STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0897

State of Minnesota,
Respondent,

vs.

James Michael Anderson,
Appellant.

Filed July 17, 2023
Affirmed
Bryan, Judge

Ramsey County District Court
File No. 62-CR-20-3918

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

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

Cathryn Middlebrook, Chief Appellate Public Defender, Rebecca Ireland, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Bryan, Judge; and Klaphake, Judge.*

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

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this direct appeal from a conviction for unlawful possession of a firearm, appellant argues that the district court erred by denying his motion to suppress evidence obtained during a vehicle search. We affirm.

FACTS

On June 17, 2020, respondent State of Minnesota charged appellant James Michael Anderson with unlawful possession of a firearm under Minnesota Statutes section 624.713, subdivision 1(2) (2018). Anderson moved to suppress the firearm, arguing that the law enforcement officers lacked probable cause to search the vehicle. At the suppression hearing, the parties submitted witness testimony and several exhibits, including photographs of the items recovered, police reports, a map of the area surrounding the stop, and a partial transcript of testimony from a related case comparing the appearance of hemp and marijuana. The following factual summary is based on the evidence presented at the suppression hearing and the uncontested facts of this case.

On May 17, 2020, two Saint Paul police officers observed a red vehicle leaving a residence. The officers characterized the residence as a "problem property," one that they were familiar with based on "numerous arrests for narcotics and stolen vehicles." The officers followed the vehicle and saw it cross over the center line for about half a block. The officers also saw the vehicle pass through a stop sign and then stop mid-intersection. The officers initiated a traffic stop based on these traffic violations and the vehicle pulled over. As the officers approached the vehicle, they observed the occupants moving around

inside of the vehicle. Based on their movements, the officers grew concerned that the occupants were concealing contraband or were about to flee.

One officer testified that as he walked along the passenger side of the vehicle, he observed a plastic bag containing what he suspected to be marijuana in plain view near the center console. The officer also saw an empty prescription pill container at the feet of the rear, right-side passenger. This officer knew from experience that narcotics are often stored in pill containers like the one he observed. The officers asked the four occupants of the vehicle, including Anderson who was the right rear passenger of the vehicle, for identification. After identifying the occupants, the officers instructed them to exit the vehicle. The officers began searching the vehicle, and one officer noticed that the right rear seat was loose. This officer knew from experience that firearms are often concealed under the seats in vehicles, so he lifted up the seat and saw a firearm next to a black glove. Officers also recovered a digital scale and a second black glove from Anderson's person. A review of Anderson's criminal history indicated that he had prior convictions making him ineligible to possess a firearm. Anderson was arrested and later charged with unlawful possession of a firearm.

Anderson moved to suppress the evidence obtained during the search of the vehicle. The district court denied the suppression motion, concluding that the following circumstances established probable cause: the vehicle's presence at a property associated with previous arrests for narcotics, the observation of the occupants' movements, the observation of a plastic bag containing suspected marijuana in plain view, and the observation of an empty pill bottle near Anderson's feet. The district court explained that

the officers' uncertainty whether the substance they observed was actually marijuana did not preclude a determination that the officers had probable cause to believe the vehicle contained contraband or evidence of criminal activity. The case proceeded to trial and a jury found Anderson guilty of possession of a firearm by an ineligible person. The district court sentenced Anderson to 60 months in prison. Anderson appeals.

DECISION

Anderson challenges the denial of the motion to suppress evidence, arguing that the officers lacked probable cause to search the vehicle.[1] We conclude that the totality of the facts and circumstances known to the officers would lead a reasonable officer to entertain an honest and strong suspicion that the vehicle contained contraband or evidence of criminal activity.

The United States and Minnesota Constitutions prohibit "unreasonable searches and seizures" by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A warrantless search is presumptively unreasonable unless it falls within one of the recognized exceptions to the warrant requirement. *State v. Milton*, 821 N.W.2d 789, 798-99 (Minn. 2012). "The state bears the burden of establishing the applicability of an exception [to the warrant requirement]." *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003). Evidence obtained during an unconstitutional search or seizure must be suppressed. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

[1] The parties agree that the initial traffic stop was lawful and Anderson challenges only the subsequent, warrantless search of the vehicle.

Here, the state justified the search under the "automobile exception" to the warrant requirement. A search is constitutional pursuant to the automobile exception when "the totality of the facts and circumstances known would lead a reasonable officer to entertain an honest and strong suspicion . . . that the vehicle is carrying contraband or illegal merchandise." *State v. Thiel*, 846 N.W.2d 605, 610-11 (Minn. App. 2014) (quotation and citations omitted), *rev. denied* (Minn. Aug. 5, 2014); *see also State v. Barrow*, 989 N.W.2d 682, 685 (Minn. 2023) (stating that a warrantless search under the automobile exception is constitutional if the investigating officers had "probable cause to believe the search will result in a discovery of evidence or contraband") (quotation omitted).

