STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1554

State of Minnesota,
Respondent,

vs.

Carlos Ramone Sargent,
Appellant.

Filed September 28, 2020
Affirmed
Larkin, Judge

Cass County District Court
File No. 11-CR-18-139

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Benjamin T. Lindstrom, Cass County Attorney, Walker, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

David M. Robbins, Special Assistant Public Defender, Meyer Njus Tanick, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Reilly, Judge; and Jesson, Judge.

S Y L L A B U S

An officer may expand the scope of a traffic stop to investigate a suspected pretrial-release violation if the expansion is reasonable as defined in *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968), that is, if the government interest in public safety outweighs the

resulting intrusion on the suspect's individual rights and the expansion is supported by reasonable suspicion.

O P I N I O N

LARKIN, Judge

Appellant challenges his conviction for unlawful possession of ammunition. He contends that the district court erred by denying his motion to suppress the ammunition, which was found in appellant's clothing after he was arrested during a traffic stop for a pretrial-release violation and searched incident to arrest. Given the balance of the government and individual interests at stake and the totality of the circumstances, the police reasonably expanded the traffic stop to investigate appellant's suspected violation of a condition of pretrial release. We therefore affirm.

FACTS

In May 2017, the state charged appellant Carlos Ramone Sargent with fifth-degree controlled-substance possession and driving while impaired. The district court ordered conditional bail, which included requirements that Sargent not use intoxicants and submit to random testing for intoxicants.[1] Sargent posted the conditional bail and was released from custody pending further proceedings.

In November 2017, the Leech Lake Tribal Police arrested Sargent for violating his conditions of release. During a search incident to arrest, the police found three shotgun

[1] Although it is not an issue in this appeal, we note that "Minn. R. Crim. P. 6.02, subd. 1, requires the district court, in considering conditions of pretrial release, to set 'monetary bail' without other conditions of release." *State v. Houx*, 709 N.W.2d 280, 281 (Minn. App. 2006).

shells in Sargent's clothing. In January 2018, the state charged Sargent with unlawful possession of ammunition.[2] Sargent moved to suppress the shotgun shells, and the district court held an evidentiary hearing on his motion.

At the motion hearing, the state presented evidence that on the evening of November 4, 2017, a Leech Lake Tribal Police Officer stopped a vehicle driven by E.H. because she had turned without signaling. E.H. had three passengers in her vehicle, including Sargent. The officer testified that he knew Sargent from "previous law enforcement contacts" and that Sargent had "a pretty good record." The officer testified that on October 25, 2017, he had investigated Sargent's involvement in an assault. At that time, the officer did "a warrant check and probation check" and learned that Sargent was on pretrial release.

The officer testified that he smelled an odor of alcohol emanating from the vehicle. The officer asked E.H. if she had been drinking, and she responded, "No." The officer asked the passengers, including Sargent, if they had been drinking. Sargent responded, "Yes." E.H. submitted to a preliminary breath test (PBT), which confirmed that she had not been drinking. After E.H. submitted to the PBT, the officer asked Sargent if he was on a "no-drink" condition, and Sargent responded, "Yes." Sargent agreed to submit to a PBT and provided a breath sample that indicated an alcohol concentration of 0.03.

[2] Sargent could not lawfully possess ammunition because he had been convicted of second-degree assault. *See* Minn. Stat. § 624.713, subd. 1(2) (2016) (prohibiting persons convicted of a "crime of violence" from possessing ammunition).

The officer contacted dispatch to confirm the conditions of Sargent's pretrial release. Dispatch informed the officer that Sargent was required to refrain from alcohol consumption and to submit to random testing. Sargent gave the officer the name of his supervising agent. The officer was unable to contact Sargent's supervising agent, but the officer contacted another agent of the department responsible for supervising Sargent's pretrial release. That agent requested that Sargent be arrested for drinking alcohol in violation of his pretrial-release conditions. The police arrested Sargent, searched him, and found shotgun shells in his clothing.

In support of his motion to suppress, Sargent argued that the initial traffic stop was pretextual and that the police unreasonably expanded the traffic stop to investigate his pretrial-release status. He also argued that his random-testing condition was unconstitutional and therefore did not provide a basis for the PBT, which he deemed a warrantless search.

