STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1142

State of Minnesota,
Respondent,

vs.

Antonio Earl Stevenson,
Appellant.

Filed August 8, 2022
Reversed
Gaïtas, Judge

Hennepin County District Court
File No. 27-CR-20-22003

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

James R. Rowader, Jr., Minneapolis City Attorney, Zenaida Chico, Assistant City Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Arielle S. Wagner, Kate M. Baxter-Kauf, Special Assistant Public Defenders, Lockridge Grindal Nauen P.L.L.P., Minneapolis, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Gaïtas, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Antonio Earl Stevenson, who was convicted of misdemeanor and gross misdemeanor offenses after a stipulated-facts court trial, challenges the district court's

order denying his motion to suppress the evidence. Because we conclude that a sheriff's deputy unconstitutionally expanded the scope of a traffic stop by opening Stevenson's car door without an individualized, reasonable, and articulable justification, we reverse.

FACTS

Respondent State of Minnesota charged Stevenson with giving a peace officer a false name, Minn. Stat. § 609.506, subd. 2 (2020), obstructing legal process, Minn. Stat § 609.50, subd. 1(2) (2020), and driving after revocation, Minn. Stat § 171.24, subd. 2 (2020), following a traffic stop in Minneapolis. Stevenson moved the district court to suppress the evidence against him, arguing that it resulted from an unconstitutional seizure. An evidentiary hearing was held, and the facts presented were as follows.

On a fall afternoon in 2020, while patrolling Minneapolis in separate squad cars, two sheriff's deputies observed a car without a front license plate and with expired registration tabs. They initiated a traffic stop in a nearby parking lot, parking their squad cars behind the car. Stevenson was the driver and sole occupant of the stopped car.

Both deputies approached the car. One deputy walked to the driver's side, and the other went to the passenger's side. Rather than initiating contact with Stevenson through the car window, the deputy who approached the driver's side immediately opened the driver's-side door.

The deputy said, "S'up man. How you doing?" Stevenson raised both of his hands and said, "Good." The deputy then explained, "Stopped you for a few reasons." Gesturing to the rear window on the driver's side, he stated, "[O]bviously your tint." He then continued, "K, you've got no front plate and you also got expired tabs."

The deputy asked Stevenson whether the car was his. Stevenson responded that it was his car and that it was registered to him. When the deputy asked his name, Stevenson, speaking softly, said "Antwon." He pointed to the driver's-side door and told the deputy that his "ID" was there. The deputy, who smelled marijuana and observed "marijuana shake" on the driver's-side floorboard, asked, "Smoke weed in here?" Stevenson replied that he did not. The deputy asked Stevenson to exit the car, and the second deputy handcuffed Stevenson and placed him in the back of a squad car. Then, the deputies extensively searched the passenger compartment and trunk of Stevenson's car. The search revealed nothing. During this time, other law enforcement officers arrived at the scene.

The deputy suspected that Stevenson had provided a false name and that the driver's license in the car was not Stevenson's. But when the deputy confronted Stevenson with his suspicions, Stevenson insisted that the driver's license was his, and he refused to cooperate in further efforts to confirm his identity. Eventually, Stevenson was arrested for obstructing legal process. An identification procedure later performed at the jail revealed that Stevenson had given the deputy a false name and had produced a driver's license belonging to another person.

The focus of the evidentiary hearing on Stevenson's motion to suppress was the deputy's decision to open Stevenson's car door at the beginning of the traffic stop. Both deputies who initiated the stop testified at the hearing, and the state introduced video footage from the deputies' body-worn cameras.

In their testimony, the deputies confirmed that Stevenson was stopped for a license-plate violation and expired tabs. Although the deputy who opened Stevenson's car door

initially could not recall doing so, he acknowledged that he likely opened it after viewing the footage from his body-worn camera. When Stevenson's counsel asked the deputy why he opened the car door, the deputy testified that he did not recall how he "felt on that day," but if he opened the door, "it was to view more of what [he] could see." He explained, "[A]nytime I open a door to view someone, I'm doing it because—for officer safety reasons." The second deputy, who had approached the passenger side of Stevenson's car, testified that he could see through the back windshield and the front passenger window of Stevenson's car "pretty clearly."

