STATE OF MINNESOTA
IN COURT OF APPEALS
A09-2121

State of Minnesota,
Respondent,

vs.

Sarah Magdalene Sohre,
Appellant.

Filed September 21, 2010
Affirmed
Stauber, Judge

Blue Earth County District Court
File No. 07VB09144

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

Eileen Wells, Mankato City Attorney, Christopher D. Cain, Assistant City Attorney, Mankato, Minnesota (for respondent)

Christopher P. Rosengren, Rosengren Kohlmeyer, Mankato, Minnesota (for appellant)

Considered and decided by Stauber, Presiding Judge; Lansing, Judge; and Worke, Judge.

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

STAUBER , Judge

Appellant argues that the district court erred in denying her motion to suppress evidence because the officer did not have an articulable suspicion of criminal activity at the time he stopped appellant's vehicle. We affirm.

FACTS

On December 31, 2008, at approximately 2:30 a.m., Brittany Bowman, a security officer for Bethany Lutheran College, was conducting her rounds of the campus when she noticed a silver Ford Taurus parked in a campus parking lot.[1] Because no visitation is allowed on campus over Christmas vacation, Security Officer Bowman returned to monitor the vehicle approximately 15 minutes after first seeing the vehicle. As Security Officer Bowman approached the vehicle, she parked next to it so that her driver's side window was approximately two feet from the other vehicle's driver's side window. When the two women occupying the vehicle twice refused to comply with the security officer's request to roll down their window, the officer drove away and "called Dispatch." After calling dispatch and circling the parking lot, Security Officer Bowman noticed the vehicle had left the campus parking lot and police officers had pulled it over as it exited campus "onto the public right of way." Appellant was charged with two counts of fourth-degree DWI violation pursuant to Minn. Stat. § 169A.20, subds. (1) (1) and (1) (5) (2008).

At the pretrial hearing, Officer Hoppe testified that in the early morning hours of December 31, 2008, he received a dispatch call regarding "a suspicious vehicle on the Bethany campus that was ignoring the security guard and they had also advised that security had advised the vehicle was not currently registered to any students on the campus." After proceeding to the area of the call, Officer Hoppe observed a vehicle that

[1] Bowman was wearing a Bethany College security officer uniform and driving a college-provided truck with the words "Bethany Lutheran College Security" written on the side of the truck.

matched the description and license plate received from the dispatch and initiated a traffic stop. On cross-examination, when Officer Hoppe was asked whether he had any suspicion of criminal wrongdoing prior to the stop, Officer Hoppe stated:

> No sir but it would typically be suspicious for somebody to not comply with a uniformed security officer just to talk to him. So, that would lead us to think that there was something more to it and it's very typical of MSU Security as well as Bethany Security and Mall Security to contact us to assist in matters like this as they are not armed or equipped to deal with somebody that's not compliant.

Following a July 7, 2009 contested pretrial hearing on appellant's motion to suppress evidence obtained subsequent to the stop by the police officers, the district court denied the motion. Appellant then waived her right to a jury trial, and the matter was submitted to the court upon stipulated facts and pursuant to *State v. Lothenbach*, 296 N.W.2d 854, 857–58 (Minn. 1980). The district court found appellant guilty of two counts of driving under the influence of alcohol pursuant to Minn. Stat. § 169A.20, subds. (1) and (5) (2008).

D E C I S I O N

Appellant contends that because Officer Hoppe did not have "any independent suspicion of criminal activity" prior to stopping appellant's vehicle, his stop of appellant's vehicle "was illegal and in violation of both the Minnesota and United States Constitutions." A traffic stop is lawful under the Fourth Amendment if an officer can articulate a "particularized and objective basis for suspecting the particular persons stopped of criminal activity." *Berge v. Comm'r of Pub. Safety*, 374 N.W.2d 730, 732 (Minn. 1985) (quoting *United States v. Cortez*, 449 U.S. 411, 417–18, 101 S. Ct. 690,

694–95 (1981). This court reviews de novo a district court's determination of whether there was reasonable suspicion of unlawful activity to justify a limited investigatory stop. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). The district court's findings of fact are reviewed for clear error, and due weight is given to inferences drawn from those facts by the district court. *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998).

I.

Reasonable Suspicion

A police officer may make a limited investigative stop of a motorist if the officer has a "reasonable suspicion of criminal activity." *State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996). Articulable, objective facts that justify an investigatory stop are "facts that, by their nature, quality, repetition, or pattern become so unusual and suspicious that they support at least one inference of the possibility of criminal activity." *State v. Schrupp*, 625 N.W.2d 844, 847–48 (Minn. App. 2001), *review denied* (Minn. July 24, 2001). The Minnesota Supreme Court has acknowledged that the standard for reasonable suspicion is not high. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008). An officer's suspicion may be based on the totality of the circumstances. *Knapp v. Comm'r of Pub. Safety*, 610 N.W.2d 625, 628 (Minn. 2000).