The district court denied Sargent's motion to suppress. The court concluded that there was a valid basis for the stop and that Sargent's random-testing condition provided a valid basis for the PBT. The district court further concluded that, even if reasonable, articulable suspicion was necessary to exercise the random-testing condition, the odor of alcohol emanating from E.H.'s vehicle established such suspicion. Sargent requested reconsideration. The district court reconsidered the issue, but the court once again refused to suppress the evidence, reasoning that the ammunition was discovered during a valid search incident to arrest.

Sargent waived his trial rights and stipulated to the prosecution's case under Minn. R. Crim. P. 26.01, subd. 4, to obtain review of the district court's pretrial ruling. The district court found Sargent guilty and sentenced him to serve 60 months in prison. Sargent appeals.

ISSUE

Did the district court err by denying Sargent's motion to suppress?

ANALYSIS

"When reviewing pretrial orders on motions to suppress evidence, we may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). We review the district court's factual findings for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). In reviewing the district court's factual findings, this court defers to the district court's credibility determinations. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003).

Sargent challenges the district court's denial of his motion to suppress. Sargent first argues that the officer unreasonably expanded the traffic stop to investigate his pretrial-release status. He next argues that his random-testing condition was unconstitutional. Sargent agrees that this court need not address his second argument if we conclude that the

officer reasonably expanded the traffic stop to investigate his suspected pretrial-release violation.[3] We therefore begin our analysis with that issue.

Traffic Stops Under the Minnesota Constitution

The Fourth Amendment of the U.S. Constitution and article I, section 10, of the Minnesota Constitution protect "against unreasonable searches and seizures." Warrantless searches and seizures are per se unreasonable unless they fall under an established exception. *State v. Othoudt*, 482 N.W.2d 218, 221-22 (Minn. 1992) (citing *Katz v. United States*, 389 U.S. 347, 357, 88 S. Ct. 507, 514 (1967)). Evidence seized in violation of the United States or Minnesota Constitutions must be suppressed. *Terry*, 392 U.S. at 12-13, 88 S. Ct. at 1875; *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

Under *Terry*, a police officer may temporarily detain an individual based on reasonable, articulable suspicion that the individual is engaged in criminal activity. *Diede*, 795 N.W.2d at 842-43. In *State v. Askerooth*, the Minnesota Supreme Court adopted "the principles and framework of *Terry* for evaluating the reasonableness of seizures during traffic stops even when a minor law has been violated." 681 N.W.2d 353, 363 (Minn. 2004). In doing so, the supreme court interpreted the Minnesota Constitution as affording greater protection against unreasonable searches and seizures than the United States Constitution.[4] *Id*.

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[3] Sargent makes additional arguments in a pro se supplemental brief.

[4] The Minnesota Supreme Court did so because the court was uncertain whether *Terry* could still be applied to traffic stops supported by probable cause in light of the United States Supreme Court's decision in *Atwater v. City of Lago Vista*, 532 U.S. 318, 121 S. Ct. 1536 (2001), which confirmed that "'[i]f an officer has probable cause to believe that an

When assessing the validity of an investigative seizure under *Terry*, a court considers two issues: whether the seizure was justified at its inception, and whether the actions of the police during the seizure were "reasonably related to and justified by the circumstances that gave rise to the stop in the first place." *Id*. at 364.

> The second *Terry* prong constrains the scope and methods of a search or seizure. An initially valid stop may become invalid if it becomes intolerable in its intensity or scope. Thus, each incremental intrusion during a stop must be strictly tied to and justified by the circumstances which rendered the initiation of the stop permissible. An intrusion not closely related to the initial justification for the search or seizure is invalid under article I, section 10 unless there is independent probable cause or *reasonableness* to justify that particular intrusion.

Id. (emphasis added) (quotations and citations omitted).

"In essence, Article I, Section 10 of the Minnesota Constitution requires that each incremental intrusion during a traffic stop be tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) *reasonableness, as defined in Terry*." *Id*. at 365 (emphasis added). "[A]n extension of the duration of a stop beyond the time necessary to effectuate the purposes of the stop is unreasonable." *Id*. at 371.

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individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.'" *Askerooth*, 681 N.W.2d at 360 (alteration in original) (quoting *Atwater*, 532 U.S. at 354, 121 S. Ct. at 1557).