Following the evidentiary hearing, the district court denied Stevenson's suppression motion in a written order, concluding that, although the deputy expanded the scope of the traffic stop by opening the car door, safety concerns justified the additional intrusion. Stevenson stipulated to the prosecution's case and had a court trial to preserve his suppression issue for appeal.[1] The district court found Stevenson guilty of all three charges and placed him on probation for two years, staying 180 days of jail time.

Stevenson appeals.

DECISION

Stevenson argues that the deputy violated his federal and state constitutional rights by opening the driver's-side door of the car at the outset of the traffic stop. Although he concedes that the deputies had a lawful basis for the traffic stop, he contends that opening

[1] Under Minnesota Rule of Criminal Procedure 26.01, subdivision 4, a defendant may preserve appellate review of a dispositive issue by waiving a jury trial and stipulating to the prosecution's evidence.

his car door was an additional intrusion that required additional justification. Stevenson argues that the district court erred in denying his motion to suppress the evidence because the state failed to establish any reason for the expanded intrusion.

The Fourth Amendment of the United States Constitution, and article I, section 10 of the Minnesota Constitution, prohibit unreasonable searches and seizures. Warrantless searches and seizures are unreasonable under both the state and federal constitutions unless a recognized warrant exception applies. *Coolidge v. New Hampshire*, 403 U.S. 443, 454-55 (1971); *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009). The state must show that an exception to the warrant requirement applies. *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003).

One exception to the warrant requirement permits limited investigatory seizures. *State v. Askerooth*, 681 N.W.2d 353, 363 (Minn. 2004). Under this exception, a police officer may briefly detain an individual when the officer "has a reasonable, articulable suspicion that criminal activity is afoot." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (citing *Terry v. Ohio*, 392 U.S. 1, 30 (1968))). There is a reasonable, articulable suspicion if "the police officer [is] able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry*, 392 U.S. at 21. "Generally, if an officer observes a violation of a traffic law, no matter how insignificant the traffic law, that observation forms the requisite particularized and objective basis for conducting a traffic stop." *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004). An officer's actions

during a traffic stop, however, must be "reasonably related to and justified by the circumstances that gave rise to the stop in the first place." *Askerooth*, 681 N.W.2d at 364.

An investigatory seizure "may become invalid if it becomes 'intolerable' in its 'intensity or scope.'" *Id.* (quoting *Terry*, 392 U.S. at 17-18). The Minnesota Supreme Court has interpreted the state constitution to afford more protection from unreasonable seizures during traffic stops than the Fourth Amendment. *Ortega*, 770 N.W.2d at 152. Under the state constitution, any intrusion that is not closely related to the initial justification for the stop is invalid unless it can be justified by independent probable cause or reasonableness. *Askerooth*, 681 N.W.2d at 364. Thus, "each step of an officer's investigation must 'be tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness.'" *State v. Sargent*, 968 N.W.2d 32, 38 (Minn. 2021) (quoting *Askerooth*, 681 N.W.2d at 365).

Where police action expanded the scope of a stop, a court must consider "whether the officers had reasonable, articulable suspicion to support that expansion." *State v. Smith*, 814 N.W.2d 346, 351 (Minn. 2012). Such suspicion "must be individualized to the person toward whom the intrusion is directed." *Askerooth*, 681 N.W.2d. at 365. And "[t]his particularized basis for the intrusion must be both articulable and reasonable." *Id.* at 364; *see also United States v. Cortez*, 449 U.S. 411, 417-18 (1981) ("[D]etaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.").

