held that a police officer who stops a vehicle "may reasonably ask for the driver's license and registration and ask the driver about his destination and the reason for the trip" without expanding the scope of the stop. *State v. Syhavong*, 661 N.W.2d 278, 281 (Minn. App. 2003). This caselaw is consistent with Minn. Stat. § 171.08 (2014), which mandates that

[e]very licensee shall have the license in immediate possession at all times when operating a motor vehicle and shall display it upon demand of a peace officer, an authorized representative of the department, or an officer authorized by law to enforce the laws relating to the operation of motor vehicles on public streets and highways.

Accordingly, asking Feran for his driver's license and identifying information did not expand the scope of the stop.

Feran's reliance on *State v. Hickman* is misplaced. 491 N.W.2d 673 (Minn. App. 1992), *review denied* (Minn. Dec. 15, 1992). In *Hickman*, the police officer stopped

Hickman’s vehicle because it did not have a valid registration sticker. *Id.* at 674. But before he approached the driver, the officer saw the vehicle had a valid temporary permit in the window. *Id.* Because the officer’s suspicion concerning the vehicle’s registration status was dispelled before he made contact with Hickman, and the officer had no suspicion of other criminal activity, we concluded the officer had no basis to ask Hickman for his driver’s license. *Id.* at 675.² In contrast, Officer Harder’s suspicions of criminal activity had not been dispelled at the time he approached Feran. The officer’s concerns—that the vehicle’s occupants had committed theft or some other crime—could not be dispelled until he confronted the driver and passengers. And once Officer Harder saw what appeared to be a knife and a controlled substance, he reasonably suspected other criminal activity.

Second, we are not persuaded by Feran’s contention that the officer’s reasonable suspicion of criminal activity only extended to the female passenger. The 911 caller reported concern that the occupants of the suspicious vehicle were involved in criminal activity, including the woman who placed something into the trashcan. Officer Harder reasonably suspected that the woman may have discarded evidence of a crime, such as the contents of a stolen purse. Because the 911 operator reported that a woman was driving the car, Officer Harder may have suspected a woman was behind the wheel until he got up close to the already-opened driver’s door. As the district court found, at the very least, Officer Harder had “[r]easonable articulable suspicion that the driver of the vehicle was

² The *Hickman* court cited to *Delaware v. Prouse*, 440 U.S. 648, 663, 99 S. Ct. 1391, 1401 (1979), for the notion that it is constitutional to ask for a driver’s license if there is reasonable, articulable suspicion that the vehicle or any of its occupants are involved in illegal activity. 491 N.W.2d at 675.

aiding an offender, by driving her to a location where she could dispose of the evidence.”

In sum, neither asking Feran for his driver’s license nor contacting anyone other than the female occupant of the vehicle impermissibly expanded the scope of the stop.

Affirmed.