DA 17-0495

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 287N

STATE OF MONTANA,

Plaintiff and Appellee,

v.

RYAN THOMAS RALSTON,

Defendant and Appellant.

APPEAL FROM: District Court of the Fourth Judicial District,
In and For the County of Mineral, Cause No. DC 15-91
Honorable Leslie Halligan, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Chad Wright, Appellate Defender, Lisa S. Korchinski, Assistant Appellate Defender, Helena, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, C. Mark Fowler, Assistant Attorney General, Dylan M. Jaicks, Student Attorney, Helena, Montana

Ellen Donohue, Mineral County Attorney, Superior, Montana

Submitted on Briefs: November 13, 2019

Decided: December 10, 2019

Filed:

Clerk

Justice Jim Rice delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Appellant Ryan Thomas Ralston appeals the denial of his motion to suppress and dismiss by the Montana Fourth Judicial District Court, Mineral County. Ralston was originally charged with criminal possession of dangerous drugs with an intent to distribute, a felony; five felony counts of criminal possession of dangerous drugs; and one count of criminal possession of drug paraphernalia, a misdemeanor. When the District Court denied his motion to suppress and dismiss, he entered a plea agreement whereby he pled guilty to one count of possession of dangerous drugs with intent to distribute, and the remaining charges were dismissed. He reserved his right to appeal the denial of his motion.

¶3 On December 20, 2015, Ralston and Alex Gustafson were traveling eastbound on Interstate 90 when Highway Patrol Trooper T.J. Templeton initiated a stop of their vehicle for speeding. Gustafson was driving and Ralston, seated in the front passenger seat, identified himself to Templeton as the registered owner of the vehicle, which displayed Minnesota license plates. In Templeton's initial conversation with the occupants, it was determined that Ralston lacked a current registration of the vehicle, and that he did not have proof of insurance in the vehicle. Templeton contacted dispatch to confirm the status

of the Minnesota registration. Upon his return to Ralston's vehicle, Templeton advised that he had pulled them over because of their speed in the current, hazardous weather, and cited Gustafson for speeding. He warned them that their speed was dangerous under the winter road conditions. He cited Ralston for failure to have proof of insurance, and issued a written warning regarding the vehicle's expired registration. Templeton discussed the procedure for handing the citations, and asked if they had any questions. He then stated, "you guys are free to go." However, he immediately followed that comment by stating, "[u]m, but I had a question. I noticed a little bit of a smell." Templeton explained that he smelled marijuana coming from the car, and then asked if they had any marijuana in the car. Ralston explained that they did, a single joint. When Templeton asked if they only had the one joint, Ralston said "yes" and asked if Templeton could dispose of it. Ralston and Gustafson denied having additional drugs or any drug paraphernalia in the car. At that point, Templeton asked them to "sit tight" and returned to his vehicle and spoke with another trooper on the telephone. He then returned to the vehicle, asked the occupants to step out, and advised Ralston of his *Miranda* rights. Ralston then answered further questions and produced his toiletries bag, which contained additional marijuana. Ralston thereafter refused consent to search the vehicle, and a subsequent search pursuant to a warrant revealed additional marijuana and drug paraphernalia.

¶4 The Fourth Amendment of the United States Constitution and Article II, Sections 10 and 11 of the Montana Constitution protect individuals from unreasonable searches and seizures. *State v. McKeever*, 2015 MT 177, ¶ 14, 379 Mont. 444, 351 P.3d 676. However,

"a law enforcement officer may stop and temporarily detain a person for investigative purposes without probable cause for arrest if, based on specific and articulable facts known to the officer, including rational inferences therefrom based on the officer's training and experience, the officer has an objectively reasonable, particularized suspicion that the person is engaged, or about to engage, in criminal activity." *State v. Hoover*, 2017 MT 236, ¶ 17, 388 Mont. 533, 402 P.3d 1224 (citing *State v. Elison*, 2000 MT 288, ¶ 15, 302 Mont. 228, 14 P.3d 456; *State v. Roberts*, 1999 MT 59, ¶ 12, 293 Mont. 476, 977 P.2d 974; *State v. Reynolds*, 272 Mont. 46, 49-50, 899 P.2d 540, 542 (1995); *State v. Gopher*, 193 Mont. 189, 193-94, 631 P.2d 293, 295-96 (1981); *United States v. Cortez*, 449 U.S. 411, 417-18, 101 S. Ct. 690, 694-95 (1981); *Terry v. Ohio*, 392 U.S. 1, 16-19, 88 S. Ct. 1868, 1877-79 (1968)). This Court reviews a district court's denial of a motion to suppress to determine whether the court's findings of fact are clearly erroneous and whether the facts are correctly applied as a matter of law. *City of Great Falls v. Allerdice*, 2017 MT 58, ¶ 8, 387 Mont. 47, 390 P.3d 954 (citing *State v. Old Horn*, 2014 MT 161, ¶ 13, 375 Mont. 310, 328 P.3d 638). The parties do not contest the District Court's findings, but only the governing legal conclusions.

¶5 Ralston does not contest the initial stop for speeding, but contends the stop was unlawfully prolonged, and that Templeton unlawfully elicited statements from Ralston by failing to provide a timely *Miranda* warning. Ralston argues that he did not feel free to leave the scene after the initial citations were issued, and had therefore been "seized" unlawfully for purposes of additional investigation. However, as the District Court

reasoned, Ralston conceded that Templeton detected "the smell of marijuana coming from vehicle during the traffic investigation," which "would naturally and reasonably lead to the trooper's question of whether there was any marijuana in the vehicle." In the moments following Templeton's advisory that they were free to go, Ralston did not decline to speak further with the trooper, and when he acknowledged there was marijuana in the car, Templeton had sufficient justification to conduct further investigation.

¶6 Ralston also argues that he was subjected to both a custodial detention and an interrogation that necessitated a *Miranda* advisory, thus requiring suppression of his statements, particularly his acknowledgement of marijuana in the vehicle. The Fifth Amendment to the United States Constitution and Article II, Section 25 of the Montana Constitution provides that a person may not be compelled to testify against himself in a criminal proceeding. *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602; *City of Missoula v. Kroschel*, 2018 MT 142, ¶ 22, 391 Mont. 457, 419 P.3d 1208. However, a brief detention for questioning during a traffic stop generally does not rise to a custodial interrogation, including the very brief exchange that occurred following issuance of the traffic citations here. *State v. Hurlbert*, 2009 MT 221, ¶ 34, 351 Mont. 316, 211 P.3d 869 (citations omitted) ("statements made by a defendant in response to an officer's roadside questioning did not require warnings of constitutional rights because of the brevity of questioning and its public setting, even though few motorists would feel free to leave."). The District Court noted that Templeton's questioning regarding the smell and presence of marijuana occurred in "seemingly the same breath" as his statement that they were free to go, and thus the

delay occasioned by the questions was only momentary, and did not constitute a custodial interrogation necessitating a *Miranda* advisory.

¶7 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review. Except as otherwise discussed herein, the District Court's findings of fact are not clearly erroneous and its interpretation and application of the law were correct.

¶8 Affirmed.

/S/ JIM RICE

We concur:

/S/ JAMES JEREMIAH SHEA
/S/ DIRK M. SANDEFUR
/S/ LAURIE McKINNON
/S/ INGRID GUSTAFSON