

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1319**

State of Minnesota,
Respondent,

vs.

Shaun Franklin McCormick,
Appellant.

**Filed July 22, 2024
Reversed
Slieter, Judge**

Dakota County District Court
File No. 19HA-CR-20-1619

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

Kathryn M. Keena, Dakota County Attorney, Jessica A. Bierwerth, Assistant County Attorney, Hastings, Minnesota (for respondent)

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

Joseph C. Bourne, Kate M. Baxter-Kauf, Special Assistant Public Defenders, Lockridge Grindal Nauen P.L.L.P., Minneapolis, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

On direct appeal from judgment of conviction for fifth-degree drug possession, appellant argues that the district court erred by denying his pretrial motion to suppress

evidence obtained during a traffic stop. Because the stop was not supported by reasonable, articulable suspicion of criminal activity, we reverse.

FACTS

Respondent State of Minnesota charged appellant Shaun Franklin McCormick with fifth-degree possession of a controlled substance following a traffic stop, in violation of Minn. Stat. § 152.025, subd. 2(1) (2018). McCormick filed a motion to suppress the evidence and dismiss the charges. The following facts derive from the suppression hearing.

At approximately 2:00 a.m. on May 1, 2020, law enforcement observed “what appeared to be a vehicle driving out of the ditch” next to a farm field. The officer thought this behavior “was suspicious” because there had been garbage dumping and copper wire thefts from farm fields in the area. The officer initiated a traffic stop by activating the squad-car emergency lights. After the officer activated the emergency lights but before McCormick’s vehicle stopped, the officer observed something get thrown from the passenger-side window. A bag with a crystal-like substance was located in the area where the officer saw the item tossed from the vehicle.

The district court denied McCormick’s motion to suppress, reasoning that the location of McCormick’s vehicle and knowledge of crime in the area provided the officer with reasonable, articulable suspicion justifying the traffic stop. After a stipulated-facts trial, the district court found McCormick guilty.

McCormick appeals.

DECISION

When reviewing a district court's decision on a pretrial motion to suppress evidence, appellate courts review the district court's factual findings for clear error and review its legal determinations *de novo*. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Evidence obtained during an unconstitutional stop or seizure must be suppressed, but an officer may conduct a limited stop without offending the constitution if the officer has a reasonable, articulable suspicion of criminal activity. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008). For a limited investigatory stop to be reasonable, a police officer “must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Terry v. Ohio*, 392 U.S. 1, 21 (1968). Although the standard for demonstrating reasonable, articulable suspicion is “not high,” officers “must articulate a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *Timberlake*, 744 N.W.2d at 393 (quotation omitted). Thus, “[a] hunch, without additional objectively articulable facts,” is not enough. *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011) (quotation omitted). We consider the totality of the circumstances when determining whether an officer had reasonable, articulable suspicion of criminal activity supporting the seizure. *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007).

McCormick claims that the district court erred by denying his motion to suppress because the officer did not have reasonable, articulable suspicion of criminal activity to stop McCormick's vehicle. We agree.

In its order denying the suppression motion, the district court determined that the officer had a legal basis for stopping McCormick for two reasons. First, the district court found that there had been garbage dumping and copper wire thefts in farm fields "in that location." The district court, therefore, determined that the officer "had reasonable, articulable suspicion to believe that [McCormick] had committed an offense which justified the stop." Second, the district court found that McCormick's license plate was bent and partially covered by tape, "preventing [the officer] from being able to read the plate," and determined that the license plate's condition provided a legal basis for the stop.

Garbage Dumping and Copper Wire Thefts

As an initial matter and contrary to the district court's finding, the officer did not testify that there had been garbage dumping and thefts in that specific location. Rather, the officer testified that there have been dumping and thefts in cornfields in "rural parts of Dakota County."

The officer testified that McCormick caught his attention because it was late at night, McCormick appeared to be "driving out of the ditch," and there had been garbage dumping and copper wire thefts from farm fields in rural parts of the county. The officer testified that there had been no reports of garbage dumping or copper wire theft in McCormick's particular location the night of the stop. McCormick testified that he was not driving out of a ditch but instead turning his vehicle around in a field approach. The

district court did not make a finding regarding whether McCormick was driving out of a ditch, as the officer testified, or using a field approach to turn his vehicle around, as McCormick testified.

Considering the totality of the circumstances, as we must, driving out of a ditch or a field approach late at night does not give rise to reasonable, articulable suspicion of criminal activity. Turning one's vehicle around at 2:00 a.m. is not an objective fact that leads to the reasonable inference that McCormick was dumping trash or stealing copper wire. *See Diede*, 795 N.W.2d at 844 (noting that inferences must be reasonably related to the objective facts). The officer identified no violation of a law particularized to McCormick's conduct of turning his vehicle around in either a ditch or field approach. Moreover, the officer's knowledge of criminal activity in similar parts of the county is not particularized to McCormick's conduct. McCormick's conduct—either driving out of a ditch or turning around in a field approach at 2:00 a.m.—is not the type of evasive conduct that justifies a stop of a person based on their location in a high-crime area. *Cf. State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992) (concluding that the defendant's evasive conduct after noticing police, combined with his departure from a location known for drug activity, provided reasonable suspicion for police to stop the defendant). McCormick's conduct and the officer's knowledge of crime in the area, therefore, did not amount to reasonable, articulable suspicion of criminal activity.

License Plate

In its order, the district court also found that the officer “noticed the license plate was partly bent, preventing him from being able to read the plate,” and it concluded that

“[t]he condition of the license plate provide[d] a legal basis for [the officer] to stop the vehicle driven by [McCormick].”

This finding is contrary to the officer’s testimony. The officer testified that he could read the numbers and letters on McCormick’s license plate, and that he ran the license plate to retrieve information about the vehicle. The district court’s finding that the officer could not read McCormick’s license plate, therefore, fails to support its conclusion that the license plate’s condition provided the officer with a legal basis to stop McCormick’s vehicle. Because the officer lacked reasonable, articulable suspicion of criminal activity, the district court erred by denying McCormick’s motion to suppress. *Timberlake*, 744 N.W.2d at 393.

Reversed.