STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1959

State of Minnesota,
Respondent,

vs.

Stephen Jon Unsworth,
Appellant.

Filed December 31, 2018
Affirmed
Klaphake, Judge[*]

Hennepin County District Court
File No. 27-CR-16-6521

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

Michael O. Freeman, Hennepin County Attorney, Beth A. Stack, Jason R. Heaser, Assistant County Attorneys, Minneapolis, Minnesota (for respondent)

Steven T. Grimshaw, Grimshaw Law, LLC, Minneapolis, Minnesota; and

Basil El-Ghazzawy, El-Ghazzawy Law Offices, LLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Worke, Judge; and Klaphake, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving 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

KLAPHAKE, Judge

Appellant Stephen Jon Unsworth challenges his conviction of fifth-degree possession of a controlled substance, arguing that the district court erred by denying his motion to suppress because police officers lacked reasonable, articulable suspicion to detain him and his luggage at the airport, and to conduct a dog sniff of his luggage. Because the totality of the circumstances established reasonable suspicion that Unsworth was engaged in drug-related criminal activity, we affirm.

D E C I S I O N

When reviewing pretrial orders on motions to suppress evidence, we 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). When the facts are undisputed, we review de novo whether there was a lawful basis for the challenged police conduct. *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011).

The United States and Minnesota Constitutions protect citizens against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A search or seizure conducted without a warrant is generally unreasonable unless it falls under a recognized exception to the warrant requirement. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). Under one such exception, a police officer may detain an individual to conduct a "brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008). Similarly, an officer may seize a traveler's luggage at the airport if the

officer can articulate facts supporting a reasonable suspicion that the luggage contains evidence of criminal activity. *United States v. Place*, 462 U.S. 696, 706, 103 S. Ct. 2637, 2644 (1983).

In assessing reasonable suspicion, we consider the totality of the circumstances known to the officer at the time of the seizure, *State v. Smith*, 814 N.W.2d 346, 351-52 (Minn. 2012), including "seemingly innocent factors," *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007). "The reasonable-suspicion standard is not high." *Diede*, 795 N.W.2d at 843 (quotation omitted). And reasonable suspicion may be "easier to articulate in an airport" because heightened security concerns and surveillance lower privacy expectations. *State v. Martinson*, 581 N.W.2d 846, 850 (Minn. 1998).

The officers who detained Unsworth at the airport were aware of the following facts. Unsworth was travelling through Minneapolis on a one-way flight from Chicago to San Francisco,[1] and he had purchased the ticket only two days earlier. Because last-minute, one-way flights are consistent with the travel habits of drug dealers, the officers conducted a criminal-database check and discovered that Unsworth had a significant drug-related criminal history: 13 different controlled-substance "violations"[2] spanning nearly two decades, including the possession, sale, and manufacture of various controlled substances; a cash seizure of $21,604 in 2012 and a pending seizure of $574,840 in cash recovered

[1] Unbeknownst to the officers, Unsworth also had a ticket to travel from San Francisco to Anchorage that same day.

[2] The district court found that the "violations" listed in the NCIC database indicated that Unsworth was "at a minimum . . . arrested for the listed offense."

from a storage locker in 2011; and two active Drug Enforcement Administration cases pending against him in Illinois and Colorado. Unsworth also repeatedly declined to speak to police officers—in Chicago and Minneapolis—and was recording with his cellphone when he deplaned in Minneapolis.

Unsworth argues that these circumstances do not establish reasonable, articulable suspicion because behavior consistent with a drug-courier profile, criminal history, and suspicious behavior are each individually insufficient to meet that standard. But we do not consider these circumstances individually; we consider the totality of the circumstances. *Martinson*, 581 N.W.2d at 852. On this record, we conclude that the officers had reasonable, articulable suspicion that Unsworth was involved in drug-related criminal activity. Accordingly, the district court did not err by denying Unsworth's motion to suppress.

Affirmed.