

*This opinion is nonprecedential except as provided by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
A21-0781**

State of Minnesota,
Appellant,

vs.

Roy Lemond McPipe,
Respondent.

**Filed November 22, 2021
Reversed and remanded
Frisch, Judge**

Hennepin County District Court
File No. 27-CR-19-14833

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

Paul D. Baertschi, Assistant Maple Grove Attorney, Tallen & Baertschi, Minneapolis,
Minnesota (for appellant)

Melvin R. Welch, Welch Law Firm, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and Cleary,
Judge.*

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

NONPRECEDENTIAL OPINION

FRISCH, Judge

Appellant argues that the district court erred by granting respondent's motion to suppress evidence obtained during a traffic stop because the arresting officer possessed a reasonable, articulable suspicion to stop the vehicle. We reverse and remand.

FACTS

On June 7, 2019, an Osseo police officer parked her vehicle in a median facing northbound to watch the approaching southbound traffic. The officer routinely searches a database for license plates of vehicles she observes while on traffic duty, even in the absence of any perceived traffic violation. In this instance, the officer entered into the database the license plate of a vehicle she observed while on duty, and the database indicated that the vehicle was owned by respondent Roy Lemond McPipe.

The officer discovered from the database that McPipe's driver's license had been cancelled as inimical to public safety. She looked at the accompanying photo of McPipe and learned certain identifying information about him, including his height, weight, sex, race, and other identifying factors. The officer decided to follow the driver based on the information she discovered from the database.

The officer followed the vehicle, eventually caught up to the vehicle, and observed the driver. The officer noted that the driver of the vehicle was male and had a dark complexion. The officer stopped the vehicle and learned that the driver was indeed McPipe. The officer arrested McPipe, and appellant State of Minnesota charged him with driving after cancellation.

McPipe moved to suppress evidence of the identity of the driver, arguing only that the officer lacked a reasonable, articulable suspicion to stop the vehicle. The district court held an evidentiary hearing and thereafter granted McPipe's motion. In its suppression order, the district court did not credit the officer's testimony "identifying consistent characteristics" of the registered owner as depicted in the database and the driver of the vehicle based on her observation. This appeal follows the district court's dismissal of the action.

DECISION

We review de novo a district court's determination involving the legality of a limited investigatory stop. *See State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). The Fourth Amendment to the United States Constitution and article I of the Minnesota Constitution protect against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "A brief investigatory stop requires only reasonable suspicion of criminal activity, rather than probable cause." *State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996).

The state argues that the district court's decision runs afoul of *Pike* because under Minnesota law, a reasonable, articulable suspicion exists to stop a vehicle where an officer (1) has knowledge that the owner of a vehicle has a suspended license, (2) the officer witnesses the operation of the vehicle, and (3) the officer does not become aware of any facts that would suggest the driver of the vehicle is not the owner. *Id.* at 922. We agree that the state has correctly characterized the law as set forth in *Pike*.

In *Pike*, a trooper looked up a license plate in a database, observed the driver, and concluded that the driver matched the description of the registered owner as depicted in the

database, specifically that the driver was a younger male. *Id.* at 921. The trooper looked up the driver's license and discovered that the license had been revoked. *Id.* The trooper then stopped the vehicle and arrested the driver. *Id.* The district court found that the trooper lacked a reasonable, articulable suspicion to conduct the stop, but the supreme court reversed. It held that a reasonable, articulable suspicion exists to stop a vehicle once an officer witnesses an operating vehicle on the roadway registered to a person with a revoked license and "the officer remains unaware of any facts which would render unreasonable the assumption that the owner is driving the vehicle." *Id.* at 922.

The district court here concluded that *Pike* is inapplicable because the officer observed the sex and race of the driver, while in *Pike*, the officer observed the age and sex of the driver. But we are not persuaded that these identifying characteristics preclude the application of the rule. The court in *Pike* expressly declined to consider the characteristics observed by the officer and formulated a rule which only requires consideration of observed characteristics if those characteristics are inconsistent with the description of the registered owner. *Id.*

We conclude that the holding in *Pike* squarely applies here. It is undisputed that McPipe owned the vehicle stopped by the officer and that McPipe's license was cancelled at the time of the stop. It is also undisputed that the record contains no evidence that the officer's observation of the driver was *inconsistent* with the description of the registered owner from the database. The record contains no facts to suggest that someone other than McPipe was the driver. Pursuant to the rule set forth in *Pike*, the officer would have had a reasonable basis to assume that McPipe was the driver of the vehicle, even if the officer

had not actually observed the driver of the vehicle prior to making the stop. *See id.* (“When an officer observes a vehicle being driven, it is rational for him or her to infer that the owner of the vehicle is the current operator.”).

McPipe argues that the rule in *Pike* is outdated and should be changed. As an error-correcting court, we are obligated to apply the law as pronounced by the Minnesota Supreme Court. *State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018). The currently binding authority compels the conclusion that the officer possessed a reasonable, articulable suspicion to stop McPipe. McPipe also suggests that the stop may have been motivated by impermissible factors. But McPipe did not argue in the district court that the stop was pretextual, the parties did not present evidence of a potential pretextual basis for the stop at the evidentiary hearing, and the district court did not find that the stop was pretextual. Because this issue has not yet been raised before the district court, we express no opinion as to its merits. We therefore reverse and remand to the district court for further proceedings.

Reversed and remanded.