STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0943

State of Minnesota,
Appellant,

vs.

Isaiah Charles Bracy,
Respondent.

Filed December 20, 2021
Reversed and remanded
Kirk, Judge[*]

Ramsey County District Court
File No. 62-CR-6023

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

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for appellant)

Drake D. Metzger, Jasmin Quiggle, Metzger Law Firm, LLC, Minneapolis, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

KIRK, Judge

Following a shots-fired call, Saint Paul police officers encountered respondent Isaiah Charles Bracy standing near the area of the shooting outside his home. Because the responding officer knew him from previous shooting-related incidents, and because he was a possible witness, she called to him to ask him about the shooting. But Bracy took off down an alley, throwing a gun into some bushes. After being charged with unlawful possession of a firearm and ammunition, Bracy filed a motion to suppress the evidence. The district court ruled that the officer did not have reasonable suspicion to seize him before he took off running. The state appeals. Because we conclude that there was no initial seizure when the officer called out to Bracy, we reverse and remand.

FACTS

The facts are uncontested. Saint Paul police officers responded to a report of shots fired in the Capitol neighborhood. The shooter was described as wearing a red hat and a black jacket and was likely running south. The officers observed a man standing at the corner of Charles Avenue and Marion Street, about one block south of where the shots had been reported. The man, later identified as Bracy, was wearing all white and had a ponytail. One of the responding officers knew Bracy from previous arrests and convictions for weapons-related offenses. The responding officer got out of the squad car and called to Bracy, saying, "Hey Isaiah, come here." Bracy took off down an alley. Midway down the alley, Bracy pulled an item from his pants and threw it into heavy vegetation. Officers later located a loaded black handgun in the vegetation and arrested Bracy. The state

charged Bracy with unlawful possession of a firearm and ammunition in violation of Minnesota Statutes section 624.713, subdivision 1(2) (2020). Bracy filed a motion to suppress the evidence.

At the evidentiary hearing, the responding officer testified that she was part of the Saint Paul police department's gang unit and was familiar with the local gangs and individuals.[1] She said she has known Bracy for about five years and had between five and ten interactions with him, including knowing that he was at the scene of a prior shots-fired call in the Marion/Charles area. The officer considers Marion/Charles to be a high-crime area. She knew Bracy lived a couple houses away from where he was spotted. Bracy, she testified, looked "concerned" and was looking across the street at an apartment that was later determined to be where the shooting took place. The officer confirmed that Bracy did not have anything in his hands, he was not running, and he did not look like he had just been running. Regardless, the officer testified that she intended to conduct a stop of Bracy to ask him about the shots-fired call, particularly because of her knowledge of his criminal history and because he was a potential witness to the shooting. No other witnesses were questioned about the shooting.[2]

The district court concluded that the officer lacked a reasonable, articulable suspicion to conclude that Bracy was the suspect in the shooting or to further freeze the

[1] Bracy did not testify or present evidence at the hearing.
[2] Witnesses were asked specifically about Bracy running away from the officers and throwing his gun.

scene. Because the evidence used to charge Bracy was obtained during an unlawful seizure, the district court reasoned that the complaint must be dismissed. The state appeals.

DECISION

The Fourth Amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV.; *see also* Minn. Const. art. I, § 10. As a general rule, a law-enforcement officer may not make a warrantless arrest of a person without probable cause that the person "had committed or was committing an offense." *Beck v. Ohio*, 379 U.S. 89, 91 (1964). But a law-enforcement officer may temporarily detain a person for investigatory purposes if the officer has a reasonable, articulable suspicion that the person has engaged in criminal activity. *Terry v. Ohio*, 392 U.S. 1, 19-22, (1968); *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011). In reviewing a district court's ruling on a motion to suppress evidence, this court applies a de novo standard of review to the district court's legal determinations. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

The more intrusive a request for identification is, the more likely that it will be considered an investigative stop and, thus, a seizure that must be supported by suspicion of wrongdoing. *State v. Pfannenstein*, 525 N.W.2d 587, 589 (Minn. App. 1994), *rev. denied* (Minn. Mar. 14, 1995). A request for identification is likely to be considered a seizure when the police engage in some other action or show of authority which one would not expect between two private citizens. *State v. Day*, 461 N.W.2d 404, 407 (Minn. App. 1990), *rev. denied* (Minn. Dec. 20, 1990). But we generally have held that it does not by

itself constitute a seizure for an officer to "simply walk up and talk to a person standing in a public place." *State v. Vohnoutka*, 292 N.W.2d 756, 757 (Minn. 1980). We review whether there was a seizure as a totality of the circumstances. *Pfannenstein*, 525 N.W.2d at 589.

Here, the officer only called out Bracy's name before he started running. It is relevant that the officer and Bracy knew each other, and she merely said, "Hey Isaiah, come here," acknowledging their familiarity with each other. The record does not reflect that there was any other "show of authority" or other intimidating conduct that would have led a reasonable person to feel unable to leave. Instead, the officer's actions were more akin to cases where an officer walks up to a person in a public place. *See, e.g., In re Welfare of E.D.J.*, 502 N.W.2d 779, 782 (Minn. 1993) (moral pressure to cooperate with police officer does not make police request "seizure"). It does not matter that the officer intended to stop and detain Bracy, because while she was calling his name, there was still no seizure or other intrusion because the mere act of calling his name and telling him to "come here" did not constitute a seizure. Once Bracy took off running, however, there was reasonable suspicion to stop and detain him.[3]

[3] Because we have concluded that there was no seizure when the officer called Bracy's name, there is no need to address the arguments that there was no reasonable suspicion to initially call out to Bracy or whether the officer had the authority to "freeze the scene." However, we note that even if there was a stop, there was reasonable suspicion based on the nature of the neighborhood and the officer's knowledge of Bracy's criminal history. *State v. Bellikka*, 490 N.W.2d 660, 663 (Minn. App. 1992), *rev. denied* (Minn. Nov. 25, 1992).

Because there was no initial seizure until Bracy started running away from the officer, the district court erred in granting the motion to suppress.

Reversed and remanded.