Justification for Inception of the Traffic Stop

We first consider whether the traffic stop was justified at its inception. "Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle." *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). In this case, the officer testified that he stopped E.H.'s vehicle because she failed to signal a turn. Sargent's principal brief suggests that the initial stop was invalid, stating that the vehicle "was ostensibly stopped for a minor traffic violation" but "[t]he video evidence in the record . . . is inconclusive and the vehicle driver offered testimony disputing the officers' accounts." But the district court found the officer's testimony credible, and we defer to that credibility determination. *See Miller*, 659 N.W.2d at 279. Thus, E.H.'s failure to signal a turn justified the traffic stop at its inception. *See* Minn. Stat. § 169.19, subd. 5 (2016) (requiring a turn signal to be "given continuously during not less than the last 100 feet traveled by the vehicle before turning").

Justification for Expansion of the Traffic Stop

We next consider whether the officer reasonably expanded the traffic stop to investigate whether Sargent's admitted alcohol consumption violated any court-ordered condition of pretrial release.

At oral argument to this court, Sargent clarified that he does not assign constitutional error to the officer's initial questioning of E.H.'s passengers regarding whether they had been drinking. He recognizes that under the circumstances, it was reasonable to ask such questions to determine whether the odor of alcohol was emanating from the driver E.H. or from her passengers. *See United States v. Johnson*, 58 F.3d 356, 357 (8th Cir. 1995)

(stating that an officer may engage in routine questioning of vehicle passengers to verify information provided by the driver).

However, Sargent argues that any suspicion that E.H. was driving while intoxicated was dispelled once E.H.'s PBT confirmed that she had not been drinking and that, therefore, the investigative seizure should have ended at that time.[5] Sargent argues that the officer unreasonably expanded the traffic stop by asking him if he was subject to a "no-drink" condition. Specifically, Sargent argues that a suspected pretrial-release violation is not criminal activity and that the officer therefore was not permitted to investigate any suspected violation. Sargent contends that "[m]ere knowledge that an individual is on pretrial release, even when coupled with the smell of alcohol and admission of use, does not amount to reasonable articulable suspicion of criminal activity."

The state counters that under the circumstances, Sargent's admission that he had been drinking justified expansion of the traffic stop to investigate whether Sargent had violated a pretrial-release condition. The state argues that because a pretrial-release violation could be the basis for a criminal contempt charge, such a violation constitutes criminal activity within the meaning of *Terry*. *See* Minn. Stat. § 588.20, subd. 2(4) (2018) (defining misdemeanor criminal contempt to include "willful disobedience to the lawful process or other mandate of a court").

[5] The state does not challenge Sargent's assertion that he was seized as a result of the traffic stop. *See State v. Fort*, 660 N.W.2d 415, 418 (Minn. 2003) ("[W]e need not decide whether a passenger in a stopped vehicle is also seized because, even if Fort was not seized as part of the stop, a person is seized if a reasonable person, under the circumstances, would not feel free to disregard the police questions or to terminate the encounter.").

The Minnesota Supreme Court has held that "[a] willful violation of a term of probation is not, standing alone, a violation of a 'mandate of a court' that subjects a probationer to criminal contempt under Minn. Stat. § 588.20, subd. 2(4) (2014)." *State v. Jones*, 869 N.W.2d 24, 25 (Minn. 2015). Thus, we are not persuaded that a pretrial-release violation is a crime. And because it is not a crime, it does not provide a basis for a traditional *Terry* stop. *See Terry*, 392 U.S. at 22, 88 S. Ct. at 1880 (stating that "a police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possibly criminal behavior").

But we are also not persuaded that the noncriminal nature of a pretrial-release violation requires a conclusion that expansion of a warrantless seizure to investigate such a violation is never constitutionally reasonable. Neither party cited any caselaw directly on point. Our research reveals one federal case that touches on the issue. In *United States v. Santillanes*, a detective saw an individual at an airport in New Mexico, knew that the individual was under indictment for possession of heroin, and was under the impression that individuals under felony indictment were not permitted to leave the county. 848 F.2d 1103, 1104-05 (10th Cir. 1988). Based on that belief, the detective stopped and questioned the individual to see if he had violated his pretrial-release conditions. *Id.* at 1105. After questioning the individual and patting him down multiple times, the detective found drugs on the individual. *Id.*

