STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0731

State of Minnesota,
Respondent,

vs.

Khalid Isse Adam,
Appellant.

Filed June 9, 2025
Affirmed
Bjorkman, Judge

Hennepin County District Court
File No. 27-CR-23-13785

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

Mary F. Moriarty, Hennepin County Attorney, Nicholas G. Kimball, Assistant County Attorney, Kiley Munsey (certified law student practitioner), Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, Samuel Buisman (certified law student practitioner), St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his conviction of unlawful possession of a firearm, arguing that the district court erred when it denied his pretrial motion to suppress evidence seized

during a search of his vehicle because officers lacked probable cause to arrest him for driving while impaired (DWI) and possession of a firearm in a public place. We affirm.

FACTS

At approximately 7:00 a.m. on June 30, 2023, Minneapolis police responded to a 911 call regarding a "slumper" located in a residential parking lot adjacent to an apartment complex (the parking lot). "Slumper" is a term used by law enforcement to describe an individual who is slumped over in a vehicle and unconscious due to being impaired or in some kind of distress. Upon arrival, the responding officer (the officer) observed an idling vehicle with its "brake lights activated." The vehicle was not in a parking spot; it was positioned diagonally across a "lane of traffic" within the parking lot. The idling vehicle blocked other cars from leaving the lot.

The officer approached the vehicle and observed a man, later identified as appellant Khalid Isse Adam, slumped over in the driver's seat. The officer immediately noticed that Adam had a handgun with an extended magazine wedged under his right thigh. Adam's right hand was resting on the driver's seat, very near the firearm. In Adam's left hand, he held an open plastic bottle—consistent with the shape of a soda bottle—full of pink liquid. Adam was breathing regularly and drooling.

Because the "presence of a firearm during . . . a slumper call . . . elevates the level of danger," the officer requested additional police support before engaging Adam. Within approximately 15 minutes, several officers arrived at the scene. During this time, tire deflation devices were placed under the wheels of Adam's vehicle to prevent him from driving off once contact was made. Adam remained unconscious, despite significant

conversation and activity occurring around his vehicle and numerous airplanes loudly flying overhead.

Police determined that, because Adam's vehicle was locked, breaking the driver's side window and quickly gaining control of Adam's hands was the safest way to extricate him from the vehicle. The officer broke the window, announced himself as police, and grabbed Adam's wrists to prevent him from reaching for the firearm. Simultaneously, another officer yelled that Adam was "under arrest" three times. As this occurred, Adam awoke, screamed, and hit the gas pedal, which revved the engine but did not move the vehicle forward. Police removed Adam from the vehicle and placed him on the ground in handcuffs. After identifying Adam, they learned that he was a convicted felon.

Respondent State of Minnesota charged Adam with unlawful possession of a firearm. Adam moved the district court to suppress the evidence recovered from his vehicle as the fruit of an illegal search and seizure. The district court held an evidentiary hearing during which the officer testified consistent with the facts presented above. And the district court reviewed a recording of the entire incident as captured by the officer's body-worn camera. The state argued there was probable cause to arrest Adam because (1) it is "presumptively illegal" to possess a handgun in a public place, and (2) officers believed that Adam was impaired while in physical control of a vehicle. Adam asserted that there was no evidence that he was intoxicated and that the recording shows that officers were unable to see his firearm until they removed him from the vehicle.

At the conclusion of the evidentiary hearing, the district court orally denied Adam's suppression motion. The district court found that Adam was arrested—not simply

detained—requiring probable cause. But the court determined that probable cause existed "on at least two alternative bases": (1) intoxication while in "physical possession of a motor vehicle," and (2) "possession of a firearm" in a public place.

A jury subsequently found Adam guilty of unlawful possession of a firearm. The district court imposed the mandatory 60-month prison sentence.

Adam appeals.

