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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1071**

State of Minnesota,
Respondent,

vs.

Anthony Scott Treptau,
Appellant.

**Filed April 8, 2013
Affirmed
Chutich, Judge**

Stearns County District Court
File No. 73-CR-11-1665

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

Janelle P. Kendall, Stearns County Attorney, Michael J. Lieberg, Assistant County Attorney, St. Cloud, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Theodora Gaïtas, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Chutich, Judge.

UNPUBLISHED OPINION

CHUTICH, Judge

On appeal from his conviction of gross misdemeanor driving after license cancellation and giving a peace officer a false name, appellant Anthony Scott Treptau

argues that the district court erred in denying his pretrial motion to suppress evidence from a traffic stop because the arresting officer lacked reasonable suspicion. Because the district court properly concluded that the officer had reasonable suspicion to stop Treptau, we affirm.

FACTS

On December 26, 2010, St. Cloud Police Officer David Darling was patrolling a highway west of St. Cloud. Officer Darling observed a 1988 Buick LeSabre and, using his squad car computer, determined that it was registered to Marie Treptau. The officer then conducted a general search for the last name Treptau, finding approximately 60 results with the last name. Officer Darling further discovered that appellant Anthony Treptau lived at the same address as the registered owner of the LeSabre and that his license had been cancelled. Officer Darling pulled alongside the car and observed that the driver appeared to match Anthony Treptau's driver's license photo.

Officer Darling stopped the car and Treptau identified himself as James Treptau. Officer Darling returned to his squad car and looked up James Treptau on his computer and concluded that James Treptau's driver's license photo did not match the driver of the car. He returned to the car and told the driver this information, and the driver then identified himself as Anthony Treptau (Treptau). Officer Darling took Treptau into custody.

Following the arrest, Treptau was charged with giving a peace officer a false name and driving after cancellation—inimical to public safety. Before trial, Treptau moved to suppress the evidence obtained from the stop, arguing that the stop was unconstitutional.

The parties agreed that an evidentiary hearing on the issue was unnecessary. The state submitted the complaint and police reports to the district court and both parties filed briefs. The district court denied the suppression motion, concluding that Officer Darling had reasonable suspicion to stop the car.

Treptau waived his right to a jury trial and agreed to a stipulated-facts trial under Minn. R. Crim. P. 26.01, subd. 4, to preserve his appeal of the district court's pretrial ruling. The district court found Treptau guilty of both charges.

Treptau now appeals the propriety of the traffic stop.

D E C I S I O N

"In reviewing a district court's determinations of the legality of a limited investigatory stop, we review questions of reasonable suspicion *de novo*." *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). This court reviews findings of fact for clear error, giving due weight to the inferences drawn from those facts by the district court. *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998). This court also defers to the district court's assessment of witness credibility. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003).

Investigative stops and seizures are subject to the prohibitions against unreasonable searches and seizures in the Fourth Amendment to the United States Constitution and article I, section 10, of the Minnesota Constitution. *United States v. Cortez*, 449 U.S. 411, 417, 101 S. Ct. 690, 694–95 (1981); *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). Accordingly, to justify an investigatory stop, an officer must have "individualized, articulable, and reasonable suspicion of wrongdoing." *State*

v. Ortega, 770 N.W.2d 145, 152 (Minn. 2009). A mere hunch is insufficient to support an investigatory stop. *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011). Rather, an officer “must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880 (1968).

In assessing whether reasonable suspicion exists, we consider the totality of the circumstances and defer to the officer’s experience and training. *State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983); *see Cortez*, 449 U.S. at 417, 101 S. Ct. at 695. “[T]he factual basis required to support a stop for a ‘routine traffic check’ is minimal.” *Marben v. State, Dept. of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980) (quotation omitted). When an officer “observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the [car].” *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997).

We conclude that, under the totality of the circumstances, Officer Darling had a reasonable, articulable basis to stop Treptau’s car. Officer Darling knew that Treptau and the registered owner of the car lived at the same address, he knew that Treptau’s driver’s license was cancelled, and he visually confirmed Treptau’s identity. Based on this information, the officer had reasonable suspicion that Treptau was driving with a cancelled license before he stopped the car.

Treptau contends that the officer could not have confirmed that the actual driver of the car was Treptau simply by observing him from the side. We disagree. Officer Darling drove alongside the car and used a photo of Treptau to identify the driver. Even

though he only observed the driver's profile, based on Treptau's driver's license photo, Officer Darling would be able to confirm that the driver matched Treptau's physical description. At that point, the officer was able to articulate specific and particular facts that led him to believe that Treptau was operating the car illegally.

Moreover, Treptau stipulated to a hearing based solely on the complaint, Officer Darling's report, and the parties' briefs. Treptau made no objection to the district court when Officer Darling was unavailable to testify on the issue of reasonable suspicion and did not request an evidentiary hearing. By failing to object before the district court, Treptau is precluded from challenging Officer Darling's credibility on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). Based on this record, we conclude that the district court properly denied Treptau's motion to suppress.

Affirmed.