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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-0749**

State of Minnesota,  
Respondent,

vs.

Chad Michael Larson,  
Appellant.

**Filed April 7, 2014  
Affirmed  
Smith, Judge**

Douglas County District Court  
File No. 21-CR-11-2283

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

Chad M. Larson, Douglas County Attorney, Alexandria, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Special  
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Chutich, Presiding Judge; Connolly, Judge; and Smith,  
Judge.

**UNPUBLISHED OPINION**

**SMITH**, Judge

We affirm appellant's conviction of first-degree controlled substance crime  
because the narcotics-detecting dog sniff around appellant's vehicle was supported by a

reasonable, articulable suspicion of drug-related criminal activity, and because appellant has not demonstrated that he received ineffective assistance of counsel.

## **FACTS**

On December 8, 2011, the West Central Minnesota Narcotics Task force applied for and received authorization to install and use a mobile tracking device on appellant Chad Michael Larson's vehicle. The authorization was based on (1) information from a confidential informant that Larson was trafficking methamphetamine, (2) information from an inmate that "Larson was the biggest [m]ethamphetamine dealer in the area" and was "traveling to the [T]win [C]ities area to obtain his [m]ethamphetamine" from a known supplier, (3) Larson's six prior controlled-substance convictions, and (4) information from Larson's parole officer that Larson recently tested positive for methamphetamine.

On December 9, data from the tracking device indicated that Larson stopped at two residences in the St. Cloud area, drove to Mystic Lake Casino, returned to the two residences, and then drove to multiple counties. A local agent advised the task force that the St. Cloud addresses were confirmed methamphetamine houses, suspected of being the homes of "large dealers."

On the morning of December 14, data from the tracking device indicated Larson's return to the St. Cloud addresses. When Larson moved on, task force deputy Scot Umlauf contacted state trooper Richard Homan to inform him that Larson was likely traveling with methamphetamine and he appeared to be speeding in foggy weather

conditions near Trooper Homan's location. Trooper Homan subsequently observed Larson driving in excess of the posted speed limit and initiated a stop.

In Trooper Homan's squad car, Trooper Homan obtained information on Larson's driver's license and spoke with Larson. Trooper Homan observed that Larson's eyes were slightly bloodshot and he "appeared very nervous," looking straight ahead and exhibiting a rapid stomach pulse. Although Larson claimed he had been Christmas shopping in Sauk Centre, Trooper Homan did not observe any packages in the passenger compartment of Larson's vehicle. After finding "nothing out of the ordinary" with Larson's driving record, Trooper Homan informed Larson that he would issue him a warning for his speed. Trooper Homan then inquired whether Larson had any large amounts of cash, contraband, or weapons in his vehicle. Larson denied possessing any of these items and rejected the idea that Trooper Homan's K-9 partner, a narcotics-detecting dog, would alert if walked around his vehicle.

Larson and Trooper Homan exited the squad car, and Trooper Homan walked his K-9 partner around Larson's vehicle two times. She alerted to the presence of a controlled substance in multiple locations, including on both front door handles. Trooper Homan informed Larson of this fact and stated that this gave him probable cause to search the vehicle. Larson verbally resisted the search, and Trooper Homan requested assistance from the county. A deputy arrived on the scene, and Trooper Homan and his K-9 partner searched Larson's vehicle. The search produced a small thermos containing more than 200 grams of methamphetamine. Based on this and additional evidence obtained pursuant to a search warrant, respondent State of Minnesota charged Larson

with one count of first-degree controlled substance crime (sale), in violation of Minn. Stat. § 152.021, subd. 1(1) (2010).

Asserting that Trooper Homan lacked a reasonable, articulable suspicion of criminal activity, Larson moved to dismiss the complaint and “suppress any and all evidence taken as a result of search and seizure.” Following a hearing, the district court denied Larson’s motion.<sup>1</sup> Larson agreed to a trial on stipulated facts, thereby preserving the suppression issue for appeal. The district court found Larson guilty as charged and sentenced him to 104 months’ imprisonment.

## DECISION

### I.

Larson argues that the district court erroneously denied his suppression motion because Trooper Homan conducted a narcotics-detecting dog sniff without the requisite reasonable, articulable suspicion. “When reviewing a district court’s pretrial order on a motion to suppress evidence, we review the district court’s factual findings under a clearly erroneous standard and the district court’s legal determinations de novo.” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted).