The Tenth Circuit Court of Appeals considered whether the detective's actions constituted a valid *Terry* stop. *Id.* at 1107. The court noted that "[s]uch a violation of conditions of release [wa]s not a crime in New Mexico but a matter to be resolved by a

judge when made known to him or to her." *Id.* at 1105. The court relied on court rules providing that the court on its own motion, or upon motion of the prosecuting attorney, may at any time have a defendant arrested to review conditions of release and concluded, "when an individual violates a condition of release the court may have the person arrested," and such a violation "is a matter to be brought to the court's attention." *Id.* at 1107. The Tenth Circuit held that "since there was no crime involved in the possible departure of [the individual] from the jurisdiction the reason advanced by the Government and the detective for the initial stop was not valid," stating that the detective, at most, "should have reported seeing the [individual] at the particular place in the airport when he had identified him." *Id.* Sargent makes a similar argument, asserting that in this case, the officer, at most, should have reported Sargent's alcohol consumption to his supervising agent.

But unlike *Santillanes*, in which the Tenth Circuit indicated that a suspected violation of a condition of release was a matter only for the court's attention, Minnesota's court rules permit an officer to make a warrantless arrest for violation of a pretrial-release condition under certain circumstances.

> A peace officer may arrest a released defendant if the officer has probable cause to believe a release condition has been violated and it reasonably appears continued release will endanger the safety of any person. The officer must promptly take the defendant before a judge. When possible, a warrant should be obtained before making an arrest under this rule.

Minn. R. Crim. P. 6.03, subd. 2.

Because Minnesota's court rules authorize a warrantless arrest for a pretrial-release violation, unlike the Tenth Circuit in *Santillanes*, we cannot reason that a warrantless

seizure based on a noncriminal pretrial-release violation is never constitutionally valid.[6] Indeed, a suspected petty-misdemeanor infraction may justify a *Terry* stop, and by definition, a petty-misdemeanor offense is not a crime. *See* Minn. Stat. § 609.02, subd. 4a (2018) ("'Petty misdemeanor' means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than $300 may be imposed."); *George*, 557 N.W.2d at 578 (stating that an officer may stop a vehicle based on a violation of an "insignificant" traffic law).

Faced with this apparent issue of first impression, we turn to the standard set forth in *Askerooth*, which once again requires "that each incremental intrusion during a traffic stop be tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness, as defined in *Terry*." 681 N.W.2d at 365. Because the state does not argue that investigation of Sargent's pretrial-release status was justified by either of those first two grounds, we ask whether the investigation was justified by independent reasonableness, as defined in *Terry*, which is consistent with the parties' framing of the issue. In doing so, we utilize the Fourth Amendment analysis set forth in *Terry* to determine whether the officer's actions were reasonable.[7]

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[6] Sargent does not question or otherwise challenge the validity of Minn. R. Crim. P. 6.03, subd. 2.

[7] For the reasons that follow, we limit our analysis to the Fourth Amendment. Although we may interpret the Minnesota Constitution as affording greater protection against unreasonable search and seizure than the United States Constitution, "we will [not] cavalierly construe our constitution more expansively than the United States Supreme Court has construed the federal constitution." *State v. Fuller*, 374 N.W.2d 722, 726-27 (Minn. 1985). We are not aware of any United States Supreme Court decision construing

Reasonableness as Defined in Terry

Terry instructs that "what the Constitution forbids is not all searches and seizures, but unreasonable searches and seizures." 392 U.S. at 9, 88 S. Ct. at 1873 (quotation omitted). Thus, "the central inquiry under the Fourth Amendment [is] the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security." *Id*. at 19, 88 S. Ct. at 1878-79. "[T]here is no ready test for determining reasonableness other than by balancing the need to search or seize against the invasion which the search or seizure entails." *Id*. at 21, 88 S. Ct. at 1879 (quotation omitted). We consider the "nature and extent of the governmental interests involved," as well as the "nature and quality of the intrusion on individual rights." *Id*. at 22, 24, 88 S. Ct. at 1880-81; *see State v. Burbach*, 706 N.W.2d 484, 488 (Minn. 2005) ("And to be reasonable, any intrusion in a routine traffic stop must be supported by an objective and fair balancing of the government's need to search or seize and the individual's right to personal security free from arbitrary interference by law officers." (quotations omitted)); *State v. Ferrise*, 269 N.W.2d 888, 890-91 (Minn. 1978) (referring to "the now familiar balancing approach for

