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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1151**

State of Minnesota,
Respondent,

vs.

Troy Adam Sigmundik,
Appellant.

**Filed May 20, 2013
Affirmed
Stoneburner, Judge**

Hubbard County District Court
File No. 29CR11996

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

Donovan D. Dearstyne, Hubbard County Attorney, Park Rapids, Minnesota (for
respondent)

David W. Merchant, Chief Appellate Public Defender, Tania K.M. Lex, Special Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Worke, Judge; and
Connolly, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant challenges his conviction of one count of fifth-degree possession of a
controlled substance (methamphetamine) in violation of Minn. Stat. § 152.025, subd.

2(a)(1) (2010), arguing that the district court erred by denying his motion to suppress evidence of the methamphetamine as fruit of an unlawful stop and search of his vehicle. Because the stop and search of appellant's vehicle were lawful, we affirm.

FACTS

Postal workers in Laredo, Texas, became suspicious of a package addressed to V.T. at a residence in Park Rapids, Minnesota. The return address on the package was false. When the package arrived at the Minneapolis/St. Paul International Airport, a drug-sniffing dog alerted postal workers to the presence of drugs inside the package. A postal inspector opened the package and discovered four three-pound bags of marijuana.

The postal inspector contacted West Central Minnesota Drug Task Force Special Agent Brad Skoog about the package that was going to arrive in Park Rapids. Skoog learned that the residence at the address on the package is owned by appellant Troy Adam Sigmundik's father and that a Dodge pick-up truck parked at the residence belonged to M.S.M. Skoog obtained a search warrant authorizing police to search the residence as well as vehicles at and persons in the residence once the package was delivered to the residence.

While Agent Skoog and his team conducted surveillance, a postal inspector delivered the package and left it near the door of the residence. Fifteen minutes after the package arrived, Sigmundik arrived at the residence in a Ford Explorer; Sigmundik's father arrived shortly thereafter. Sigmundik and his father approached the residence, looked at the package, and entered the house. Soon after, Sigmundik's father brought the

package into the residence. After about 30 minutes, as Skoog drove up to the residence to execute the warrant, he saw Sigmundik driving away, northbound in his Ford Explorer.

Skoog notified Special Agent Patrick Johnston, who was stationed just north of the residence. Johnston stopped Sigmundik's vehicle and asked Sigmundik whether he possessed any narcotics. Sigmundik told Johnston that he had a "joint" in his left hand and a bag of marijuana in his pocket. Johnston searched Sigmundik and seized both items. Johnston searched the vehicle to see if it contained the package. He did not find the package, but he discovered a glass pipe that later proved to contain traces of methamphetamine.

Sigmundik was charged with one count of fifth-degree possession of a controlled substance (methamphetamine). He moved to suppress evidence of the methamphetamine, arguing that the stop and search of his vehicle was illegal. The district court denied the motion to suppress. Sigmundik then stipulated to a court trial under Minn. R. Crim. P. 26.01, subd. 4, preserving the suppression issue for appellate review. The district court found Sigmundik guilty as charged and sentenced him to 13 months in prison, stayed for five years with conditions. This appeal followed.

D E C I S I O N

Sigmundik argues that, because Johnston lacked articulable, particularized facts to justify the stop of his vehicle, the district court erred by denying his motion to suppress evidence discovered in the search of his vehicle. "In an appeal following a Minn. R. Crim. P. 26.01, subd. 4, procedure . . . , this court's review is limited to the pretrial order that denied the motion to suppress." *State v. Sterling*, 782 N.W.2d 579, 581 (Minn. App.

2010). Where the facts are not in dispute, we review de novo a pre-trial order upholding the legality of a stop and search and denying a motion to suppress evidence. *State v. Othoudt*, 482 N.W.2d 218, 221 (Minn. 1992) (stating that review of an order suppressing evidence is de novo where facts are not in dispute); *State v. Lemieux*, 726 N.W.2d 783, 787 (Minn. 2007) (stating that determinations of reasonable suspicion and probable cause as they relate to searches and seizures are reviewed de novo).