A law enforcement officer must have objective support for a traffic stop. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). Although a minor traffic violation can be sufficient, “the Minnesota Constitution requires that the scope and duration of a traffic stop investigation must be limited to the justification for the stop.” *State v. Burbach*, 706

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<sup>1</sup> Before the hearing, the district court granted Larson a continuance based on his assertion that he did not “feel comfortable” with his appointed attorney’s representation. Larson ultimately continued with his appointed attorney.

N.W.2d 484, 488 (Minn. 2005) (quotation omitted); *see also* Minn. Const. art. I, § 10 (protecting against “unreasonable searches and seizures”). “[A]ny intrusion not closely related to the initial justification for the search or seizure” must be independently supported. *Burbach*, 706 N.W.2d at 488 (quotation omitted). A narcotics-detecting dog sniff around the exterior of a motor vehicle, which is stopped for a “routine” violation, must be supported by “a reasonable, articulable suspicion of drug-related criminal activity.” *State v. Wiegand*, 645 N.W.2d 125, 137 (Minn. 2002).

It is undisputed that, because Larson was speeding, Trooper Homan legitimately stopped Larson’s vehicle. It is also undisputed that, because the narcotics-detecting dog sniff was not justified by Larson’s speeding, the dog sniff must be supported by a reasonable, articulable suspicion of drug-related criminal activity. Therefore, the issue before us is whether such support existed.

To answer this question, we consider the totality of the circumstances, including the collective knowledge of all investigating officers. *In re Welfare of M.D.R.*, 693 N.W.2d 444, 448-49 (Minn. App. 2005), *review denied* (Minn. June 28, 2005). Under the collective-knowledge doctrine, “the *entire* knowledge of the police force is pooled and imputed to the arresting officer for the purpose of determining if sufficient probable cause exists for an arrest.” *State v. Conaway*, 319 N.W.2d 35, 40 (Minn. 1982); *accord Olson v. Comm’r of Pub. Safety*, 371 N.W.2d 552, 555-56 (Minn. 1985) (recognizing that collective knowledge of officer and dispatcher may provide reasonable, articulable suspicion of criminal activity).

When Trooper Homan conducted the dog sniff, the police force had ample knowledge to establish a reasonable, articulable suspicion of drug-related criminal activity. Police had received information from multiple sources that Larson was selling methamphetamine. Police investigated Larson's criminal history and discovered that he had several controlled-substance convictions and had recently tested positive for methamphetamine. Police tracked Larson's vehicle making multiple trips to confirmed methamphetamine houses, including two stops on the morning in question. And the arresting officer observed Larson's bloodshot eyes and nervous behavior, including a seemingly false description of his activities. Based on the totality of the circumstances and the collective knowledge of the police force, the dog sniff was supported by a reasonable, articulable suspicion of drug-related criminal activity. The district court did not err by denying Larson's suppression motion.

## II.

In a pro se supplemental brief, Larson alleges that his trial counsel was ineffective because counsel failed to raise certain challenges and present expert testimony. To prevail on a claim of ineffective assistance of counsel, an appellant must demonstrate that (1) counsel's performance fell below an objective standard of reasonableness and (2) there is a reasonable probability that, but for counsel's errors, the outcome would have been different. *State v. Lahue*, 585 N.W.2d 785, 789 (Minn. 1998). The burden of proof on this claim rests with the appellant, who must overcome the "strong presumption that counsel's performance fell within a wide range of reasonable assistance." *Gail v. State*, 732 N.W.2d 243, 248 (Minn. 2007). When an appellant fails to prove either

counsel's deficient performance or resulting prejudice, the claim of ineffective assistance of counsel fails. *State v. Blanche*, 696 N.W.2d 351, 376 (Minn. 2005).

Strategic decisions do not provide a basis for a claim of ineffective assistance of counsel. *See State v. Voorhees*, 596 N.W.2d 241, 255 (Minn. 1999) (“What evidence to present to the jury, including which defenses to raise at trial and what witnesses to call, represent an attorney’s decision regarding trial tactics which lie within the proper discretion of trial counsel and will not be reviewed later for competence.”); *State v. Doppler*, 590 N.W.2d 627, 635 (Minn. 1999) (stating that supreme court does not “review for competence matters of trial strategy”). Because Larson’s allegations revolve around matters of trial strategy, his claim of ineffective assistance of counsel fails.

**Affirmed.**