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the Fourth Amendment in the context of a warrantless seizure based on a suspected pretrial-release violation. Moreover, Sargent does not argue that we should interpret the Minnesota Constitution as providing greater protection than the Fourth Amendment in that context. Instead, he cites the Minnesota Constitution because it is the basis for the traffic-stop caselaw on which he relies. Although this case involves a traffic stop and the Minnesota Constitution provides greater protection than the Fourth Amendment in this context, the relevant reasonableness analysis is based on *Terry* and the Fourth Amendment. *See Askerooth*, 681 N.W.2d at 363 (adopting "the principles and framework of *Terry* for evaluating the reasonableness of seizures during traffic stops").

determining the reasonableness of the police action" and stating that "[t]he test is the reasonableness of the intrusion under all the circumstances").

Balance of Interests

Consistent with *Terry*, we begin by balancing the government's need to question Sargent regarding his pretrial release status against the invasion that it entailed. *See Askerooth*, 681 N.W.2d at 365 ("[T]he focus of our analysis is whether [the officer's] intensifying the intrusive nature of the seizure by confining Askerooth in the squad car was justified by some governmental interest that outweighed Askerooth's interest in being free from arbitrary interference by law officers." (quotation omitted)).

As to the government interests involved, pretrial-release conditions are intended to ensure the defendant's appearance at future court hearings, as well as public safety. Minn. R. Crim. P. 6.02, subd. 1. The public-safety concern is embodied in the factors that a district court must consider when determining conditions of release, which include "the community's safety." *Id.*, subd. 2. The importance of the public-safety concern is reflected in Minn. R. Crim. P. 6.03, subd. 2, which authorizes a warrantless arrest for a pretrial-release violation.

As to the intrusion on individual rights, Sargent contends that he was "subjected to intrusive questioning aimed at soliciting evidence of a crime." He argues that the facts of this case are similar to those in *State v. Fort*, in which the police unreasonably expanded a traffic stop by asking a passenger questions about drugs and weapons in the absence of reasonable, articulable suspicion. 660 N.W.2d at 419. But he also argues—and we agree—that the inquiry regarding Sargent's pretrial-release status did not regard criminal activity.

Thus, the officer's question regarding whether Sargent was on a "no-drink" condition was not as intrusive as the questioning about criminal activity in *Fort*. *See id*. at 418 ("The questions were particularly intrusive given that they were aimed at soliciting evidence of drugs and weapons.").

Moreover, Sargent remained seated in the vehicle while the officer investigated whether E.H. had been drinking and driving. After the officer obtained E.H.'s PBT result, the officer returned to the vehicle and asked Sargent whether he was prohibited from using alcohol while on pretrial release. Sargent remained seated in the vehicle when the officer asked the question. The record does not suggest—and Sargent does not argue—that an unreasonable amount of time passed between E.H.'s PBT and the question regarding his pretrial-release status.

In sum, although the expansion of the investigation to include Sargent's pretrial-release status intruded on Sargent's individual rights, the intrusion was de minimis. On balance, the public-safety interest underlying the imposition of conditions of pretrial release outweighs the minimal intrusion that resulted from the officer's expansion of the traffic stop to ask Sargent whether he was subject to a "no-drink" condition of release. *See Ferrise*, 269 N.W.2d at 891 ("We hold that the intrusion into the passenger's privacy was minimal and that it may not prevail when balanced against the important public interests involved.").

Totality of the Circumstances and Reasonable Suspicion

We next consider whether the officer articulated an adequate basis to expand the traffic stop to investigate Sargent's pretrial-release status. *See Terry*, 392 U.S. at 28-29,

88 S. Ct. at 1883-84 ("The Fourth Amendment proceeds as much by limitations upon the scope of governmental action as by imposing preconditions upon its initiation."). In doing so, we again look to *Terry* and its progeny for guidance and apply the principle that justifies a warrantless investigative seizure, that is, reasonable suspicion.

