

*This opinion is nonprecedential except as provided by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
A24-0909**

State of Minnesota,
Respondent,

vs.

Chad Menford Brehmer,
Appellant.

**Filed April 28, 2025
Affirmed
Frisch, Chief Judge**

Hennepin County District Court
File No. 27-CR-22-15253

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

Mary F. Moriarty, Hennepin County Attorney, Nicholas G. Kimball, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Mark D. Kelly, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Frisch, Chief Judge; and Connolly, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

In this direct appeal following his conviction for driving while impaired, appellant argues that the district court erred in denying his pretrial motion to suppress because police officers exceeded the bounds of a lawful *Terry* stop and arrested him without probable

cause.¹ Because the evidence used to support appellant's conviction was admissible under the inevitable-discovery exception to the exclusionary rule regardless of the lawfulness of the officers' challenged actions, we affirm.

FACTS

Late in the evening of March 20, 2021, two Minneapolis police officers observed a car traveling the wrong way on a two-way street. The driver of the car, later identified as appellant Chad Menford Brehmer, "abruptly hit[] the brakes and then revers[ed] backwards" about 20 to 30 yards into a parking lot. In response, the officers activated their squad car's emergency lights to perform a traffic stop. Brehmer stopped his vehicle in an abandoned parking lot and the officers approached in their squad car "at an angle head-on."

As the officers approached, one of the officers said, "Watch out. Watch out." The other officer testified that he then "directed [his] attention to the [car's] driver as he was reaching down." Both officers exited the squad car with their firearms drawn and yelled at Brehmer to put his hands up. Brehmer moved his hands up and down several times before raising both hands, with one hand outside of the car window. One officer observed that Brehmer made "a lot of furtive movements . . . with the hands kind of up, down, side to side," and specifically noted that he "reach[ed] to the right side." The officer testified

¹ "A *Terry* stop permits an officer who suspects that an individual is engaged in illegal activity and also believes that a suspect may be armed and dangerous to frisk the suspect in order to reduce concerns that the suspect poses a danger to officer safety." *State v. Flowers*, 734 N.W.2d 239, 250-51 (Minn. 2007) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)).

that he could see Brehmer's hands when walking toward the car, and that after Brehmer's hands were outside the vehicle, "he was pretty compliant."

One of the officers opened the driver-side door and pulled Brehmer from the car. The officers both pushed Brehmer to the ground face down and cuffed his hands behind his back. While Brehmer was handcuffed on the ground, one of the officers patted Brehmer's pockets and pulled up his shirt to reveal his waistband. The officer then stood Brehmer up while handcuffed and brought him over to the squad car. The officers pat-frisked Brehmer next to the squad car, reaching into his front pants pocket and removing his wallet. During the frisk, one of the officers felt an object near Brehmer's "right buttock area in his underwear." He asked Brehmer what the object was, and Brehmer replied that it was "just a pipe." The other officer removed a glass pipe from Brehmer's underwear and, after inspecting it, concluded that it was a drug pipe containing drug residue.

One of the officers then ran information from Brehmer's driver's license in the police database and, after Brehmer stated that he did not have a license, confirmed that Brehmer's license was suspended. The officer stated that he wanted to do "one more frisk search" before putting Brehmer in the back of the squad car. The officer reached into Brehmer's front and back pockets and pat-frisked Brehmer's body. The officer then placed Brehmer, still handcuffed, in the back of the squad car. During this time, the other officer observed that Brehmer exhibited several indicia of drug use, including pinpoint pupils,

bloodshot eyes, sweating, and fast head movements. Officers also searched Brehmer's car and found whiskey plates for the car.²

Brehmer declined to voluntarily submit to field sobriety testing and was thereafter arrested for driving under the influence of drugs and driving with a canceled license. The officers transported Brehmer to the police station where he was read his *Miranda* rights and asked if he would participate in further questioning and field sobriety tests. Brehmer declined and requested an attorney. One of the officers applied for and received a search warrant for Brehmer's blood or urine for chemical testing. Officers obtained a urine sample from Brehmer that tested positive for amphetamine and methamphetamine.

Respondent State of Minnesota charged Brehmer with felony DWI pursuant to Minn. Stat. § 169A.20, subd. 1(7) (2020). Brehmer moved to suppress evidence including the search of his person and car, his statements to the officers on the scene, and the chemical test of his urine, arguing that the police violated his right to be free from an unlawful search and seizure under the United States and Minnesota Constitutions. The district court held an evidentiary hearing and received into evidence body-worn camera footage from the two officers who stopped Brehmer, a copy of the search warrant, and a toxicology report. The district court also heard testimony from one of the officers who stopped Brehmer.

