STATE OF MINNESOTA
IN COURT OF APPEALS
A10-735

State of Minnesota,
Respondent,

vs.

Daniel Lamont Williams,
Appellant.

Filed March 8, 2011
Affirmed
Klaphake, Judge

Hennepin County District Court
File No. 27-CR-09-10675

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

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Sharon E. Jacks, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Klaphake, Presiding Judge; Larkin, Judge; and Crippen, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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

KLAPHAKE, Judge

On appeal from his conviction for second-degree controlled substance crime following a stipulated-facts bench trial, appellant Daniel Lamont Williams challenges the district court's order denying his suppression motion. Appellant argues that the police lacked reasonable suspicion to seize him and conduct a frisk search because they relied on a tip from an informant who did not provide a basis for knowing that appellant possessed cocaine.

Because the informant's tip was corroborated by predictive information, and the circumstances provided police with a reasonable, articulable suspicion that appellant was engaged in criminal activity and armed, we conclude that the district court did not err by refusing to suppress evidence discovered during the investigative stop and pat search. We therefore affirm.

D E C I S I O N

Investigative Stop

We review the district court's findings on a suppression motion for clear error and its determination of whether to suppress the evidence de novo. *In re Welfare of G.M.*, 560 N.W.2d 687, 690 (Minn. 1997). The warrantless search and seizure of an individual is per se unreasonable under both U.S. Const. amend. IV, and Minn. Const. art. I, § 10, subject to certain limited exceptions. A police officer is permitted to make a limited investigative stop if the officer has "a reasonable, articulable suspicion that the suspect might be engaged in criminal activity." *State v. Flowers*, 734 N.W.2d 239, 250 (Minn.

2007) (quotation omitted); *see Terry v. Ohio*, 392 U.S. 1, 30, 88 S. Ct. 1868, 1884-85 (1968).

The reasonable articulable suspicion standard is a lesser standard than probable cause. *State v. Waddell*, 655 N.W.2d 803, 809 (Minn. 2003). A police officer must be able to point to articulable facts that demonstrate that the decision to stop a person was not "the product of mere whim, caprice, or idle curiosity." *Id.* The basis for a stop must be particularized and objective. *G.M.*, 560 N.W.2d at 691.

An officer may rely on information supplied by an informant if the informant is credible and the information is obtained in a reliable manner. *Id.* This requires proof that both the informant and the informant's information are reliable. *Id.* "Having a proven track record is one of the primary indicia of an informant's veracity." *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (discussing reliability of informant providing probable cause to make a warrantless search). Here, the police officer testified that he had relied on this CRI in the past and that the CRI's information in the past had led to the successful arrest of other individuals.

In addition, the reliability of the CRI's information may be demonstrated either by direct information showing a basis for the CRI's knowledge or by "self-verifying details that allow an inference that the information was gained in a reliable way and is not merely based on a suspect's general reputation or on casual rumor circulating in the criminal underworld." *State v. Cook*, 610 N.W.2d 664, 668 (Minn. App. 2000), *review denied* (Minn. July 25, 2000). Here, the evidence did not supply the basis for the CRI's knowledge, so we look at whether other evidence provided self-verifying details.

We affirmed the suppression of evidence in *Cook* after concluding that the CRI did not supply the basis for his knowledge and that the self-verifying details were easily obtained but did not point to suspicious activity or the suspect's future actions, but merely described "details easily obtainable by anyone, not necessarily by someone with inside information on Cook."[1] *Id.* at 669.

By contrast, in *Munson*, the CRI gave predictive information, describing what activities the suspects would engage in within a relatively short period of time; police observation of these predicted activities corroborated the reliability of the information. 594 N.W.2d at 132-33. *Cf. State v. Walker*, 584 N.W.2d 763, 768 (Minn. 1998) (concluding that anonymous letter naming murder suspect lacked indices of reliability because police failed to corroborate any information beyond the suspects' names and addresses).

Here, the CRI provided a physical description of the suspect, including clothing, a description and the name of his companion, an indication of where the drugs would be hidden (a small plastic box), and a predictive indication of the suspect's immediate future activity: he would arrive at the Alamo car rental counter at the airport in 15-20 minutes and rent a car. The police officer was able to observe not only that the description of the suspect's appearance and companion was accurate, but also that the suspect behaved in the manner predicted by the CRI, providing self-verifying details of the information's reliability. This is similar to the details approved by the supreme court in *Munson*.

[1] *Cook* dealt with a warrantless arrest requiring probable cause, rather than an investigatory stop based on the lesser reasonable suspicion standard. *Id*. at 669.

Because both the CRI and the CRI's information was reliable, based on the independent corroboration of predictive information, the police officer had a reasonable, articulable suspicion of criminal activity that would permit a limited investigative stop.

Frisk

During the course of an investigatory stop, a police officer may conduct "a carefully limited frisk for weapons." *Flowers*, 734 N.W.2d at 252 (quoting *State v. Dickerson*, 481 N.W.2d 840, 846 (Minn. 1992)). An officer may conduct a limited frisk of a suspect if he has a reasonable, articulable suspicion that the suspect may be armed and dangerous. *Flowers*, 734 N.W.2d at 252. We review whether the police officer had a reasonable, articulable suspicion in light of the totality of the circumstances. *Id.* at 251.[2]

At the moment of the frisk here, the police officer was alone with two suspects. Although drug dealing is not a crime of violence per se, the police officer testified that in his experience many drug dealers are armed. He had a reasonable, articulable suspicion of criminal activity based on the CRI's information and his independent corroboration of the information. Appellant placed his hands in his coat pockets when the police officer initially identified himself, and he appeared nervous, leading the police officer to believe that he might be armed. Appellant and his companion were about to drive away in a

[2] The supreme court suggested that the following factors could be considered when determining if a police officer has exceeded the scope of a limited frisk: (1) the number of officers; (2) the nature of the crime, including whether there are any reasons a suspect might be armed; (3) the strength of the police officer's reasonable, articulable suspicions; (4) the suspect's erratic or suspicious behavior; and (5) the need for immediate action. *Id.* at 253 (citing *United States v. Raino*, 980 F.2d 1148, 1149-50 (8th Cir. 1992)).

rental car, and the police officer had not yet been joined by other officers. Based on the *Raino* factors, the police officer had a reasonable, articulable suspicion that appellant might be armed; this provided a basis for conducting a limited pat search for weapons. Notably, the police officer did not try to remove anything from appellant's pockets during that search.

Based on our review of the record, we conclude that the district court did not err by refusing to suppress the evidence discovered after this investigative stop and frisk. We therefore affirm appellant's conviction.

Affirmed.