"Reasonable suspicion must be based on specific, articulable facts that allow the officer to . . . articulate . . . that he or she had a particularized and objective basis for [his suspicion]." *Diede*, 795 N.W.2d at 842-43 (quotations omitted). In determining whether reasonable suspicion exists, courts "consider the totality of the circumstances and acknowledge that trained law enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person." *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001). Reasonable suspicion "requires at least a minimal level of objective justification." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). "[T]he reasonable suspicion standard is not high," but it requires more than an unarticulated "hunch." *Id.* (quotations omitted). An officer may not act based on "mere whim, caprice, or idle curiosity." *Marben v. State, Dep't of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980) (quotation omitted).

Because Sargent contends that the improper expansion occurred when the officer asked him if he was subject to a "no-drink" condition, we examine the totality of the circumstances at that time, which are undisputed. When the officer approached the vehicle and communicated with its occupants, he smelled an odor of alcohol. The officer asked the driver and passengers if they had been drinking. Sargent responded, "Yes." The officer knew Sargent from "previous law enforcement contacts" and that he had "a pretty good

record." The officer also knew that Sargent was on pretrial release ten days earlier, when he investigated Sargent's involvement in an assault.

Sargent contends that it was unreasonable for the officer to suspect a pretrial-release violation because the officer did not know if Sargent was on *conditional* pretrial release. Sargent argues that in asking that question, the officer made two unreasonable inferences: first, that Sargent's pretrial release was subject to conditions, and second, that one of those conditions prohibited alcohol consumption. However, "trained law enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person." *Richardson*, 622 N.W.2d at 825. Given the officer's knowledge of Sargent's criminal history and his knowledge that Sargent was on pretrial release ten days earlier, the officer was permitted to infer that Sargent's alcohol use might violate a condition of release.

We are once again guided by the Supreme Court's instruction in *Terry*: "[I]t is imperative that the facts be judged against an objective standard: would the facts available to the officer at the moment of the seizure or the search warrant a man of reasonable caution in the belief that the action taken was appropriate?" 392 U.S. at 21-22, 88 S. Ct. at 1880 (quotation omitted); *see also Askerooth*, 681 N.W.2d at 364 (stating same standard). Here, the answer to that question is yes. The totality of the circumstances indicate that the officer reasonably suspected a pretrial-release violation that justified the officer's question regarding Sargent's pretrial-release condition.

In response to that question, Sargent acknowledged that he was not allowed to consume alcohol while on pretrial release, confirming the officer's suspicion and triggering

the officer's request for Sargent's PBT, which was reasonable.[8] *See State, Dep't of Pub. Safety v. Juncewski*, 308 N.W.2d 316, 321 (Minn. 1981) (stating that an officer may administer a PBT if the officer has reasonable, articulable suspicion). Sargent's PBT result confirmed that he had been drinking alcohol and led to the officer's independent verification of Sargent's pretrial-release condition, as well as the officer's communication of Sargent's admitted violation to an agent of the department responsible for supervising Sargent's pretrial release. Those actions led to Sargent's arrest for a pretrial-release violation, his search incident to arrest, and the discovery of the ammunition supporting his conviction. "A search incident to a lawful arrest is a well-recognized exception to the warrant requirement under the Fourth Amendment."[9] *State v. Bernard*, 859 N.W.2d 762, 766 (Minn. 2015), *aff'd sub nom*. *Birchfield v. North Dakota*, 136 S. Ct. 2160 (2016).

Our Holding

Because the officer here reasonably expanded the traffic stop to investigate Sargent's pretrial-release status, we reject Sargent's argument that the ammunition should have been suppressed as the result of an unconstitutional seizure, without addressing

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[8] As it relates to his unreasonable-expansion argument, Sargent's challenge to the officer's request for the PBT is limited to his assertion that it was unreasonable to suspect a pretrial-release violation.

[9] Sargent did not—and does not—challenge the police actions that followed his PBT, including his arrest or his search incident to arrest. Thus, those issues are not before us in this appeal. *See* Minn. R. Crim. P. 26.01, subd. 4(a) (stating that the parties must "agree that the court's ruling on a *specified* pretrial issue is dispositive of the case, or that the ruling makes a contested trial unnecessary" (emphasis added)); *Ortega*, 770 N.W.2d at 147 n.1, 149 (stating that review of a rule 26.01, subdivision 4, proceeding is limited to the dispositive pretrial ruling); *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that appellate courts "generally will not decide issues which were not raised before the district court").

