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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-665**

State of Minnesota,
Respondent,

vs.

Gerald Grier,
Appellant.

**Filed April 6, 2010
Affirmed
Ross, Judge**

Ramsey County District Court
File No. 62-K9-08-1164

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Susan Gaertner, Ramsey County Attorney, Mark Nathan Lystig, Assistant County Attorney, St. Paul, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Michael F. Cromett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Ross, Judge; and
Stauber, Judge.

UNPUBLISHED OPINION

ROSS, Judge

This case arises from an attempted crack cocaine delivery interrupted by police. Police received a tip from a confidential informant that a man was headed to a St. Paul

White Castle to deliver cocaine. The informant described the dealer by gender, race, size, hair length, and vehicle color and type. Gerald Grier, who matched the description, soon after arrived at the White Castle. When police approached, Grier tucked an object under his seat. Officers searched, and they seized more than 29 grams of crack cocaine.

Grier appeals his controlled-substance-crime conviction, arguing that the district court should have suppressed the evidence because police intrusiveness transformed a valid stop into an unsupported arrest. Because this argument was not raised in district court and because the seizure was supported by reasonable, articulable suspicion of criminal activity, we affirm.

FACTS

In March 2008, a confidential informant told St. Paul police that a man, later identified as Gerald Grier, was driving from Minneapolis to deliver cocaine at a St. Paul White Castle. The informant told officers that the suspect was a heavysset black male with short hair, that he would be driving a white Pontiac Bonneville, that he might not be alone, and that he would arrive at a stated approximate time.

Sergeant Steve Anderson and other officers arrived with the informant at the White Castle parking lot and waited. Grier contacted the informant by cellular telephone and told him that he was on his way. Three to four minutes later, officers observed a white Bonneville turn into the lot and park. The driver matched the description of the suspect and had two passengers. The informant confirmed that this was the right car.

Sergeant Anderson parked behind Grier's car and two additional squad cars pulled into the lot. Two officers approached the driver's side while others approached the

passenger's side. The officers ordered the occupants to raise their hands. Grier did not comply, and instead tucked an object under the driver's seat. The officers saw this and seized a clear plastic bag containing 29.24 grams of crack cocaine. They arrested Grier, and the state charged him with first-degree controlled substance crime.

Grier moved the district court to suppress the drug evidence as the product of an unconstitutional stop and search, arguing that the informant's tip was not sufficiently reliable to justify seizing Grier. The district court conducted a hearing and found that there was substantial evidence establishing the informant's veracity and reliability; that Grier's seizure was supported by a reasonable, articulable suspicion of criminal activity; and that the warrantless vehicle search was justified under the motor-vehicle exception. Grier waived his right to a jury trial and agreed to be tried to the court on stipulated facts under Minnesota Rule of Criminal Procedure 26.01. The district court found Grier guilty. He appeals.

DECISION

Grier argues that the district court erred by denying his motion to suppress evidence of the cocaine. This court reviews pretrial suppression rulings de novo, deciding whether suppression is warranted as a matter of law on the factually supported findings. *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). Grier argues that the drug evidence must be suppressed either because police actions exceeded a justified seizure and became an illegal arrest or because neither the credibility of the informant nor the reliability of the tip was established sufficiently for police to stop or arrest Grier. Neither argument is convincing.

I

Grier has no basis to argue that the district court erred by finding that the seizure was a valid *Terry* stop rather than finding that it was an arrest. He would have us apply probable cause rather than the more police-friendly standard of reasonable suspicion by arguing that the stop was so intrusive that it transformed into a de facto arrest. *See State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996) (“A brief investigatory stop requires only reasonable suspicion of criminal activity, rather than probable cause.”). Grier makes this argument for the first time on appeal. The only issue Grier raised in his motion to suppress was whether his seizure was supported by reasonable, articulable suspicion of criminal activity; he did not argue to the district court that he had been improperly arrested.

