This opinion is nonprecedential except as provided by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
A21-1704

State of Minnesota,
Respondent,

vs.

Travis Franklin Juno,
Appellant.

Filed September 6, 2022
Affirmed
Bratvold, Judge

Benton County District Court
File No. 05-CR-19-2191

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

Todd A. Kelm, Sauk Rapids City Prosecutor, Tim Reuter, Assistant City Prosecutor, Kelm & Reuter, P.A., Sauk Rapids, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and Rodenberg, Judge.[*]

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

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this direct appeal from a judgment of conviction for driving after cancellation, appellant argues that the district court erred by denying his motion to suppress evidence, because law enforcement violated his constitutional rights when they stopped his sedan. Because the arresting officer reasonably suspected that appellant committed a traffic violation, we conclude the stop was justified. Thus, we affirm.

FACTS

These facts are taken mainly from the district court's order denying the suppression motion and are supplemented by the record when relevant to the issues on appeal.

Just before 3:00 a.m. on October 4, 2019, a security guard called the Sauk Rapids Police Department to report "suspicious vehicles in the parking lot of Pilgrim's Pride [Hatchery]." According to the responding officer, the security guard reported "some kind of interaction between the drivers of the vehicle[s]," that the drivers were "acting suspiciously," and that it was unusual for vehicles to be in the parking lot after business hours. The responding officer also testified he suspected "possible criminal activity relating to sale of drugs, narcotics and possible criminal activity involving break-ins, burglaries, vandalism . . . [o]r trespassing."

Before the responding officer arrived in a marked squad car, the security guard approached the two vehicles, and one vehicle, a blue sedan, drove away from the hatchery. The security guard followed the sedan, updated the officer, and caught up to the sedan. As the officer turned onto County Road 29 from County Road 57, he observed that the sedan

was traveling "above the posted speed limit" and that the sedan "appeared to be eluding the security guard." The sedan turned onto 4th Avenue North. The officer testified he estimated the sedan was going five to ten miles per hour over the posted speed limit of 30 miles per hour. The sedan parked in the lot outside the Camden Apartments, where the driver exited the vehicle. The officer saw the driver walk "to the front of the vehicle and appear[] to throw something in the grass." The driver then approached the officer's squad car.

The officer testified the driver's behavior was "highly suspicious"; for that reason, the officer instructed the driver to return to his sedan. While talking to the driver, the officer identified him as appellant Travis Franklin Juno and determined that Juno's driving privileges were cancelled. The officer found car keys in the grass and arrested Juno.

In November 2019, respondent State of Minnesota charged Juno with one count of gross-misdemeanor driving after cancellation as inimical to public safety under Minn. Stat. § 171.24, subd. 5 (2018).

Juno moved to suppress the evidence obtained from the traffic stop and to dismiss the complaint. The district court held a contested omnibus hearing in March 2021, heard testimony from the officer, and received three exhibits, including the squad video. Juno argued there was no reasonable suspicion for the officer to stop him because the security guard's tip was not reliable, the officer sped and drove recklessly, the officer failed to use radar to determine Juno's speed, and there was no identifiable pattern of crime in the hatchery area. The state argued police had reasonable suspicion to stop Juno because the

security guard's tip was reliable, the officer was trained to estimate speed, and the officer observed Juno's sedan speeding.

In April 2021, the district court denied Juno's motions to suppress evidence and to dismiss the complaint. The district court determined the officer "had a reasonable and articulable suspicion [to stop Juno] under the totality of the circumstances" for three reasons: (1) the information provided by a security guard "that he had witnessed [suspicious activity] in the parking lot of a closed business at almost 3:00 a.m.," (2) the officer's "direct observation" of Juno exceeding the posted speed limit, and (3) Juno threw away "something in the grass" when he exited the sedan and approached the officer.

In September 2021, Juno waived his right to a jury trial and proceeded to a stipulated-facts trial under Minnesota Rule of Criminal Procedure 26.01, subdivision 3. The district court determined that the state "prove[d] the allegations [against Juno] beyond a reasonable doubt," entered a judgment of conviction, and sentenced Juno to 365 days in jail with 360 days stayed for two years.