Sargent's alternative argument that the ammunition was discovered as the result of an unconstitutional random-testing condition.[10] In doing so, we hold that an officer may expand the scope of a traffic stop to investigate a suspected pretrial-release violation if the expansion is reasonable as defined in *Terry*, that is, if the government interest in public safety outweighs the resulting intrusion on the suspect's individual rights and the expansion is supported by reasonable suspicion.

Because the issue is not before us, we do not decide whether an officer can initiate a warrantless investigative seizure based on reasonable, articulable suspicion of a pretrial-release violation. Nor do we suggest that expansion of a traffic stop to investigate an individual's pretrial-release status is always reasonable. *See Ohio v. Robinette*, 519 U.S. 33, 39, 117 S. Ct. 417, 421 (1996) (recognizing "the endless variations in the facts and circumstances implicating the Fourth Amendment" (quotation omitted)). We only conclude that, depending on the balance of interests at stake and the totality of the circumstances, a suspected violation of a pretrial-release condition can provide a basis to expand a lawful traffic stop. The circumstances here did so.

Pro Se Issues

As to the additional arguments in Sargent's pro se brief, Sargent contends that the traffic stop was a pretext for the officer's investigation. However, an officer's subjective

[10] Once again, Sargent agrees that this court need not address the constitutionality of his random-testing condition if we conclude that the officer reasonably expanded the traffic stop to investigate his suspected pretrial-release violation. Nonetheless, we observe that the record does not suggest that the officer's request for Sargent's PBT was based on the random-testing condition.

motive does not invalidate objectively justifiable behavior under the Fourth Amendment. *State v. Lemert*, 843 N.W.2d 227, 230-31 (Minn. 2014) (quoting *Whren v. United States*, 517 U.S. 806, 812, 116 S. Ct. 1769, 1774 (1996), for the proposition that, with the exceptions of inventory searches and administrative inspections, an "officer's motive" does not invalidate "objectively justifiable behavior under the Fourth Amendment"); *see George*, 557 N.W.2d at 579 (stating that "the Supreme Court has now made clear that the constitutional reasonableness of a traffic stop does not turn on the actual motivations of the officer involved"); *State v. Olson*, 482 N.W.2d 212, 214 (Minn. 1992) (noting that the supreme court has "held that if there is an objective legal basis for it, an arrest or search is lawful even if the officer making the arrest or conducting the search based his or her action on the wrong ground or had an improper motive"). Here, the district court credited the officer's testimony that E.H. failed to signal a turn. That traffic violation provided an objective basis for a brief investigative seizure. *See George*, 557 N.W.2d at 578.

Sargent also contends that law enforcement's supervision of his pretrial-release condition resulted in a separation-of-powers violation. That issue was not raised in or determined by the district court, and Sargent offers little legal analysis to support his position. Given the procedural posture of this case, the issue is not properly before us. *See* Minn. R. Crim. P. 26.01, subd. 4(a) (stating that the parties must "agree that the court's ruling on a *specified* pretrial issue is dispositive of the case, or that the ruling makes a contested trial unnecessary" (emphasis added)); *Ortega*, 770 N.W.2d at 147 n.1, 149 (stating that review of a rule 26.01, subdivision 4, proceeding is limited to the dispositive pretrial ruling).

Moreover, "[a]n assignment of error based on mere assertion and not supported by legal authority or argument is waived unless prejudicial error is obvious on mere inspection." *Brooks v. State*, 897 N.W.2d 811, 818 (Minn. App. 2017), *review denied* (Minn. Aug. 8, 2017). Minn. R. Crim. P. 6.03, subd. 2, allows a warrantless arrest for violation of a pretrial-release condition, and the officer here conferred with an agent of the department responsible for supervising Sargent's pretrial release before arresting him. We discern no obvious prejudicial error warranting reversal.

D E C I S I O N

The officer in this case reasonably expanded the traffic stop of E.H.'s vehicle to investigate Sargent's suspected violation of a pretrial-release condition. Because the challenged evidence was obtained as a result of that lawful investigative seizure, we affirm the district court's denial of Sargent's motion to suppress.

Affirmed.