

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0251**

State of Minnesota,
Respondent,

vs.

Spencer Robert Stiller,
Appellant.

**Filed December 27, 2021
Affirmed
Reilly, Judge**

Beltrami County District Court
File No. 04-CR-20-873

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

David Hanson, Beltrami County Attorney, Ashley A. Nelson, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Abigail H. Rankin, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Reilly, Judge; and Klaphake,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

REILLY, Judge

On appeal from his conviction for unlawful possession of ammunition, appellant Spencer Robert Stiller argues that the district court erred when it denied his motion to suppress evidence because law enforcement found the ammunition in his vehicle during a warrantless inventory search and the state failed to establish the inventory search was pursuant to a standard departmental policy. Because the district court did not err in denying appellant's motion to suppress evidence, we affirm.

FACTS

During a snowfall in the evening hours of March 15, 2020, Sergeant Anthony Petrie and three other deputies of the Beltrami County Sheriff's Office noticed a vehicle in a ditch on the side of the road. Sergeant Petrie approached the vehicle and saw appellant Spencer Robert Stiller, alone and unconscious at the wheel. Sergeant Petrie began checking on Stiller and saw vomit coming out of his nose and mouth. After Stiller regained consciousness, Sergeant Petrie allowed Stiller to step out of the vehicle. Stiller appeared unsteady on his feet and exhibited signs of someone under the influence of alcohol or a controlled substance.

Stiller denied that he abused controlled substances but stated he was taking several prescription medications. Sergeant Petrie first administered a breath test which did not detect the presence of alcohol, and then conducted field sobriety tests. Sergeant Petrie testified that Stiller exhibited signs of impairment and performed "[v]ery poor[ly]" on the field sobriety tests. Sergeant Petrie placed Stiller under arrest on suspicion of driving under

the influence of a controlled substance. Meanwhile, because no one was present to take custody of the vehicle, Deputy Voss called a tow truck and began conducting an inventory search with Deputies Gack and Nelson.

During the search, Deputy Gack found a cloth bag containing four shotgun shells and nine bullets in the glove compartment of the vehicle. Officers searched Stiller's criminal history and learned that he had a prior conviction for a crime of violence and thus was prohibited from possessing ammunition. Deputy Gack collected the ammunition as evidence and Deputy Nelson completed a Beltrami County Sheriff's Office impound report (the report). The report documented several items including "cell phones, glass cleaner, [and] misc[ellaneous] items in rear hatch area."

The state charged Stiller with one count of unlawful possession of ammunition under Minn. Stat. § 624.713, subd. 1(2) (Supp. 2019), and one count of fourth-degree driving while impaired (DWI) under Minn. Stat. § 169A.27, subd. 1 (2018). Stiller moved to suppress evidence of the ammunition seized from his car and the district court conducted a hearing on that motion. Sergeant Petrie, Deputy Gack, Deputy Nelson, and Deputy Voss all testified at the contested omnibus hearing. The district court sequestered the officers during the other officers' testimony. Sergeant Petrie testified first. He testified that he conducted the field sobriety tests for Stiller and ultimately placed him under arrest for driving under the influence. The prosecutor then asked about why the vehicle was towed:

Q: And what happened to Mr. Stiller's vehicle after he was placed under arrest?

A: It was towed from the edge of the ditch.

Q: Why?

A: Well, a number of reasons. . . . [I]t was off the roadway, but it was just down on the edge of the ditch. . . . [I]t was currently snowing outside. The roads were going to be plowed [H]e was placed under arrest. There was no one else there to take custody of the vehicle. . . . [T]his area, where the vehicle was in, is a high[-]traveled area. It's [a] high crime area. . . . [A]nytime that someone is arrested out of a vehicle, we assume the responsibility of that per our policy; that we'll take care of the vehicle and make sure it's safe and guarded so that none of their stuff is damaged or stolen.

When asked about the inventory search, Sergeant Petrie testified that the purpose of the search was to “document any items inside of the vehicle that are of value” to ensure nothing is taken out of it. Sergeant Petrie testified that it appeared that Stiller was living out of his vehicle because it was “completely full of property.” For that reason, the officers summarized the property for purpose of the report. When asked whether the tow and inventory search were “consistent or inconsistent with Beltrami County Sheriff’s Office policy,” Sergeant Petrie testified: “It was consistent with it.”

Deputy Voss testified next on the inventory search:

Q: What happened after you contacted the tow?

A: We began inventorying the vehicle.

Q: Why?

A: To ensure that everything is documented that is in there. We document with photographs as well.

Q: Why?

A: Just to ensure that they can't come back and tell - - say that we stole anything from the vehicle or anything is now missing from their vehicle.

Q: Okay. And is that consistent or inconsistent with Beltrami County . . . sheriff's office policy with respect to towing vehicles?

A: It is consistent with our policy.

Deputy Voss also testified that she photographed the interior of the vehicle while doing inventory, although she started the search in the rear of the vehicle and did not initially take photographs there. She stated the policy does not specify the order that the officers need to follow when conducting the inventory search. She also testified that officers “can search the vehicle in any parts of the vehicle subject to arrest per our policy” and that following an arrest for suspicion of drugs, officers can search for drug paraphernalia while conducting the inventory search.

Next, Deputy Gack testified about the inventory search:

Q: And why do you do an inventory search of the vehicle?

A: Well, you want to log any valuable items in the vehicle. And say you find something of excessive value, you want to be there to take possession of it rather than it sitting in the vehicle. But it, also, allows the vehicle to secure in the . . . tow lot so things don't get stolen from the vehicle.

. . . .

Q: And was the inventory search and the tow consistent or inconsistent with Beltrami County Sheriff's Office policy?

A: It was consistent.