"To determine whether the officer's actions meet an objective standard of reasonableness the court should ask whether with the facts available to the officer at the

moment of the seizure or search, would a person of reasonable caution believe that the action taken was appropriate." *State v. Othoudt*, 482 N.W.2d 218, 223 (Minn. 1992). "The test for appropriateness, in turn, is based on a balancing of the government's need to search or seize 'and the individual's right to personal security free from arbitrary interference by law officers.'" *Askerooth*, 681 N.W.2d at 365 (citing *United States v. Brignoni-Ponce*, 422 U.S. 873, 878, (1975)). And "[f]inally, it is the state's burden to show that a seizure was sufficiently limited to satisfy these conditions." *Id.*

Here, the district court determined that the deputy expanded the scope of the stop when he opened Stevenson's car door and that this additional intrusion was justified. The district court stated:

> In [the deputy's] initial interactions with [Stevenson], he stated that window "tint" was one of the reasons for the traffic stop. This expressed reasoning for the stop, as well as [the deputy's] general testimony that when he opens a vehicle door, it is to view person inside for officer safety, demonstrated [the deputy's] inability to see [Stevenson] clearly inside the vehicle. The reliance on window tint for a basis for the stop, coupled with the [the deputy's] testimony that he opened [Stevenson's] door for officer safety, is reasonable in light of the safety concerns posed by an officer being unable to see a vehicle's occupants.

In reviewing a district court's order on a motion to suppress, appellate courts review factual findings for clear error and legal conclusions de novo. *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011). "Findings of fact are clearly erroneous if, on the entire evidence, we are left with the definite and firm conviction that a mistake occurred." *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010). Whether an officer had a reasonable,

articulable suspicion or probable cause is reviewed de novo. *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999).

A. The deputy expanded the scope of the traffic stop by opening Stevenson's car door.

As an initial matter, we address the state's new argument that the deputy's act of opening the car door was merely part of the traffic stop and did not constitute an additional intrusion. Although the state acknowledges that it did not present this argument to the district court, it urges us to consider the argument because our review of legal issues is de novo and the record is adequately developed. *See State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003) (holding that the court of appeals erred by failing to consider a new argument raised on appeal where the record was sufficiently developed for appellate review). For the reasons identified by the state, and because Stevenson makes no argument that the state forfeited the argument by failing to raise it below, we elect to consider it.

The state contends that the deputy did not change the scope or intensity of the traffic stop by opening Stevenson's car door because caselaw allows an officer to engage in an even greater intrusion—ordering a driver to exit a car—without additional justification. In support of this argument, the state cites *Pennsylvania v. Mimms*, where the United States Supreme Court determined that an officer reasonably ordered a driver, at the outset of a traffic stop for an expired license plate, to exit the car and produce his driver's license. 434 U.S. 106, 107-08 (1977). The state argues that *Mimms* stands for the proposition that officers can order drivers out of their vehicles as a matter of course during traffic stops in

the interest of officer safety. And, according to the state, if an officer can order someone to get out of the car, an officer can also open the driver's-side door "as a matter of law."

But the state's reliance on *Mimms* is misplaced. Although the Supreme Court ultimately concluded that the officer reasonably ordered the driver out of the car in the interest of public safety, it characterized the officer's order as an "additional intrusion," and an "incremental intrusion" separate from the initial intrusion of the stop. *Id.* at 109, 111 ("This inquiry must therefore focus not on the intrusion resulting from the request to stop the vehicle . . . but on the *incremental intrusion* resulting from the request to get out of the car once the vehicle was lawfully stopped." (emphasis added)). *Mimms* therefore does not advance the state's argument that opening Stevenson's car door did not expand the traffic stop. Instead, it furthers Stevenson's assertion—and the district court's determination—that this was an additional intrusion.

The state also cites *State v. Ferrise*, 269 N.W.2d 888 (Minn. 1978) to support its argument that the deputy did not expand the scope of the stop by opening Stevenson's door. In *Ferrise*—decided decades before the Minnesota Supreme Court held that the state constitution provides greater protection to individuals during traffic stops than the Fourth Amendment, *see Askerooth*, 681 N.W.2d at 361-62—the supreme court considered whether an officer violated a passenger's Fourth Amendment rights by opening a car door during a traffic stop. *Ferrise*, 269 N.W.2d at 890-91. There, deputies stopped a car driving in the wrong lane of traffic shortly after a reported robbery. *Id.* at 889. The driver independently exited the car and approached the officers. *Id.* Because the driver did not have identification and acknowledged that there was a passenger in his car, an officer

approached the car to speak with the passenger. *Id.* But the passenger window was covered in snow, it was dark, and the officer could not see inside the car. *Id.* Rather than tap on the window, the officer opened the passenger's door, and immediately discovered a gun and other evidence of the robbery. *Id.*

