STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0349

State of Minnesota,
Respondent,

vs.

Robert Francisco Meffert,
Appellant.

Filed December 14, 2020
Affirmed
Gaïtas, Judge

Nobles County District Court
File No. 53-CR-18-903

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

Joseph M. Sanow, Nobles County Attorney, Worthington, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Slayton, Minnesota (for respondent)

Steven P. Groschen, David A. Samb, Kohlmeyer Hagen Law Office, Chtd., Mankato, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Gaïtas, Judge.

U N P U B L I S H E D O P I N I O N

GAÏTAS, Judge

In this direct appeal from his conviction of driving after cancellation—inimical to public safety, appellant Robert Francisco Meffert argues that the district court erred in

finding no seizure where a police officer requested and took Meffert's driver's license to his squad car for a records check. We conclude that even if Meffert was seized, the officer had reasonable, articulable suspicion justifying a limited investigatory seizure. We affirm.

FACTS

At around midnight on September 28, 2018, a police officer on patrol duty drove through a gas station parking lot in Worthington, Minnesota. As he did so, he noticed a car parked on a side of the building where customers do not generally park. He saw a person in the driver's seat of the car. That person had a hood pulled over his head and was slouched down, but appeared to be awake. The officer found this suspicious and parked across the street from the gas station to monitor the person.

After ten minutes, the individual in the car had not moved, and the officer drove back into the gas station parking lot. The officer did not activate the squad car's emergency lights or spotlight, and he parked well behind the parked car in a way that did not block it. After parking his squad car, the officer approached the parked car on foot, where he spoke with the sole occupant, later identified as Meffert, through the front passenger-side window.

The officer asked Meffert if he was okay and if he was waiting for someone, explaining that he noticed Meffert had been there for a while. Meffert responded that the exhaust on his car was broken and that he needed to get it fixed. The officer replied that this was okay; he just wanted to make sure that Meffert was not "staking out the place or something like that." He then asked Meffert if he had any identification, explaining that he wanted to "cover his bases" in case the gas station called about Meffert sitting in the

parking lot. The two continued to converse as Meffert handed over his driver's license. The officer then asked Meffert if he had been drinking, noting that his eyes looked very red and bloodshot. Meffert replied that he had not, and the officer asked him to "hang tight" while he checked his driver's license in the squad car.

When the officer checked Meffert's driver's license, he learned that it had been canceled as inimical to public safety. He went back to speak with Meffert again, inquiring further about the exhaust problem. The officer then asked Meffert whether he had been driving, and Meffert replied that he had not. When the officer asked who drove the car to the gas station, Meffert replied "an imaginary person." Meffert then admitted to driving. The officer arrested Meffert for driving with a canceled license.

The state charged Meffert with driving after cancellation—inimical to public safety, Minn. Stat. § 171.24, subd. 5 (2018). Meffert moved to suppress the evidence, arguing that the police officer had seized him in violation of the Minnesota Constitution by requesting and taking his driver's license without a reasonable and articulable suspicion of criminal activity. After a contested omnibus hearing, the district court denied the suppression motion, concluding that there had been no seizure. Meffert then had a stipulated-facts court trial to preserve the district court's ruling on the motion to suppress for appellate review. *See* Minn. R. Crim. P. 26.01, subd. 4. The district court found Meffert guilty and sentenced him to 365 days in jail, with 361 days stayed and credit for four days of time served.

This appeal follows.

D E C I S I O N

When reviewing a district court's pretrial ruling on a motion to suppress evidence, an appellate court reviews factual findings for clear error and legal determinations de novo. *State v. Diede*, 795 N.W.2d 836, 849 (Minn. 2011). When the facts are not in dispute, whether an unreasonable search or seizure occurred is reviewed de novo. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005).

The Minnesota Constitution, like the United States Constitution, protects "[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." Minn. Const. art. I, § 10; *accord* U.S. Const. amend. IV. A seizure occurs "when [an] officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen." *In re Welfare of E.D.J.*, 502 N.W.2d 779, 781 (Minn. 1993) (quoting *Terry v. Ohio*, 392 U.S. 1, 19 n.16, 88 S. Ct. 1868, 1879 n.16 (1968)); *see also State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999); *State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995). To determine whether a person has been seized under the Minnesota Constitution, we apply the *Mendenhall-Royer* standard. *Harris*, 590 N.W.2d at 98; *see Florida v. Royer*, 460 U.S. 491, 501-02, 103 S. Ct. 1319, 1326 (1983); *United States v. Mendenhall*, 446 U.S. 544, 554, 100 S. Ct. 1870, 1877 (1980). Under that standard, "a person has been seized if in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he or she was neither free to disregard the police questions nor free to terminate the encounter." *Cripps*, 533 N.W.2d at 391; *see also E.D.J.*, 502 N.W.2d at 780.

