STATE OF MINNESOTA

IN SUPREME COURT

A18-0353

Court of Appeals Thissen, J.

State of Minnesota,

Respondent/Cross-Appellant,

vs.

James Wilmar Poehler,

Appellant/Cross-Respondent.

Filed November 27, 2019
Office of Appellate Courts

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Jeffrey R. Edblad, Isanti County Attorney, Cambridge, Minnesota; and

Scott A. Hersey, Special Assistant County Attorney, Saint Paul, Minnesota, for respondent/cross-appellant.

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S Y L L A B U S

Reasonable suspicion of a violation of Minn. Stat. § 169.686, subd. 1(a) (2018), exists when a law enforcement officer observes a driver not wearing a seat belt.

Affirmed.

O P I N I O N

THISSEN, Justice.

Appellant/Cross-Respondent James Wilmar Poehler challenges his convictions for driving while impaired in violation of Minn. Stat. §§ 169A.20, subd. 1(1), 169A.26, subd. 2 (2018), and violating a driver's license restriction as set forth in Minn. Stat. § 171.09, subd. 1(f)(1) (2018). The district court denied Poehler's motion to suppress, finding that the officer had reasonable suspicion to make the stop. The court of appeals affirmed. On appeal, Poehler argues that the officer lacked reasonable, articulable suspicion to make the traffic stop that led to his arrest. We hold that, based on the officer's observation that Poehler was not wearing a seat belt, the officer formed a reasonable, articulable suspicion that Poehler violated Minnesota's mandatory seat belt law. We therefore affirm.

FACTS

On August 26, 2016, Officer Matthew Giese of the Cambridge Police Department was working a "Toward Zero Deaths" shift in Cambridge, patrolling for individuals driving under the influence. Officer Giese passed a vehicle driving in the opposite direction. Because he observed that the vehicle "had a cracked windshield" and it "appeared the driver was not wearing a seat belt," Officer Giese initiated a traffic stop. The officer approached the car and started a conversation with the driver, who he later identified as James Poehler.

Officer Giese informed Poehler that he had been stopped because the car's windshield was cracked and because it did not appear that Poehler was wearing his

seat belt.[1] When Officer Giese stepped up to Poehler's window, Poehler was wearing his seat belt and he told Officer Giese that he had been wearing it the whole time. Officer Giese pointed to a piece of equipment hanging in the driver's side window of Poehler's car that had led him to believe that Poehler was not wearing a seat belt. Officer Giese reiterated that the stop was also due to the cracked windshield. Poehler acknowledged that his windshield was cracked and stated that he had been meaning to have it repaired.

During this exchange, Officer Giese noticed that Poehler avoided direct eye contact, had bloodshot, watery eyes, and slurred his speech. After running Poehler's driver's license information, Officer Giese determined that Poehler had a restricted license that prohibited him from using any alcohol or drugs. He asked Poehler if he had been drinking, and Poehler admitted that he had a beer earlier in the day. Because the terms of his license prohibited Poehler from consuming any drugs or alcohol, Officer Giese asked that Poehler take a preliminary breath test. Poehler blew a .174, which is over twice the legal limit in Minnesota. *See* Minn. Stat. § 169A.20, subd. 1(5) (2018). Officer Giese arrested Poehler.

The State charged Poehler with driving while impaired and violating his driver's license restriction. Poehler moved to suppress all evidence obtained as a result of the stop, alleging that the stop violated the Fourth Amendment to the United States Constitution and Article 1, Section 10, of the Minnesota Constitution. The State argued that Officer Giese's

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[1] Minnesota Statutes § 169.71, subd. 1(a) (2018), states that "[a] person shall not drive or operate any motor vehicle with: (1) a windshield cracked or discolored to an extent to limit or obstruct proper vision[.]" Minnesota Statutes § 169.686, subd. 1(a) (2018), requires that "a properly adjusted and fastened seat belt . . . be worn by the driver and passengers of a passenger vehicle[.]"

observation of the crack in Poehler's windshield and his observation that Poehler was not wearing a seat belt each independently justified the stop.

