STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0665

State of Minnesota,
Respondent,

vs.

Maynard Alciun Kettler,
Appellant.

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

Stearns County District Court
File No. 73-CR-17-5896

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

Janelle P. Kendall, Stearns County Attorney, Kyle R. Triggs, Assistant County Attorney, St. Cloud, Minnesota (for respondent)

Robert E. Pottratz, Pottratz Law Office, Melrose, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Hooten, 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 Maynard Alciun Kettler challenges his gross-misdemeanor DWI conviction, arguing that the district court erred in denying his motion to suppress evidence on the grounds that the traffic stop of his vehicle was not based on reasonable, articulable suspicion of wrongdoing. We reverse.

D E C I S I O N

Officers may conduct limited stops to investigate suspected criminal activity when they can "point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000) (quotation omitted). Because there is no dispute about the underlying facts of this case, "the determination of whether a stop is valid is a legal issue for this court," which is reviewed de novo. *Schuster v. Comm'r of Public Safety*, 622 N.W.2d 844, 846 (Minn. App. 2001). In reviewing the legality of a stop, this court considers "the events surrounding the stop" and "the totality of the circumstances in determining whether the police had a reasonable basis justifying the stop." *Britton*, 604 N.W.2d at 87.

"Reasonable suspicion is a particularized and objective basis for suspecting the particular person stopped of criminal activity." *State v. Lugo*, 887 N.W.2d 476, 486 (Minn. 2016). While not a high threshold, "reasonable suspicion requires something more than an unarticulated hunch," and requires that "the officer must be able to point to something that objectively supports the suspicion at issue." *State v. Davis*, 732 N.W.2d 173, 182 (Minn.

2007) (quotation omitted). Kettler argues that because "there was no basis for suspecting that he had committed a crime at the [scene], and no basis for suspecting that he was engaged in criminal activity driving to his home," there was no reasonable suspicion to initiate the stop.[1]

Here, Kettler and a passenger were sitting in a white van for approximately 30 minutes at a campground near Lake Maria. S.W. was at the campground with his family and called in to the non-emergency Stearns County dispatch center to report the van. He stated that Kettler and the passenger had asked him and his wife a question and "they were honking their horn at [S.W.'s] kids." S.W. called because he did not know if they were "doing anything illegal, but it just seem[ed] odd."

A deputy was dispatched to the scene and met Kettler's vehicle while on the way to the campground. He was separated from the van in traffic, but later intercepted Kettler when they met again at an intersection. The deputy did not observe any traffic violations before initiating a stop, and, the only potential grounds for the stop were from the report S.W. gave dispatch.

At an omnibus hearing regarding the legality of the stop, the deputy stated he was responding to a report "that there were two individuals sitting in a white van, and they were honking at children." He provided no further testimony regarding any observation or suspicion of criminal activity. Because the deputy did not point to any facts that objectively

[1] Kettler also argues that the dispatcher did not communicate enough facts to the deputy to establish reasonable, articulable suspicion and the collective knowledge doctrine does not apply. Because we hold there was no reasonable, articulable suspicion with or without the dispatcher's knowledge, we will not address the collective-knowledge argument.

support the suspicion at issue, nor did he identify any crime he suspected that Kettler was committing, there were not sufficient circumstances to warrant an investigative stop of Kettler's vehicle. *See Lugo*, 887 N.W.2d at 486 (stating that an officer must "articulate specific facts, which taken together with rational inferences from those facts, objectively support the officer's suspicion"). Moreover, while parking at a campground and honking the horn may appear strange, it does not rise to criminal activity. There was no testimony regarding the duration of Kettler's honking and S.W. did not provide any context that would suggest criminal activity.

While the district court determined that Kettler's "behavior created reasonable suspicion that [he] was being disorderly, in violation of Minnesota Statute Section 609.72," the deputy did not articulate reasonable suspicion of such behavior. In fact, the deputy did not articulate any objective basis for the stop other than stating at the omnibus hearing that he was responding to a report "that there were two individuals sitting in a white van, and they were honking at children." Accordingly, Kettler's pretrial motion to suppress evidence should have been granted.

Reversed.