² Special registration plates, known as "whiskey plates," may be issued when a vehicle is subject to plate impoundment after a person's driver's license has been revoked for a "plate impoundment violation" including driving while impaired (DWI) or driving after driving privileges have been canceled as inimical to public safety. Minn. Stat. § 169A.60, subds. 1-2 (2024).

The district court denied Brehmer's motion to suppress, and the parties agreed to a stipulated-evidence trial pursuant to Minn. R. Crim. P. 26.01. The district court found Brehmer guilty of felony DWI for operating a motor vehicle with a controlled substance in his body and sentenced Brehmer to 64 months in prison.

Brehmer appeals.

DECISION

Brehmer argues that the district court erred in denying his motion to suppress because police unlawfully arrested him when he was ordered from his vehicle at gunpoint, immediately handcuffed, questioned, and detained. In denying Brehmer's motion to suppress, the district court concluded, in part, that even if the actions of law enforcement "were found to constitute an arrest lacking probable cause, all of the evidence . . . would have been discovered as a result of the traffic stop absent any unauthorized police actions." We conclude that the district court did not err in denying Brehmer's motion to suppress because the evidence he sought to suppress would have been inevitably discovered. With this conclusion in mind, we do not reach the issue of whether the circumstances of the stop constituted an unlawful arrest.

In reviewing the pretrial order denying Brehmer's motion to suppress, 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). "Findings of fact are clearly erroneous if, on the entire evidence, [appellate courts] are left with the definite and firm conviction that a mistake occurred." *State v. Diede*, 795 N.W.2d 836, 846-47 (Minn. 2011).

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. And unless an exception applies, evidence obtained as a result of an unlawful search or seizure must be suppressed. *State v. Bradley*, 908 N.W.2d 366, 369 (Minn. App. 2018). One such exception is the inevitable-discovery doctrine, which permits a court to admit evidence obtained as a result of an unlawful search or seizure “[i]f the state can establish by a preponderance of the evidence that the fruits of a challenged search ultimately or inevitably would have been discovered by lawful means.” *State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003) (quotation omitted). To meet this burden, the state’s showing must “involve[] no speculative elements but focus[] on demonstrated historical facts capable of ready verification.” *Nix v. Williams*, 467 U.S. 431, 444 n.5 (1984).

It is uncontested that the officers had reasonable, articulable suspicion to stop Brehmer after observing his erratic driving and had reasonable concern for officer safety such that a *Terry* frisk was lawful. This frisk would have inevitably revealed the drug pipe with drug residue in Brehmer’s underwear. Indeed, the officer testified that he would have found the pipe “regardless” of any of Brehmer’s statements during the encounter.

Similarly, the district court found that “a routine records check inevitably would have been performed” and would have revealed that Brehmer’s license was canceled as inimical to public safety and that the vehicle was subject to whiskey plates. Brehmer does not assert that this finding was clearly erroneous. One officer agreed during his testimony that it was “standard operating procedure to identify an individual” during a traffic stop, that the officer would have learned that Brehmer’s license was canceled, and that the officer

would have discovered that the vehicle should have been displaying whiskey plates when stopped. *See Diede*, 795 N.W.2d at 846-47.

Based on these inevitabilities, the officers would have had probable cause to arrest Brehmer for operating a vehicle while his license was canceled as inimical to public safety—a gross misdemeanor. Minn. Stat. §§ 171.04, subd. 1(10), .24, subd. 5(1) (2020). And given that probable cause to arrest, officers would have inevitably discovered the drug pipe with residue on Brehmer in a search incident to arrest. Brehmer’s erratic driving, drug pipe with residue, and his canceled license and vehicle-registration status, taken together, formed sufficient probable cause to support a warrant for chemical testing for DWI. *See* Minn. Stat. §§ 169A.51, subd. 1 (requiring a driver submit to a chemical test when an officer has probable cause to believe that person was driving while impaired and was lawfully arrested for driving while impaired). Thus, we conclude that the district court did not abuse its discretion in concluding that the state “establish[ed] by a preponderance of the evidence that the fruits of a challenged search ultimately or inevitably would have been discovered by lawful means.” *Licari*, 659 N.W.2d at 254 (quotation omitted).

Affirmed.