At the supreme court, the passenger argued that the officer's act of opening the door violated the Fourth Amendment. *See id*. at 890. Referencing *Mimms*, the supreme court observed that "there is little practical difference between ordering a driver to open his door and get out of his car, on the one hand, and opening the door for the driver and telling him to get out, on the other." *Id.* But the supreme court went on to characterize the officer's act of opening the door as an "intrusion." *Id.* at 891. And after considering "the reasonableness of the intrusion under all the circumstances," the supreme court concluded that "the minimal intrusion was completely reasonable and proper." *Id.* Thus, *Ferrise* does not support the state's contention that an officer acts within the scope of a traffic stop by opening a car door.[2]

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[2] Likewise, in addition to having no precedential value, the unpublished cases that the state cites do not support the argument that opening a car door is necessarily within the scope of a traffic stop. *See State v. Perry*, No. A08-0083, 2009 WL 233937, at *4 (Minn. App. Feb. 3, 2009) (holding that an officer's decision to open a car door and turn off the engine was reasonable where the officer received a report of erratic driving, located the car at a rest stop, and found the driver and passengers asleep); *State v. Keith*, No. C9-00-1359, 2001 WL 139008, at *3 (Minn. App. Feb. 20, 2001) (holding that it was reasonable for an officer to open a car door because an informant reported that the suspect was actively "cutting" cocaine in the car, and the officer observed the suspect for about one minute before opening the door); *State v. Perkins*, No. C5-97-2013, 1998 WL 217212, at *3 (Minn. App. May 5, 1998) (holding that an officer's actions were reasonable where the officer had a conversation with both the driver and the passenger, noticed the passenger was not wearing a seat belt, asked for the passenger's identification, ordered the driver out of the car, and then opened the car door to hear the passenger more clearly); *State v. Atkins*,

Finally, we disagree with the state's premise that the deputy's act of opening Stevenson's car door was equivalent to an officer's request to exit a vehicle during a traffic stop. Opening Stevenson's car door at the outset of the traffic stop was a greater intrusion than such a request. By opening the door, the deputy physically intruded on Stevenson's private space without warning. And by opening the car door and leaving it open, the deputy exposed more of the car to view, facilitating a substantial visual intrusion into the car's interior, which the deputy acknowledged was his intent. Thus, even if *Mimms* does stand for the proposition that police can always order drivers out of cars during traffic stops in the general interest of officer safety, it cannot be extrapolated to mean that the deputy here acted within the scope of the traffic stop by engaging in the more intrusive act of opening Stevenson's car door.

For these reasons, we reject the state's argument that the deputy did not expand the scope of the traffic stop by opening Stevenson's car door. The deputy's act was an additional intrusion that required additional justification beyond the violations that established the basis for the traffic stop itself.

No. A19-0021, 2019 WL 6112359, at *4 (Minn. App. Nov. 18, 2019) (holding that it was reasonable for an officer to open a car door after stopping the car for erratic driving and waiting for "approximately eight seconds" while the driver "fumbl[ed]" and struggled to open the window).

B. The state failed to satisfy its burden of proving that the deputy had an individualized, articulable, and reasonable suspicion that warranted opening Stevenson's car door.

Having concluded that the deputy expanded the scope of the traffic stop by opening Stevenson's car door, we next consider Stevenson's argument that the deputy had no basis for doing so.

The district court determined that the deputy had a reasonable basis for expanding the scope of the traffic stop: officer safety. According to the district court, the deputy's statement to Stevenson that the car's window tint "was one of the reasons for the traffic stop," coupled with the deputy's "general testimony that when he opens a vehicle door, it is to view the person inside for officer safety," showed that the deputy could not see Stevenson clearly in the car. The district court then concluded that it was reasonable for the deputy to open the car door for his own safety.

Police may expand the scope of a traffic stop for a minor traffic violation where the heightened intrusion "reasonably relate[s] to . . . a threat to officer safety." *Ortega*, 770 N.W.2d at 152 (quoting *Askerooth*, 681 N.W.2d at 369-70). But the problem with the district court's rationale is that the state presented no evidence that the deputy had an individualized, articulable, and reasonable basis to suspect that Stevenson posed any risk to officer safety. *See, e.g.*, *State v. Johnson*, 257 N.W.2d 308, 308-09 (Minn. 1977) (holding that a traffic stop was unlawful where the officer testified that "something had aroused his suspicion," but was unable to articulate the facts that made him suspicious).

