STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0831

State of Minnesota,
Appellant,

vs.

Nelson Guillermo Mejia,
Respondent.

Filed September 30, 2008
Affirmed
Schellhas, Judge

Ramsey County District Court
File No. 62-T1-07-605281

Lori Swanson, Attorney, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Martin J. Costello, Katrina E. Joseph, Hughes & Costello, 1230 Landmark Towers, 345 St. Peter Street, St. Paul, MN 55102 (for appellant)

Charles F. Clippert, Caplan Law Firm, PA, 525 Lumber Exchange Building, 10 South Fifth Street, Minneapolis, MN 55402 (for respondent)

Considered and decided by Halbrooks, Presiding Judge; Klaphake, Judge; and Schellhas, Judge.

U N P U B L I S H E D O P I N I O N

SCHELLHAS, Judge

The state appeals a pretrial ruling that there was no reasonable articulable suspicion for an investigatory stop of respondent, who was charged with the misdemeanor of allowing his vehicle to be operated without insurance in violation of Minn. Stat. § 169.797, subd. 2 (2006). Because the district court's findings are not clearly erroneous and support its conclusion that there was no reasonable articulable suspicion for the stop, we affirm.

FACTS

Officer Michael Huddle testified at a pretrial hearing about the basis of the stop of the vehicle owned by respondent Nelson Guillermo Mejia. On April 20, 2007, Officer Huddle was on patrol in Falcon Heights, Minnesota, and driving eastbound on Larpenteur Avenue about 23 feet behind respondent's vehicle. Officer Huddle "observed that [respondent's vehicle] did not have any license plates" and had only "what appeared to be a 21-day permit in the back of the vehicle with an expired date." Officer Huddle estimated that the permit was eight and one-half by five inches but could not recall the color of the permit or where it was located in the back window of the vehicle. When defense counsel asked if he could see the writing on the permit, Officer Huddle said, "I could see the writing. I don't know exactly what it said, but I could see writing on it." On redirect, when asked if he could see the expiration date written on the permit, he said, "I don't know when I first observed the exact date of the permit, or how close I was when

I observed it." But Officer Huddle testified that at some point, he observed that the permit had expired on April 16, 2007.

Officer Huddle followed the vehicle and observed it while it traveled on Pascal Street, California Avenue, and back to Larpenteur Avenue. He thought "maybe at the time [the vehicle occupants] saw [him] behind them, knew that the current license was expired, and they might be stopped." Ultimately, the vehicle pulled over on California Avenue, and Officer Huddle pulled up behind the vehicle, turned on his emergency lights, and approached the driver. Officer Huddle discovered that the driver did not have identification and that respondent, a passenger, was the registered owner of the vehicle and did not have insurance for the vehicle.

Officer Huddle observed no violation of traffic laws in the driving conduct but thought that the conduct was suspicious. He testified, "I thought that was not typical behavior. I thought that might be something I might, if they were lost, or I thought that might be something that I should look into." He also thought the vehicle was trying to avoid him by making the turns.

The district court ruled there was no reasonable articulable suspicion for the stop. This appeal follows.

D E C I S I O N

"In reviewing a district court's determinations of the legality of a limited investigatory stop, [appellate courts] review questions of reasonable suspicion de novo." *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). "In doing so, we review findings of fact for clear error, giving due weight to the inferences drawn from those facts by the

district court." *Id.* (quotation omitted). "A trial court's finding is erroneous if this court, after reviewing the record, reaches the firm conviction that a mistake was made." *State v. Kvam*, 336 N.W.2d 525, 529 (Minn. 1983).

A district court's pretrial decision to suppress evidence will only be reversed if the state demonstrates "clearly and unequivocally that the trial court has erred in its judgment and that, unless reversed, the error will have a critical impact on the outcome of the trial." *State v. Othoudt*, 482 N.W.2d 218, 221 (Minn. 1992) (quoting *State v. Webber*, 262 N.W.2d 157, 159 (Minn. 1977)). A district court's suppression of evidence will have a critical impact on the prosecution when the lack of the suppressed evidence significantly reduces the likelihood of a successful prosecution. *State v. Edrozo*, 578 N.W.2d 719, 723 (Minn. 1998). Here, the district court's suppression of evidence will indisputably have a critical impact on the prosecution. The issue is whether the district court erred in its judgment in ruling that there was no reasonable, articulable suspicion for the stop.

Under *Terry v. Ohio*, police can conduct "limited stops to investigate suspected criminal activity when the police 'can point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.'" *Britton*, 604 N.W.2d at 87 (quoting *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880 (1968)). A stop "must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity." *Id.* (quoting *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997)).

The prosecution argues that the existence of two facts created a reasonable suspicion: (1) the officer observed an expired temporary permit and (2) the driver tried to

avoid the officer. If the officer observed the expired permit, he would have a reasonable articulable suspicion for the stop. *See George*, 557 N.W.2d at 578 ("Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle."). Further, if the officer observed evasive driving that gave rise to a reasonable suspicion of criminal activity, he had a reasonable, articulable suspicion for the stop. *State v. Johnson*, 444 N.W.2d 824, 826 (Minn. 1989) ("[I]f the driver's conduct is such that the officer reasonably infers that the driver is deliberately trying to evade the officer and if, as a result, a reasonable police officer would suspect the driver of criminal activity, then the officer may stop the driver.").

But the district court rejected the officer's explanation that he stopped the vehicle based upon a suspicion of criminal activity because he saw an expired permit and thought the vehicle was trying to evade him because it made a series of turns. Although the district court's findings lack the specificity required under *State v. Morgan*, 296 N.W.2d 397, 401 (Minn. 1980), we are satisfied that the district court rejected the officer's explanation because of the court's statement in its memorandum that "[t]he objective facts articulated by the police officer do not identify any illegal driving conduct nor any facts to relate [respondent's vehicle] and its occupants to any criminal acts." Thus, the district court rejected the only facts in this case that could establish reasonable articulable suspicion to justify the stop. Because we do not reach a firm conviction that the district court made a mistake, we conclude that the court's findings are not erroneous and that the court did not err in its judgment. Finding no error, we affirm.

Affirmed.