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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0395**

State of Minnesota,
Respondent,

vs.

Juan Carlos Garcia-Morales,
Appellant.

**Filed March 23, 2020
Affirmed
Florey, Judge**

Hennepin County District Court
File No. 27-CR-17-21652

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

Michael O. Freeman, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Larkin, Judge; and Florey, Judge.

UNPUBLISHED OPINION

FLOREY, Judge

Appellant argues that the district court erred by denying his suppression motion because law enforcement impermissibly expanded the scope of the traffic stop. We affirm.

FACTS

In 2017, police officers were surveilling a home in Maple Grove, Minnesota, for drug activity. The residents of the home had multiple open drug cases, a history of drug charges, and had recently engaged in drug trafficking. In fact, nine days before the events of this case, officers recovered narcotics from two vehicles associated with that address, including half a pound of methamphetamine from a vehicle driven by one of the residents. Officers testified that this amount of methamphetamine indicated narcotics sale, not possession for personal use.

On March 3, Officer Sellman saw appellant, Juan Garcia-Morales, exit his vehicle and walk toward the surveilled home. Officers observed that a person inside the home opened the blinds, allowed Garcia-Morales to enter, and closed the blinds immediately. Garcia-Morales returned to his car seven minutes later. Officers believed Garcia-Morales was engaged in drug trafficking due to him entering through a secondary door of a home recently and historically known to be involved in narcotics trafficking at a late hour and for a short time. Officers followed Garcia-Morales's vehicle. They observed minor traffic violations, including failure to signal a turn, crossing or touching lane dividers, and expired tabs.

Officer Sellman initiated a traffic stop. Officer Sellman asked Garcia-Morales where he was coming from. He answered that he was traveling from picking up the child in the passenger seat in Coon Rapids. Officer Sellman asked if he had stopped anywhere else, and Garcia-Morales denied it. Officer Sellman thought that Garcia-Morales's

“deceptive behavior” was suspicious. Officer Sellman returned to the squad car to check Garcia-Morales’s identification.

Another officer removed Garcia-Morales from the vehicle and asked him where he had been coming from. This time, Garcia-Morales stated that he was coming from a friend’s residence in Maple Grove.

The officers compared their inconsistent stories, and requested a canine unit. The dog alerted to drugs at the driver’s-side door. Officers searched the vehicle and found 71.68 grams of methamphetamine under the driver’s seat. Garcia-Morales was placed under arrest, and charged with second-degree possession, which was later amended to first-degree possession of methamphetamine.

Garcia-Morales moved to suppress the drug evidence and evidence of his subsequent confession to police.¹ The district court denied both motions after a *Rasmussen* hearing. The case was submitted to the district court on stipulated evidence. The district court found Garcia-Morales guilty of first-degree possession and sentenced him to 90 months in prison. Garcia-Morales appeals.

D E C I S I O N

Garcia-Morales contends that the district court erred by denying his motion to suppress the drug evidence, arguing that the police officers impermissibly expanded the scope of the traffic stop without reasonable articulable suspicion.

¹ Garcia Morales is not appealing the district court’s suppression of his confession.

“When reviewing a district court’s pretrial order on a motion to suppress evidence, we review the district court’s factual findings under a clearly erroneous standard and the district court’s legal determinations de novo.” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted). “When facts are not in dispute, as here, we review a pretrial order on a motion to suppress de novo and determine whether the police articulated an adequate basis for the search or seizure at issue.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted).

Traffic stops resulting in searches, seizures and/or arrests are governed by the principles of *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968). See *State v. Askerooth*, 681 N.W.2d 353, 363 (Minn. 2004). Each incremental intrusion during the stop must be tied to, and justified by: “(1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness as defined in *Terry*.” *Id.* at 365. The basis for the intrusion “must be individualized to the person toward whom the intrusion is directed.” *Id.* A police officer may order a driver “out of a lawfully stopped vehicle without an articulated reason.” *Id.* at 367.

Garcia-Morales does not contest the validity of the initial stop, but rather asserts that the officers’ questions about his whereabouts constituted investigative questioning and impermissibly expanded the scope of the stop. An officer must have reasonable articulable suspicion to conduct investigative questioning during a traffic stop. *State v. Fort*, 660 N.W.2d 415, 419 (Minn. 2003).

In *Fort*, the Supreme Court held that questioning a passenger in a car that was stopped for speeding and a cracked windshield was particularly intrusive because the

questions were intended to solicit “evidence of drugs or weapons.” *Id.* at 418. Here, the officers simply asked Garcia-Morales about where he had been coming from and whether he had stopped anywhere else. These are not the same intrusive questions, unrelated to the basis of the stop, as in *Fort*.

To the extent that the questions asked expanded the scope of the stop, they were justified by reasonable articulable suspicion. Here, the officers observed Garcia-Morales entering and leaving a home under police observation for drug trafficking, late at night, and for a short period of time. This information, coupled with the traffic violations, is sufficient reasonable articulable suspicion to justify a question about Garcia-Morales’s whereabouts. *Askerooth*, 681 N.W.2d at 353. Because we conclude that the officers’ conduct was reasonable, we affirm the district court’s denial of the suppression motion.

Affirmed.