At the evidentiary hearing on Stevenson's motion to suppress, the deputy testified that he stopped Stevenson for having expired tabs and no license plate. He had no

independent recollection of opening Stevenson's car door, but after viewing the footage from his body-worn camera he testified, "We can say I opened it." Defense counsel then questioned the deputy about his reason for opening the door:

> Q: So we can agree you didn't tap on the window first or anything like that to get his attention?
> A: No. I mean, if I open a door, there is a reason for it.
> Q: Okay. And in this case it was expired tabs and no front license plate.
> A: Well, anytime I open a door to view someone, I'm doing it because -- for officer-safety reasons. I want to be able to see all that I can, including his hands, everything, his lap. I don't -- I don't do that every time, but I know I do open doors at times.
> Q: So something about the situation just made you feel suspicious.
> A: Um, yeah. I mean, I guess I can't remember how I felt on that day, but, like I said, if I opened the door, it was to view more of what I could see.
> Q: Okay. And again, all you had noted in your police report was that it was expired tabs and no front license plate; correct?
> A: Yeah.

The deputy surmised that he had a reason for opening the door. But he never provided a reason specific to Stevenson. The deputy instead relied on a generalization: "anytime" he opens a door, he is doing it "for officer-safety reasons."

We review the reasonableness of a police officer's belief using an objective standard, considering whether the facts available to an officer would warrant a person "of reasonable caution in the belief that the action taken was appropriate." *Sargent*, 968 N.W.2d at 38 (citing *Askerooth*, 681 N.W.2d at 364). The reasonableness inquiry considers the totality of the circumstances, which include "the special training, experience, and

ability . . . to make inferences and deductions beyond that of the average person." *Id.* at 38-39.

Here, the available facts were the following: The deputies stopped Stevenson for expired tabs and no front license plate—offenses that are not inherently dangerous. It was the middle of the day. There were two deputies present at the outset of the encounter. They flanked Stevenson's car before making contact with him. One deputy could see clearly into the car. And Stevenson did not make any unusual or furtive movements before or during the stop. Considering the totality of these circumstances, there were no facts that would warrant a person of reasonable caution in the belief that opening Stevenson's car door was appropriate. *See id.* at 38.

The district court speculated that, due to the "tint" on a rear window, the deputy could not see into Stevenson's car. Then, the district court concluded that the deputy's inability to see into the car was a safety risk that justified opening the door.

But because the deputy did not testify that he was unable to see into Stevenson's car, and the record does not otherwise support that determination, the district court clearly erred in finding that the deputy had an "inability to see [Stevenson] clearly inside the vehicle." And, by relying on this faulty factual premise, the district court further erred by concluding that the deputy's decision to open the car door for officer safety was "reasonable in light of the safety concerns posed by an officer being unable to see a vehicle's occupants."

The state bears the burden of showing that additional intrusions during a traffic stop are related to the purpose of the stop, are based on independent probable cause, or are based

on reasonable and articulable suspicion. *Askerooth*, 681 N.W.2d at 365. Applying de novo review, we conclude that the state failed to satisfy its burden here. The deputy's decision to open Stevenson's car door was not related to the purpose of the traffic stop. The state made no argument that the deputy had probable cause to believe Stevenson had committed some additional offense. Considering the totality of the circumstances, there was no objectively reasonable basis for opening Stevenson's car door. And the deputy did not articulate an individualized, reasonable, and articulable suspicion that justified the additional intrusion. The deputy's act of opening Stevenson's car door at the outset of the stop violated Stevenson's rights under article I, section 10 of the Minnesota Constitution. Accordingly, the district court erred in denying Stevenson's motion to suppress the evidence. *See In re Welfare of E.D.J.*, 502 N.W.2d 779, 783 (Minn. 1993) (holding that the remedy for a constitutional violation is suppression of the evidence).

Reversed.