Appellate courts generally will not decide issues that were not first addressed by the district court, including constitutional issues of criminal procedure. *State v. Sorenson*, 441 N.W.2d 455, 457 (Minn. 1989). This rule applies especially in cases like this, where the record is not sufficiently developed for us to determine whether police actions turned the seizure into an arrest. *See State v. Gauster*, 752 N.W.2d 496, 508 (Minn. 2008) (stating that one purpose for the rule “is to encourage the development of a factual basis for claims at the district court level” (quotation omitted)). Grier waived the argument that police conduct transformed his initial seizure into an illegal arrest requiring probable cause, and we will not address its merits.

II

Grier argues that seizing him was illegal because the confidential informant's tip failed to establish reasonable and articulable suspicion to believe that he was committing a crime. The United States and Minnesota constitutions prohibit unreasonable seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer does not violate this prohibition by stopping a person to investigate if the officer has a reasonable, articulable suspicion of criminal activity. *Terry v. Ohio*, 392 U.S. 1, 21–22, 88 S. Ct. 1868, 1880 (1968); *State v. Waddell*, 655 N.W.2d 803, 809 (Minn. 2003). The district court determined that Grier's seizure was supported by reasonable, articulable suspicion. Appellate courts review the district court's determination of the legality of an investigative stop de novo and its findings of fact for clear error. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000).

An officer may make an investigative stop based on an informant's tip if the tip is sufficiently reliable. *In re Welfare of G.M.*, 560 N.W.2d 687, 691 (Minn. 1997). Grier challenges the district court's finding that "there was substantial evidence establishing the veracity and the reliability of the informant." He argues that the record failed to establish that the informant was credible or that the information provided was reliable. This court has stated that an informant who has given reliable information in the past is likely also to be currently reliable and that an informant's reliability can be established if the police can corroborate the information. *State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004). Sergeant Anderson testified that the informant had previously given reliable information to police and described a similar drug-delivery case in which the informant had assisted

officers. This is sufficient. *See State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985) (holding that a statement that an informant “has been used over several years successfully” was sufficient to permit an inference that the “informant had provided accurate information to the police in the past”).

Grier argues that Sergeant Anderson’s nonspecific testimony did not establish that the informant had a reliable track record, and he also claims that the case referred to by Sergeant Anderson occurred after his arrest and therefore should not be considered. It is not clear from the record when the incident occurred, but it is clear that Sergeant Anderson’s unit had worked successfully with the informant in the past.

The district court also found that the informant’s tip was reliable because police were able to independently corroborate all of the information provided by the informant prior to Grier’s seizure. “Even corroboration of minor details lends credence to an informant’s tip.” *State v. Holiday*, 749 N.W.2d 833, 841 (Minn. App. 2008). The informant’s tip provided the police with specific details describing the driver, the car, and the time and place of delivery. And the informant was able to give police an update of the suspect’s approach from the suspect’s own mouth. The police then observed Grier, who matched the description in all respects, pull into the parking lot three to four minutes after the suspect told the informant that he was on his way. Finally, the informant pointed out Grier’s white Bonneville as the suspect’s vehicle.

Grier argues that despite the corroboration of these details, the reliability of the informant’s tip was not established because the informant did not state where or how he came upon the inculpatory information. Grier relies primarily on *State v. Cook*, a case in

which we determined that police lacked probable cause to arrest the defendant based solely on a tip received from a confidential informant. *See* 610 N.W.2d 664, 666 (Minn. App. 2000), *review denied* (Minn. July 25, 2000). But in *Cook*, we expressly recognized that although the informant's tip did not establish probable cause to arrest, it may have established reasonable suspicion to stop him. *Id.* at 669. The information known to officers here easily established reasonable suspicion for them to stop Grier, and Grier's attempt to conceal something under his seat as police approached established sufficient ground for the search.

We hold that there was substantial evidence establishing the reliability of the informant's tip. The district court properly concluded that Grier's seizure was supported by a reasonable, articulable suspicion of criminal activity.

Affirmed.