STATE OF MINNESOTA
IN COURT OF APPEALS
A10-6

State of Minnesota,
Respondent,

vs.

Taiwan Dashaun McCain,
Appellant.

Filed November 23, 2010
Affirmed
Crippen, Judge[*]

Steele County District Court
File No. 74-CR-07-3089

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Daniel A. McIntosh, Assistant Steele County Attorney, Owatonna, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Crippen, Judge.

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

U N P U B L I S H E D O P I N I O N

CRIPPEN, Judge

Appellant disputes his conviction for fifth-degree controlled substance crime, contending that the district court erred in denying his pre-trial suppression motion; appellant claims the state's evidence was the fruit of an illegal seizure. We affirm.

FACTS

On the night of October 6, 2007, Steele County Deputy Sheriff Brian Bennett responded to a call of a fight behind Weber's Bar in Owatonna. Because Owatonna police officers were already on the scene, Deputy Bennett pulled into an alley just north of the bar to insure that nobody fled. He heard a radio report of a male walking northbound in the alley from the bar. Upon observing a male walking northbound in the alley, Bennett got out of his car and engaged the man, appellant Taiwan McCain, in conversation. Bennett then asked for identification, performed a warrant check, and found an active warrant. He proceeded to arrest appellant and found drugs in the ensuing search.

Following denial of his suppression motion, appellant waived his right to a jury trial and stipulated to the state's case under Minn. R. Crim. P. 26.01, subd. 4. He was found guilty of fifth-degree controlled substance crime, but adjudication of the offense was stayed.

D E C I S I O N

The facts of the case are not in question, and we review de novo the district court's legal determinations. *See State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). Our

review is limited to the pretrial order that denied appellant's motion to suppress under the procedure approved in *State v. Lothenbach*. *Id.*

Taking an identification card to run a warrants check constitutes the seizure of a person. *State v. Johnson*, 645 N.W.2d 505, 509-10 (Minn. App. 2002). In order to temporarily seize a person, following an initial encounter, a police officer must have reasonable, articulable suspicion that the person is engaged in criminal activity. *State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995); *see generally Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968) (setting forth the rationale and tests for initiating and carrying out investigatory stops). "The requisite showing is not high." *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007) (quotation omitted).

An officer may consider the totality of the circumstances and weigh seemingly innocent factors in the analysis. *Id.* at 182. "These circumstances include the officer's general knowledge and experience, the officer's personal observations, information the officer has received from other sources, the nature of the offense suspected, the time, the location, and anything else that is relevant." *Appelgate v. Comm'r of Pub. Safety*, 402 N.W.2d 106, 108 (Minn. 1987).

Deputy Bennett was reasonably able to draw an inference of appellant's involvement in the fight. While walking away from a suspected crime scene, appellant told the deputy conflicting and suspicious stories about how he was getting home, and the deputy observed that appellant was intoxicated. The deputy could combine these observations with his experience, training, and "information [he] received from other sources, the nature of the offense suspected, the time, the location, and anything else that

is relevant" to suspect that appellant was culpable of criminal activity through some involvement in the fight. *See id.*

In this case, Deputy Bennett articulated his reasonable suspicion during the suppression hearing, stating that he asked for identification, despite appellant's denial of involvement in the fight, "[d]ue to the fact that [appellant] was leaving the area of a fight . . . and that his stories weren't quite making sense of his travels." Looking at the totality of the circumstances, the deputy had the requisite reasonable, articulable suspicion of criminal activity to justify the warrants check.

Affirmed.