DECISION

The United States and Minnesota Constitutions protect against "unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. A seizure by warrantless arrest is reasonable when it is supported by probable cause. *State v. Glover*, 4 N.W.3d 124, 132 (Minn. 2024). Probable cause exists when "a person of ordinary care and prudence, viewing the totality of the circumstances objectively, would entertain an honest and strong suspicion that a specific individual has committed a crime." *Id.* (emphasis omitted) (quotation omitted). Probable cause requires "something more than mere suspicion but less than the evidence necessary for conviction." *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011). This inquiry is objective and turns on the cumulative facts of the individual case. *Id.*

When reviewing a pretrial order denying a motion to suppress evidence, we independently review the facts to "determine whether, as a matter of law, the district court erred in not suppressing the evidence." *State v. Wilde*, 947 N.W.2d 473, 476 (Minn. App. 2020), *rev. denied* (Minn. Oct. 1, 2020). In doing so, we review the district court's factual

findings for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009).

Adam argues the district court erred by concluding that officers had probable cause to arrest him for both DWI and possessing a firearm in a public place. Adam does not otherwise challenge the search of his vehicle or contend the evidence was insufficient to sustain his unlawful-possession conviction.

Driving While Impaired

Minnesota law makes it a crime for a person to "drive, operate, or be in physical control of any motor vehicle" while impaired. Minn. Stat. § 169A.20, subd. 1 (2022). An officer has probable cause to arrest an individual for DWI when "the facts and circumstances available at the time of arrest reasonably warrant a prudent and cautious officer to believe that [the] individual was driving while under the influence." *Reeves v. Comm'r of Pub. Safety*, 751 N.W.2d 117, 120 (Minn. App. 2008). On review, courts consider the totality of the circumstances underlying the arrest and afford "great deference" to an officer's probable-cause determination. *Id.* (quoting *State v. Olson*, 342 N.W.2d 638, 640-41 (Minn. App. 1984)).

The district court determined that there was probable cause to arrest Adam for DWI. It found that Adam was "really, really out of it," as evidenced by his failure to react to "all [the] people wandering around [his vehicle], the airplane going over, [and] the daylight." And the court noted that Adam's vehicle was idling and positioned in a way that "block[ed] the ingress and egress for [other] cars to be able to get in and out," finding that "a person

in normal control of their faculties would not stop and park and leave [their vehicle] running that way."

Adam cites *State v. Harris*, 202 N.W.2d 878 (Minn. 1972), for the proposition that the facts he "was asleep and oddly parked" do not establish probable cause to believe he was in physical control of a vehicle while impaired absent other indicia of intoxication. In *Harris*, our supreme court concluded there was probable cause to arrest Harris for DWI because he (1) was found in a "slumped position" behind the wheel of a running vehicle located "partially on the freeway," (2) smelled of alcohol, and (3) swayed upon being instructed to exit the car. 202 N.W.2d at 880-81. Adam contends that, unlike in *Harris*, the officers here lacked "evidence common to DWI offenses to suggest [he] was intoxicated."[1] We are unpersuaded for two reasons.

First, there is no "bright line rule [that] requires an officer to observe one of the physical indicia of intoxication to establish . . . probable cause." *State v. Taylor*, 965 N.W.2d 747, 758 (Minn. 2021) (discussing *State v. Lee*, 585 N.W.2d 378, 379-82 (Minn. 1998)). Although officer observations of a slumped driver are frequently accompanied by physical indicia of intoxication, such as odor of alcohol, slurred speech, or unsteadiness, *see, e.g.*, *Harris*, 202 N.W.2d at 880-81, Adam provides no authority to support that physical indicia are *required* to establish probable cause. Indeed, the unique circumstances

[1] Adam further contends that our nonprecedential decision in *Gregorich v. Comm'r of Pub. Safety*, No. A21-1200, 2022 WL 16543876 (Minn. App. Oct. 31, 2022), supports his position. We disagree. *Gregorich* is not binding. Minn. R. Civ. App. P. 136.01, subd. 1(c). Nor is it persuasive because it did not involve a probable-cause determination and was decided on its unique facts. *Gregorich*, 2022 WL 16543876, at *1-3.

of this case, including the fact that the vehicle was running and in gear and Adam had a firearm under his right thigh, effectively precluded the officers from safely communicating with Adam or administering field sobriety tests—two common methods for assessing physical indicia of intoxication. *See Reeves*, 751 N.W.2d at 120 (listing physical indicia of intoxication).