If a seizure occurs and is unreasonable, then all evidence obtained as a result of the seizure must be suppressed. *Harris*, 590 N.W.2d at 99. Generally, warrantless searches and seizures are per se unreasonable. *State v. Horst*, 880 N.W.2d 24, 33 (Minn. 2016). But a police officer may initiate a limited, investigatory stop without a warrant if the officer has a reasonable, articulable suspicion of criminal activity. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (citing *Terry*, 392 U.S. at 22, 88 S. Ct. at 1880). The parties agree, and the record supports, that any seizure in this case was a limited, investigatory stop subject to this standard.

Meffert argues that the police officer seized him both when he asked whether Meffert had any identification and when he took Meffert's identification to the squad car. He contends that the seizure was unconstitutional because the officer did not have the necessary reasonable, articulable suspicion to detain him to check his driver's license.

The state responds that Meffert was never seized within the meaning of the Minnesota Constitution and that, even if he was, the seizure was not unconstitutional because the officer's observations of Meffert provided reasonable, articulable suspicion for a limited, investigatory stop.

We agree with the state that the officer had reasonable, articulable suspicion to request and check Meffert's driver's license. Thus, we need not decide whether or when Meffert was seized during the encounter with the officer.

As an initial matter, the parties dispute whether this court should analyze the reasonableness of the alleged seizure because the district court determined that no seizure occurred and it did not reach the question of reasonableness. The state urges us to affirm

the district court's suppression decision on the alternative ground of reasonableness, while Meffert requests that we reverse the district court's ruling on whether a seizure occurred and remand to the district court to decide whether the seizure was justified.

Although questions that a district court did not decide are generally not amenable to appellate review, this rule is not "ironclad." *Putz v. Putz*, 645 N.W.2d 343, 350 (Minn. 2002); *see* Minn. R. Crim. P. 28.02, subd. 11 (stating that "[o]n appeal from a judgment, the court may review any order or ruling of the district court or any other matter, as the interests of justice require"). A well-established exception allows an appellate court to consider an issue when that issue is plainly decisive of the entire controversy and the lack of a district court ruling causes no possible advantage or disadvantage to either party. *Woodhall v. State*, 738 N.W.2d 357, 363 n.6 (Minn. 2007). Moreover, "[a] respondent can raise alternative arguments on appeal in defense of the underlying decision when there are sufficient facts in the record for the appellate court to consider the alternative theories, there is legal support for the arguments, and the alternative grounds would not expand the relief previously granted." *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003).

The reasonableness question is plainly dispositive of the controversy, as only unreasonable searches and seizures are unconstitutional. *See* Minn. Const. art. I, § 10. The issue was raised and argued in the district court, and both parties fully briefed it on appeal. And the facts appear to be largely undisputed; the suppression hearing was brief and the evidence straightforward. At the suppression hearing, the officer testified about why he found Meffert's conduct suspicious, and he included that information in his police report, which was entered as evidence. We accordingly see no possible advantage or disadvantage

to either party if we consider the issue without a remand, and we elect to do so in the interest of judicial efficiency. *See, e.g.*, *State v. Faber*, 343 N.W.2d 659, 660 (Minn. 1984) (addressing a question then properly before it in the interest of judicial economy).

"Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate . . . that he or she had a particularized and objective basis for suspecting the seized person of criminal activity." *Diede*, 795 N.W.2d at 842-43 (quotations omitted). "[T]he reasonable suspicion standard is not high," but it requires more than an unarticulated "hunch." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotations omitted). Courts consider the totality of the circumstances when determining whether reasonable suspicion existed. *State v. Martinson*, 581 N.W.2d 846, 852 (Minn. 1998). In doing so, they "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).

The officer testified that his suspicions were aroused when he noticed Meffert parked on the side of a gas station, where customers do not generally park, late at night. Meffert was slouched down in the vehicle with a hood pulled over his head, but he did not appear to be sleeping. The officer observed Meffert for about ten minutes and, when Meffert remained in this position, the officer went to speak with him. As he was speaking with Meffert, the officer noted that Meffert's eyes looked red and bloodshot as if he had been drinking. These specific facts articulated by the officer show that he had an objective basis for requesting and scanning Meffert's driver's license, and that he was not acting on a mere hunch. *See Diede*, 795 N.W.2d at 842-43; *Timberlake*, 744 N.W.2d at 393. In other

words, the officer had reasonable, articulable suspicion of criminal activity. We therefore conclude that any seizure of Meffert did not violate his rights under the Minnesota Constitution.

Affirmed.