This appeal follows.

DECISION

Juno seeks to have his conviction reversed, arguing "the district court erred in denying" his motion to suppress because the three grounds cited by the district court "did not provide a reasonable basis" for the traffic stop.

"When reviewing a district court's pretrial order on a motion to suppress evidence, 'we review the district court's factual findings under a clearly erroneous standard and the district court's legal determinations de novo.'" *State v. Gauster*, 752 N.W.2d 496, 502

(Minn. 2008) (quoting *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007)). "When facts are not in dispute . . . we review a pretrial order on a motion to suppress de novo and determine whether the police articulated an adequate basis for the search or seizure at issue." *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted).

The United States and Minnesota Constitutions protect against "unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. A warrantless search or seizure is presumptively unreasonable unless the state proves that an exception to the warrant requirement applies. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). To be constitutional, a warrantless seizure "must fall within one of the well-delineated exceptions to the warrant requirement." *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999). Under *Terry v. Ohio*, police officers may conduct a limited investigative stop if the officer has reasonable articulable suspicion of criminal activity. 392 U.S. 1, 21 (1968) ("[I]n justifying the particular intrusion the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.").

Juno first argues that the officer seized Juno when he activated his emergency lights in the apartment parking lot. The state does not dispute this issue. We agree with Juno that "a reasonable person would not have felt free to leave and terminate the encounter." We have held that "[a] driver confronted with a trailing squad car with flashing red lights inevitably feels duty bound to submit to this show of authority by pulling over until" it becomes clear the driver is not the target of the lights. *State v. Bergerson*, 659 N.W.2d 791, 795 (Minn. App. 2003). If a driver determines the lights are meant for them, "no reasonable

driver would believe that [they are] free to disregard or terminate the encounter with the police." *Id.* In *Bergerson*, we held that the driver "was seized once [the officer], while trailing [the driver's] car, activated the squad's flashing lights." *Id.* at 796. Here, the officer activated his emergency lights after following Juno's sedan into the Camden Apartments parking lot. Under these circumstances, a reasonable person in Juno's situation would not have felt free to terminate the encounter in the apartment parking lot.

Next, Juno contends that the district court erred in its legal analysis of the justification for the stop because (1) the district court relied on Juno throwing away the keys even though the officer had already seized Juno, (2) the officer's testimony conceded that "his visual observations alone were not strong enough to justify a stop for speeding," and (3) any "suspicious" behavior at the hatchery parking lot was "too general" to support reasonable suspicion. The state responds that the officer had reasonable articulable suspicion to seize Juno because either Juno's speeding or the security guard's tip would be "reason on its own . . . to justify an investigatory stop."

We address Juno's arguments in turn. Because we conclude that the officer had reasonable articulable suspicion to justify the stop based on Juno's speeding, we do not consider Juno's arguments about the security guard's tip.

A. Juno's conduct after the officer seized him

Juno contends the district court erroneously determined that reasonable suspicion supported the seizure based on the officer's testimony that Juno threw something away after the officer activated his emergency lights. The state's brief to this court does not discuss this argument.

Caselaw establishes that reasonable articulable suspicion must be based on facts known *before* a stop occurs. *See Terry*, 392 U.S. at 21-22 (stating that reasonable articulable suspicion is based on "the facts available . . . at the moment of the seizure"); *see also State v. Sargent*, 968 N.W.2d 32, 38 (Minn. 2021) (applying *Terry*). Here, the officer testified that "immediately as [his emergency] lights were coming on [he] observed the driver of the vehicle exit the vehicle and make a motion that appeared to be some kind of a throwing gesture towards the front of the vehicle." The officer later found Juno's car keys in the grass near the sedan.

As discussed, the officer seized Juno when he activated his emergency lights. Because Juno threw away his keys *after* the officer activated his emergency lights, the district court erred in relying on Juno throwing away his keys to justify the officer's seizure of Juno.