"[T]he totality of the circumstances includes reasonable inferences that police officers draw from facts, based on their training and experience, because police officers may interpret circumstances differently than untrained persons." *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016). We "afford due weight to the inferences of [the officer] that were credited by the district court in its determination of probable cause." *Id.* at 772. When, as here, multiple law enforcement officers are involved in an investigation, courts consider the "collective knowledge" of the officers in determining whether probable cause existed. *State v. Riley*, 568 N.W.2d 518, 523 (Minn. 1997) (quotation omitted). When reviewing a pretrial order on a motion to suppress where the facts are not in dispute, appellate courts review de novo the probable cause determination. *State v. Lugo*, 887 N.W.2d 476, 487 (Minn. 2016).

In this case, the officers had sufficient probable cause to search the vehicle based on the following undisputed facts. The officers observed the vehicle leaving a known

"problem property" that the officers were familiar with based on past arrests involving narcotics and stolen vehicles.[2] While the officers were approaching the vehicle, they observed the passengers moving around inside in a manner that suggested the passengers were concealing contraband or were about to flee. *See State v. Munoz*, 385 N.W.2d 373, 376 (Minn. App. 1986) ("Furtive gestures can provide a basis for probable cause."). One officer observed an empty prescription pill bottle near Anderson's feet, which the officer knew to be consistent with the common storage of narcotics. *See State v. Hodgman*, 257 N.W.2d 313, 314 (Minn. 1977) (stating that an officer's observation of "a plastic pill bottle" and knowledge that this "is how people carry narcotics" supported the determination that there was probable cause to search the vehicle). This officer also observed a plastic bag containing suspected marijuana in plain view. *See Thiel*, 846 N.W.2d at 611 ("The discovery of marijuana in a car gives law enforcement probable cause to search for more anywhere in the car where one might reasonably expect to find marijuana."); *see also State v. Hanson*, 364 N.W.2d 786, 789 (Minn. 1985) ("The discovery of the [marijuana] cigarette clearly justified the further search of the car . . . ."). Based on these observations, we conclude that a reasonable officer would have an honest and strong suspicion that the vehicle contained contraband or evidence of criminal activity.

[2] We note that while mere presence in a high-crime area is insufficient to justify a stop, *see State v. Varnado*, 582 N.W.2d 886, 890 (Minn. 1998), courts may consider a person's presence in a high-crime area to contextualize other evidence, *see State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992) (contextualizing suspect's behavior by considering his departure from a building with a history of drug activity).

Anderson tries to persuade us otherwise by making two arguments, but we remain unconvinced. First, Anderson invites this court to "overturn its precedent in *Thiel*" given recent changes to the legality of hemp. Specifically, Anderson contends that the officers lacked probable cause to search the vehicle because they had no way of knowing whether the small amount of the substance in plain view was "marijuana" or "hemp." We must apply precedential authority, however, *State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010), *rev. denied* (Minn. Sept. 21, 2010), and *Thiel* remains binding. In addition, we have previously concluded that "chemical testing establishing that the plant material is marijuana rather than hemp is not required . . . to support a finding of probable cause." *State v. Dixon*, 963 N.W.2d 724, 731 (Minn. App. 2021), *aff'd*, 981 N.W.2d 387 (Minn. 2022); *see also State v. McGrath*, 706 N.W.2d 532, 544 (Minn. App. 2005) ("[T]he test is not whether the residual amounts of marijuana are criminal. Rather, the test is whether those amounts support a reasonable expectation that more marijuana or other evidence of criminal activity will be found."), *rev. denied* (Minn. Feb. 22, 2006).

Second, Anderson argues that we should disregard the officer's observation of the empty pill bottle because such containers can have ordinary, non-criminal uses. While pill bottles can have such permissible uses and are not illegal to possess, this fact does not preclude an officer from reasonably inferring that a vehicle contains contraband or other evidence of criminal activity based on such an object being observed in plain view. *See Hodgman*, 257 N.W.2d at 314 (stating that the observation of "a plastic pill bottle" supported the determination of probable cause); *see also State v. Munoz*, 385 N.W.2d 373, 376-77 (Minn. App. 1986) (stating that an officer's "observation of glassine envelopes in

plain view" inside the car and familiarity "with such containers as being commonly used to market controlled substances" gave the officer probable cause to search vehicle); *State v. Lembke*, 509 N.W.2d 182, 184 (Minn. App. 1993) (stating that the incriminating nature of a plastic bag was apparent because even though "[a] bag has many legitimate uses. . . . [a]n officer may . . . rely on trained intuition and observations drawn from his experience").

Based on the totality of the circumstances, including the officers' observations and with due weight given to reasonable inferences drawn from their training and experience, we conclude that there was probable cause to believe that the vehicle contained contraband or evidence of criminal activity. Because the search of the vehicle was lawful, the district court properly denied Anderson's motion to suppress.

Affirmed.