The district court denied Poehler's motion to suppress the evidence obtained from the stop. The court concluded that Officer Giese's observation of the crack in Poehler's windshield provided the officer with a sufficient basis to stop Poehler. In its legal conclusions, the court did not address the seat belt violation as a justification for the stop. In its factual findings, however, the court stated that "[i]t did not appear to the detective that the driver was wearing a seatbelt."

To obtain appellate review of the pretrial ruling, Poehler and the State stipulated to the prosecution's case. *See* Minn. R. Crim. P. 26.01, subd. 4; *see also State v. Myhre*, 875 N.W.2d 799, 802 (Minn. 2016) (stating that Rule 26.01 "allows a criminal defendant to plead not guilty; waive all trial-related rights, including his or her right to a jury trial; stipulate to the state's evidence in a trial to the court; and then appeal a dispositive, pretrial ruling"). The district court found Poehler guilty of driving while impaired and violating a driver's license restriction.

Poehler appealed the denial of his suppression motion. The court of appeals held that Officer Giese was not justified in stopping Poehler for the crack in his windshield. *See State v. Poehler*, 921 N.W.2d 577, 581–82 (Minn. App. 2018). Nonetheless, the court of appeals held that the evidence in the record supported a conclusion that Officer Giese had reasonable suspicion that Poehler was not wearing his seat belt. *See id.* at 582. It therefore affirmed the district court's suppression order. *Id.* at 583.

We granted Poehler's petition for review on the seat-belt violation and granted the State's conditional petition for cross-review on the cracked-windshield violation.

ANALYSIS

On appeal of a district court's denial of a pretrial motion to suppress, we review the district court's legal conclusions de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). We review the district court's factual findings for clear error. *Id.*

The Fourth Amendment to the United States Constitution and Article I, Section 10, of the Minnesota Constitution govern the legality of seizures of a person, including brief investigatory stops of automobiles. *See United States v. Cortez*, 449 U.S. 411, 417 (1981); *see also State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004).[2] To justify a stop, an officer must have reasonable grounds for doing so. Reasonable grounds exist when the officer has a "particularized and objective basis for suspecting the particular person stopped

[2] Poehler does not argue that the Minnesota Constitution provides broader protection for him under the circumstances of this case. Poehler's only mention of broader protections under the Minnesota Constitution is a citation to *State v. Askerooth*, 681 N.W.2d 353, 361–63 (Minn. 2004). In *Askerooth*, we held that a warrantless arrest for a traffic violation must be reasonable and supported by individualized suspicion of criminal activity. *Id*. at 365. To determine whether the warrantless arrest is reasonable, the Minnesota Constitution requires that the individual's privacy interests be balanced against the police officer's need to arrest the individual. *Id*. We stated that such a balancing inquiry was required under the Minnesota Constitution for warrantless arrests supported by probable cause even if such a balancing of interests was no longer required under the Fourth Amendment following the United States Supreme Court decision in *Atwater v. City of Lago Vista*, 532 U.S. 318 (2001). *Askerooth*, 681 N.W.2d at 363. In this case, no one disagrees that both the United States and Minnesota Constitutions require a reasonable, articulable, objective suspicion of individualized criminal activity to justify a traffic stop. And Poehler does not articulate any *higher* standard for a traffic stop under the Minnesota Constitution. Accordingly, we do not consider whether the Minnesota Constitution provides broader protections in a case such as this one.

of criminal activity." *Cortez*, 449 U.S. at 417–18. The officer must be able to articulate more than an "inchoate and unparticularized suspicion or 'hunch[.]' " *Terry v. Ohio*, 392 U.S. 1, 27 (1968); *see also State v. Harris*, 590 N.W.2d 90, 99 (Minn. 1999).

If the facts upon which the officer relies turn out to be mistaken, those mistaken facts may still support a particularized and objective basis for suspecting a person of criminal activity. This is true as long as the officer's mistake was itself objectively reasonable and consistent with the purpose for the officer's intrusion on individual privacy under the totality of the circumstances. *See Illinois v. Rodriguez*, 497 U.S. 177, 185–86 (1990); *State v. Sanders*, 339 N.W.2d 557, 560 (Minn. 1983); *cf. State v. Frazier*, 318 N.W.2d 42, 43–44 (Minn. 1982) (affirming the grant of a suppression motion because the officers' mistake was unreasonable).