Finally, Deputy Nelson testified as a witness for the defense. He was not asked about the sheriff's office policies but did testify about his role in completing the report. He testified that he briefly helped inventory the vehicle but did not itemize every item found because the vehicle's interior was photographed.

Following the hearing, the district court denied the motion to suppress evidence, finding that the officers were justified in towing Stiller's vehicle and that the testimony showed the search complied with the Beltrami County towing policy. Stiller pleaded guilty

to the misdemeanor DWI charge and stipulated to the state's evidence of the ineligible-person-in-possession-of-ammunition charge to obtain appellate review of the pretrial suppression ruling. The district court convicted Stiller on both counts and imposed a 60-month prison sentence on the ammunition charge and a concurrent 90-day sentence as to the DWI. Stiller now appeals his conviction for unlawful possession of ammunition.

DECISION

Stiller challenges his conviction for possession of ammunition by an ineligible person, arguing that the state failed to meet its burden of establishing that the deputies followed standard procedures in conducting the inventory search. Thus, he argues that the ammunition evidence should be suppressed. When reviewing a pretrial order denying a motion to suppress evidence, this court independently reviews the facts and determines whether, as a matter of law, the district court erred in 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).

The U.S. Constitution and the Minnesota Constitution both prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Generally, warrantless searches are per se unreasonable, and the state bears the burden of establishing an exception to the warrant requirement. *State v. Ture*, 632 N.W.2d 621, 627 (Minn. 2001). Inventory searches are a well-defined exception to the warrant requirement. An inventory search conducted under standard procedure before lawfully impounding an automobile is not unconstitutional under the Fourth Amendment. *Gauster*, 752 N.W.2d at 502.

Appellate courts accord deference to law enforcement caretaking procedures designed to protect vehicles in law enforcement custody. *State v. Holmes*, 569 N.W.2d 181, 186–87 (Minn. 1997). “In determining the reasonableness of an inventory search . . . courts must ask whether police carried out the search in accordance with standard *procedures* in the local police department.” *Id.* at 187. Law enforcement must also “conduct[] the search, at least in part, for the purpose of obtaining an inventory.” *Id.* at 188; *see also Colorado v. Bertine*, 479 U.S. 367, 372 (1987) (stating that searches conducted “in bad faith or for the sole purpose of investigation” are not valid inventory searches). A legitimate inventory search may be established by proof that law enforcement had a standard inventory search policy and that the officers complied with that policy. *Ture*, 632 N.W.2d at 628. The impoundment must also be reasonable under the Fourth Amendment. *State v. Rohde*, 852 N.W.2d 260, 264 (Minn. 2014). The impoundment is considered reasonable if the state’s interest in impounding the vehicle outweighs the individual’s Fourth Amendment right to be free of unreasonable searches and seizures. *Id.*

Stiller does not contend that the police had improper motives for searching the vehicle, but instead argues that the testimony and evidence did not sufficiently establish that the officers followed any standard inventory search procedure. We disagree.

Here, the state did not offer into evidence an official sheriff’s office inventory search policy. But the existence of and compliance with standard procedures may be established through testimony and does not require admission of the policy itself. *Ture*, 632 N.W.2d at 628. The transcript of the contested omnibus hearing established that the sheriff’s office had a standard inventory search procedure and that the officers complied with the

procedure during the search of Stiller's vehicle. All four officers present at the scene on March 15 testified, and the district court sequestered each officer before their testimony. Three officers testified that the search was necessary because Stiller was being arrested, no one was present to take custody of the vehicle, and the snowy weather conditions made it necessary to tow the vehicle before snowplows came through. These facts also show that the impoundment was constitutionally reasonable under the Fourth Amendment because the circumstances required police to take responsibility for the vehicle. *See Rohde*, 852 N.W.2d at 264.

Three officers independently stated that the purpose of the inventory search was to catalog any valuable items to safeguard the property. The officers testified that, when a vehicle has a great deal of property, as in this case, they will summarize, rather than itemize, the property. The report and testimony establish that the officers made a summary of Stiller's belongings. Deputy Voss further testified about the scope of the search stating that, per the sheriff's office policy, officers could search any parts of the vehicle following a lawful arrest for a DWI. The testimony and evidence establish that the officers searched the rear of the vehicle, the driver's side, and the glovebox. The testimony also established that the officers photographed the car's interior and completed a report, per the policy.

Stiller cites *State v. Hensley* as an example of a case when this court found the record did not sufficiently establish that the sheriff's department had a standard policy. No. A04-0274, 2005 WL 525538 (Minn. App. Mar. 8, 2005). In that case, no evidence of the policy was provided to the court, and the investigating officer testified "only that he conducted an inventory search and that it was 'pursuant to policy.'" *Id.* at *4. This court found that the

testimony was limited and did not reveal what the policy was, whether the department even had a policy, and whether the department followed the policy. *Id.*

This case is distinguishable from *Hensley*. The testimony at the contested omnibus hearing provided the district court with more detail about the sheriff's office policy including why the vehicle was towed, the purpose of the inventory search, the outcome of the inventory search, and whether the search complied with the sheriff's office policy. The record also contains evidence of the inventory forms and the officer's reports detailing the sequence of the events. Deputy Voss testified to her role in calling the tow truck and taking photographs. Deputy Gack's report explained his role in finding the ammunition. And Deputy Nelson testified to his role in completing the inventory sheet. Finally, Sergeant Petrie, Deputy Voss, and Deputy Gack each testified that the search complied with the sheriff's office towing policy.

In sum, because the testimony at the hearing established the existence of and compliance with a standard inventory search procedure and the search was constitutionally reasonable under the Fourth Amendment, the district court did not err in denying Stiller's motion to suppress evidence of ammunition found in his vehicle.

Affirmed.