Second, Adam's assertion that the probable-cause analysis turns solely on the facts that he was "asleep and oddly parked" minimizes the undisputed facts in the record. Adam was slumped over and drooling in the driver's seat of a running vehicle. He remained unresponsive for 15 minutes despite the bright morning light, the numerous police officers milling about and conversing near his car, and several loud airplanes flying low overhead. Adam's vehicle was not parked—it was idling in the thoroughfare portion of the parking lot, preventing other vehicles from entering and exiting the lot. Moreover, the vehicle's brake lights were engaged, suggesting that Adam's foot was on the brake and the vehicle was in drive. We conclude that the totality of these circumstances—Adam's unconscious state, the activated brake lights, the positioning of Adam's car, the time of day, and surrounding activity—"reasonably warrant a prudent and cautious officer to believe" that Adam was in physical control of a vehicle while under the influence. *See id.* Accordingly, we discern no error in the district court's conclusion that officers had probable cause to arrest Adam for DWI.

Possession of a Firearm in a Public Place

Under Minn. Stat. § 624.714, subd. 1a (2022), it is illegal for a person to "carr[y], hold[], or possess[] a pistol in a motor vehicle . . . or on or about the person's clothes or the person . . . in a public place" without a permit. A "public place" is defined as:

> [P]roperty owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but does not include: a person's dwelling house or premises, the place of business owned or managed by the person, or land possessed by the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields, or waters of this state where the person is present lawfully for the purpose of hunting or target shooting or other lawful activity involving firearms.

Minn. Stat. § 624.7181, subd. 1(c) (2022). In *State v. Bee*, our supreme court held that this definition unambiguously includes the interior of a vehicle on a public roadway. 17 N.W.3d 150, 153-55 (Minn. 2025). In doing so, the court reasoned that a "public place" refers to the geographic rather than spatial location, meaning that the relevant "place" was the road on which the appellant was traveling, not the interior of his vehicle. *Id.* at 153-54.

On appeal, Adam contends that the district court erred by not suppressing evidence of the firearm because "the interior of a vehicle in an apartment complex parking lot" is not a "public place." The state argues that Adam forfeited this argument by failing to raise it before the district court. We agree with the state.

"A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quoting *Thiele v. Stich*, 425 N.W.2d 580, 582

(Minn. 1988)). Adam's sole argument in the district court was that the evidence did not establish that the officer saw a firearm. To support this contention, Adam pointed out that the officer's testimony that he observed a firearm underneath Adam's thigh was inconsistent with the body-camera recording. Because of this, the district court's relevant findings of fact were confined to whether the officer observed the firearm before Adam's arrest. The court made no findings or related legal conclusions as to whether the parking lot is a "public place." On this record, Adam forfeited his public-place statutory-interpretation argument.[2]

Adam does not challenge the district court's factual findings that the officer observed him in possession of a firearm preceding his arrest—the only issue raised before the district court. Therefore, we discern no error in the district court's conclusion that probable cause existed to arrest Adam for possession of a firearm in a public place.[3]

---

[2] At oral argument, Adam asserted that we should nevertheless review his argument for plain error. *See* Minn. R. Crim. P. 31.02 ("Plain error affecting a substantial right can be considered . . . on appeal even if it was not brought to the [district] court's attention."). But Adam provides no authority for the proposition that plain-error review applies to issues that a party did not raise in a pretrial suppression motion. Moreover, the parties did not develop a record sufficient for us to review whether the parking lot is a "public place" as defined by Minn. Stat. § 624.7181, subd. 1(c).

[3] The state argued alternatively that Adam's seizure was justified under both the *Terry*-stop and the emergency-aid exceptions to the warrant requirement. *See State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003) (providing that, under certain circumstances, "[a] respondent can raise alternative arguments on appeal in defense of the underlying decision"). We need not consider these arguments because we conclude there was probable cause to arrest Adam.

Because officers had probable cause to arrest Adam for both DWI and public possession of a firearm, we conclude that the district court did not err by denying Adam's pretrial suppression motion.[4]

Affirmed.

[4] Adam argues in a pro se supplemental brief that (1) he received ineffective assistance of counsel, and (2) the district court erred when it permitted the jury to view him being handcuffed in the courtroom. Because Adam does not provide any citation to the facts in the record or the law to support these arguments, we do not consider them. *State v. Montano*, 956 N.W.2d 643, 650 (Minn. 2021) ("Claims in a pro se supplemental brief that are unsupported by either arguments or citation to legal authority are forfeited." (quotation omitted)).