B. Juno's speeding

Juno appears to argue that the district court clearly erred in finding that the officer saw Juno's sedan speeding, even though Juno's brief to this court does not frame the issue in these terms. Juno contends the officer's testimony "undercut his claim" that Juno exceeded the speed limit. Juno asserts the officer admitted, contrary to his training, that he did not confirm his visual estimate of Juno's speed with radar. And the officer testified he would have "liked to have had more" before stopping Juno. Juno characterizes this testimony as "an admission that [the officer's] visual observations alone were not strong enough to justify a stop for speeding." The state contends that "[v]isual observations of a speeding car are sufficient to establish that the defendant was guilty of speeding." Because

the officer "had formal training in the estimation of traffic speed" and estimated Juno traveled above the posted speed limit, the state contends the officer "had an articulable reason for the stop."

A police officer's observation of a violation of any traffic law, "however insignificant," provides the officer with an objective basis for conducting a stop. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). Still, "[a]n actual violation of . . . traffic laws need not be detectable"; instead, the police "must only show that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon 'specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.'" *State v. Pike*, 551 N.W.2d 919, 921-22 (Minn. 1996) (quoting *Terry*, 392 U.S. at 21). Driving above the posted speed limit is unlawful. Minn. Stat. § 169.14, subd. 2(a) (2018).

We have upheld an officer's visual observation of speeding as justification for a traffic stop. In *Sazenski v. Commissioner of Public Safety*, we determined that an "officer had sufficient cause to stop [the appellant]" when the officer was standing outside his patrol car and observed an approaching vehicle that "appeared to be speeding," the officer "estimated [the car] was traveling between 70 and 80 miles per hour" in a 50-mile-per-hour zone, the officer testified he received formal training in estimation of traffic speed, and the officer pursued the vehicle for two miles. 368 N.W.2d 408, 409 (Minn. Ct. App. 1985).

The evidence in *Sazenski* is similar to the evidence in Juno's case. The arresting officer testified he had been trained to estimate the speed of vehicles, and though he did not confirm Juno's speed with radar, he estimated the speed of Juno's sedan. The officer

testified that the sedan traveled 55 to 65 miles per hour on County Road 57, which is a 55-mile-per-hour zone. The officer also testified that Juno quickly reached "the apex of the curve on 4th Avenue North"—a posted speed zone of 30 miles per hour—and that "it was clear the vehicle reached that point faster than a vehicle that would have been abiding by the speed limit by an estimated five to ten miles per hour." Lastly, the officer testified that the road conditions were "pretty bad. There are a lot of potholes and things like that. It is oriented on a curve. So already the speed that we are typically associating with that kind of area is 20ish miles per hour just for the safety of the vehicle." Thus, like the officer in *Sazenski*, the officer who seized Juno testified he was trained to estimate a vehicle's speed, explained how he estimated the speed of Juno's vehicle, and articulated his estimates of Juno's speed as over the posted speed limit.

In *State v. Ali*, we stated that "the supreme court recognized that the estimation of 'the speed of an automobile lies in a field in which a lay person gifted with reasonable intelligence, given a fair opportunity to observe, and having ordinary experience with moving vehicles may give opinion testimony.'" 679 N.W.2d 359, 367 (Minn. App. 2004) (quoting *LeMieux v. Bishop*, 209 N.W.2d 379, 383 (Minn. 1973)). We affirmed Ali's conviction after determining a police officer's visual estimate of a vehicle speeding "alone" was "sufficient to establish that appellant exceeded the 30 mph speed limit" where the officer testified that he was trained to estimate vehicle speeds and had 25 years of experience in speed estimation. *Id.* at 367-68.

In short, the record supports the district court's finding that the officer saw Juno speeding. Juno effectively asks us to reweigh the evidence and determine the district court

erred. We decline to do so. *See State v. Losh*, 694 N.W.2d 98, 102 (Minn. App. 2005) (stating it is "the district court's role" to hear testimony, "judge the credibility of the witnesses," and weigh evidence, so we defer to the district court's findings when based on the record), *aff'd*, 721 N.W.2d 886 (Minn. 2006).

Because an officer's observation of a traffic violation provides the requisite reasonable suspicion, we conclude that the officer had reasonable suspicion to stop Juno's vehicle. *See George*, 557 N.W.2d at 578; *Pike*, 551 N.W.2d at 921-22. As a result, we need not consider Juno's third argument.

Affirmed.