Both the United States and Minnesota Constitutions protect citizens from unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. 1, § 10. A police officer may lawfully stop a vehicle if the officer has a specific, articulable, and objective basis for suspecting the particular person stopped of criminal activity. *State v. Anderson*, 683 N.W.2d 818, 822-23 (Minn. 2004); *see State v. Askerooth*, 681 N.W.2d 353, 363 (Minn. 2004) (adopting the framework for analyzing searches and seizures as laid out in *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1964)). An officer's suspicion must be based on the totality of the circumstances, including the officer's personal observations, information the officer has received from other sources, the nature of the offense suspected, the time, the location, and any other relevant factor. *Kotewa v. Comm'r of Pub. Safety*, 409 N.W.2d 41, 43 (Minn. App. 1987). Officers may also rely on their training and experience to determine whether a particular factor supports a reasonable suspicion of criminal activity. *State v. Smith*, 814 N.W.2d 346, 352 (Minn. 2012). The reasonable-suspicion standard is not high, but the suspicion cannot be solely based on a hunch, whim, or curiosity. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008).

Sigmundik argues that his arriving at the residence after the package was delivered and leaving before the warrant was executed did not provide reasonable suspicion for Johnston to stop his vehicle. *See State v. Diede*, 795 N.W.2d 836, 844-45 (Minn. 2011) (holding that one’s mere proximity to or association with someone suspected of criminal activity is not enough to justify a *Terry* stop). We disagree. Sigmundik, unlike *Diede*, was not merely associating with or in proximity to a person suspected of criminal activity. The police did not know who would retrieve this package and, at the time of the stop, had reasonable suspicion that anyone who had direct access to the package was involved in criminal activity. As Skoog stated in the warrant application, “sometimes adult children of the owners of a residence, friends, neighbors, boyfriends, girlfriends or other parties may ask permission to have packages sent to an address without the owner or resident [being] aware of what is inside the package.” Sigmundik was not stopped on a mere hunch or whim—Johnston had reasonable, articulable suspicion to conduct an investigatory stop to see if Sigmundik had the package or any of its contents.

Sigmundik asserts that even if the stop of his vehicle was justified by reasonable suspicion of criminal activity, the warrantless search of his vehicle was not supported by probable cause. Generally, a search conducted without a warrant is unreasonable. *State v. Burbach*, 706 N.W.2d 484, 488 (Minn. 2005). The rule, however, is subject to the automobile exception, in which a warrantless search of an automobile is not unreasonable if an officer has probable cause to believe the vehicle contains evidence of contraband. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). Probable cause means a reasonable, objective belief based on the totality of the circumstances considered in light

of the officer's experience and observations. *State v. Nace*, 404 N.W.2d 357, 360 (Minn. App. 1987), *review denied* (Minn. June 25, 1987). "The actual, subjective beliefs of the officer are not the focus in evaluating reasonableness." *State v. Koppi*, 798 N.W.2d 358, 363 (Minn. 2011). The extent of the search during a traffic-stop investigation must be limited to the justification for the stop, and any "intrusion not closely related to the initial justification for the search or seizure" is unreasonable unless there is independent probable cause to justify that particular intrusion. *Askerooth*, 681 N.W.2d at 364. But the lawful discovery of marijuana in a vehicle provides probable cause to search the entire vehicle, including the trunk and containers, for evidence of marijuana possession. *See State v. Schinzting*, 342 N.W.2d 105, 111 (Minn. 1983); *see also State v. Bigelow*, 451 N.W.2d 311, 313 (Minn. 1990) (holding that the search of an entire vehicle, including defendant's tote bag, was justified by probable cause based on lawful discovery of marijuana in the vehicle); *State v. Hanson*, 364 N.W.2d 786, 789 (Minn. 1985) (holding that discovery of a marijuana cigarette in a vehicle clearly justified further search of the entire vehicle).

The purpose of Johnston's stop was to ascertain if Sigmundik had the package or any marijuana from the package. Before any search occurred, Johnston asked Sigmundik if he possessed any narcotics. Sigmundik stated that he was holding a "joint" and had a bag of marijuana in his pocket. The presence of marijuana in the vehicle provided Johnston with probable cause to search the vehicle. The district court did not err by denying appellant's motion to suppress evidence of the methamphetamine.

Affirmed.