We examine the totality of the circumstances from the perspective of a trained police officer to determine whether reasonable, articulable suspicion exists. *State v. Lemert*, 843 N.W.2d 227, 230 (Minn. 2014). When an officer observes a violation of the traffic laws, there is reasonable suspicion to stop the vehicle. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997).

Driving without a seat belt is a crime. *See* Minn. Stat. § 169.686, subd. 1(a) (2018). When an officer observes a driver not wearing a seat belt, he has a reasonable suspicion to stop that person for criminal activity. But the officer must be able to articulate facts—more than an undeveloped hunch—that support the conclusion that the officer observed the driver not wearing a seat belt.

The district court did not clearly err by finding that "it did not appear to the [officer] that [Poehler] was wearing a seatbelt."[3] When he first approached the car, Officer Giese told Poehler that he had been stopped for two reasons: the windshield violation and the seat belt violation. Officer Giese reiterated this explanation at least one more time during the course of the stop and arrest. In the incident report, Officer Giese noted Poehler's failure to wear a seat belt as a reason for the stop. He wrote that he initiated the traffic stop after observing that "it appeared the driver was not wearing his seatbelt." Finally, during his testimony before the district court, Officer Giese stated that he stopped Poehler "for him not wearing his seat belt." These statements show that Officer Giese observed Poehler not wearing a seat belt.

Poehler argues that Officer Giese's phrasing that "it appeared" Poehler was not wearing a seat belt is too equivocal to conclude that the officer actually saw Poehler without a seat belt on. But after reviewing the entire record, we conclude that Officer Giese's use of the word "appeared" is, under the circumstances of this case, a clear enough way of

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[3] Poehler argues that the record is not developed enough for us to reach the question of whether reasonable suspicion for a seat belt violation existed. We disagree. When the State has raised and argued before the district court that a stop was justified for several independent reasons, and the State creates a record to support each reason, an appellate court may affirm a decision when "there are sufficient facts in the record for the appellate court to consider the alternative theories, there is legal support for the arguments, and the alternative grounds would not expand the relief previously granted." *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003); *see also* Minn. R. Crim. P. 29.04, subd. 6 ("The court may permit a party, without filing a cross-petition, to defend a decision or judgment on any ground that the law and record permit that would not expand the relief that has been granted to the party."). Having reviewed the entire record, we conclude that the record is sufficiently developed for us to reach this issue.

saying that he observed that Poehler was not wearing a seat belt. Officer Giese's word choice therefore does not leave us "with the definite and firm conviction" that the district court erred. *See Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (citation omitted) (internal quotation marks omitted).[4]

Poehler also argues that he was in fact wearing a seat belt when Officer Giese passed him, rendering the stop invalid. As support, Poehler points out that it is uncontested that he was wearing a seat belt when Officer Giese approached his car within minutes after the officer's initial observation. After our review of the totality of the circumstances surrounding this stop, we do not agree that the stop becomes invalid because Poehler was wearing a seat belt after he was stopped. Officer Giese testified (and the district court found) that when he passed Poehler, it appeared to Officer Giese that Poehler was not wearing his seat belt. After Officer Giese walked up to Poehler's window following the stop, he observed a vehicle part hanging down, which was consistent with his observation—even if mistaken—that Poehler's seat belt was off. This case is unusual because generally little ambiguity exists as to whether a person's seat belt is buckled. But based on our deferential review of the district court's finding about the seat belt, we conclude that, even if Officer Giese's observation that Poehler was wearing his seat belt was mistaken, the mistake was objectively reasonable in the context of the purpose of the

[4] Poehler does not argue that Officer Giese's reliance on a seat belt violation to justify the stop was mere pretext for conducting a broader investigation into whether Poehler was drinking and driving.

stop and the totality of the circumstances. *See Rodriguez*, 497 U.S. at 185–86; *Sanders*, 339 N.W.2d at 560.[5]

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

[5] Because we conclude that Officer Giese had reasonable suspicion of a seat belt violation, we need not reach the question of whether he had a reasonable suspicion of a violation of the statute prohibiting "windshield[s] cracked or discolored to an extent to limit or obstruct proper vision[.]" *See* Minn. Stat. § 169.71, subd. 1(a)(1).