In addition, the collective knowledge of the police can provide the basis for an investigatory stop. *See Olson v. Comm'r of Pub. Safety*, 371 N.W.2d 552, 555 (Minn. 1985). An officer may rely upon information relayed through a dispatcher as long as the dispatcher in fact had specific articulable facts to support a reasonable suspicion of criminal activity. *Id*. Further, a court may conclude that any information given by an

informant to a dispatcher is imputed to the officer effecting the stop under the collective-knowledge doctrine. *See State v. Riley*, 568 N.W.2d 518, 523 (Minn. 1997); *Olson*, 371 N.W.2d at 555 (applying collective-knowledge doctrine to information relayed through dispatcher).

In denying appellant's motion to suppress, the district court stated:

> The court finds it reasonable that when an unregistered vehicle sits idle on the campus of a private college after hours and the occupants of the vehicle ignore campus security's request for identification or to explain their presence, law enforcement can execute a brief investigatory stop to ensure criminal activity is not afoot or that safety concerns are addressed. The fact that the vehicle had just pulled off-campus prior to being stopped does not dissolve the reasonable articulable suspicion.

The court further stated that "[b]ased on the information available at the time, Officer Hoppe's actions were entirely reasonable and certainly not the product of a whim, caprice, or idle curiosity." (quotations omitted). The record supports the district court's findings. Security Officer Bowman testified that: (1) there was a vehicle on campus at 2:30 a.m. over Christmas break; (2) the vehicle was not registered to any student with the college pursuant to college policy; (3) the occupants of the car refused to comply with the security guard's request to roll down the vehicle's driver's side window; (4) upon a second request to roll down the vehicle's window, the occupants raised the volume of the music and started laughing. In addition, the information relayed from the dispatcher to Officer Hoppe was given by a reliable source, Security Officer Bowman. Finally, Officer Hoppe testified that he received a call from Dispatch regarding "a suspicious vehicle on the Bethany campus that was ignoring the security guard" and that "security had advised

the vehicle was not currently registered to any students on the campus." These facts, taken together with a credible informant,[2] qualify as specific, articulable facts warranting an investigatory stop. Thus, the district court did not err in determining that Officer Hoppe had sufficient grounds to conduct an investigatory stop of appellant's vehicle.

II.

Appellant argues that Officer Hoppe "had no reason to believe [a]ppellant was in the process of committing a crime when he stopped the vehicle." Although appellant makes this second argument, it appears that the only issue raised in this case is whether Officer Hoppe had a reasonable articulable suspicion in making an investigatory stop of appellant's vehicle. Evidence of a traffic violation is not required to make a stop. *See Marben v. State, Dep't of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980) (quotation omitted) (stating that "[a]n actual violation of [a traffic law] need not be detectable" to justify a stop). Moreover, "innocent activity might justify the suspicion of criminal activity." *State v. Johnson*, 444 N.W.2d 824, 827 (Minn. 1989) (finding that a driver's decision to quickly exit a highway after making eye contact with a trooper, while "consistent with innocent behavior, ... [could] reasonably cause[ ] the officer to suspect that defendant was deliberately trying to evade him," and therefore may result in a traffic stop).

[2] Appellant argues that because Bowman was not a "licensed peace officer" at the time of the incident, the arresting officer "had no basis for affording her statements any more credence or reliability than a private citizen." Even if this is true, Minnesota case law states that there is a presumption that citizen informants are reliable. *Marben v. State, Dep't of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980).

The following facts constitute the totality of the circumstances: (1) appellant was on a private college campus at 2:30 a.m. over Christmas break; (2) appellant's vehicle was stopped at a location reserved for students who either fly home for the break or remain on campus; (3) appellant's vehicle was not registered with the college as required by the college; (4) appellant's vehicle remained at that location for approximately 15 minutes; and (5) appellant twice refused Security Officer Bowman's requests to roll down her window and show some identification.

An independent review of the facts reveals that appellant's actions, under a totality-of-the-circumstances review, "raise[d] a suspicion of illegality." *See Yoraway v. Comm'r of Pub. Safety*, 669 N.W.2d 622, 627 (Minn. App. 2003). At that hour of the night, a parked vehicle without proper registration coupled with a refusal of the occupants to cooperate, raised a suspicion of illegality.

Based on the evidence in the record, the district court properly concluded that Officer Hoppe had a reasonable articulable suspicion to make an investigatory stop of appellant's vehicle. Thus, the district court did not err in denying appellant's motion to suppress.

Affirmed.