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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1719**

State of Minnesota,
Appellant,

vs.

Artiase Dvon Williams,
Respondent.

**Filed April 8, 2013
Reversed
Hooten, Judge
Concurring Specially, Ross, Judge**

Hennepin County District Court
File No. 27-CR-12-10286

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

Susan L. Segal, Minneapolis City Attorney, Paula J. Kruchowski, Assistant City Attorney, Minneapolis, Minnesota (for appellant)

Sharon E. Jacks, Minneapolis, Minnesota (for respondent)

Considered and decided by Cleary, Presiding Judge; Ross, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

Appellant challenges the district court's ruling that the investigatory stop by police of respondent's vehicle regarding the validity of the vehicle's license plate registration

tabs was not supported by reasonable suspicion. Appellant argues that the discrepancy between information from the police officers' mobile computer and the information displayed on the vehicle was sufficient to create an objectively reasonable basis for the stop. Because we agree that the police had a reasonable suspicion of unlawful activity to justify a limited investigatory stop, we reverse.

FACTS

On April 2, 2012, Officers Bart Hauge and Jeffery Binfet were driving east on Broadway Street near Industrial Boulevard in Minneapolis. The officers were on patrol, “generating proactive police work” by running “numerous [license] plates for whatever reasons” and conducting “traffic control”. Officer Binfet ran the license plate number of respondent Artiase Dvon Williams’s black Ford Explorer through a computer search, but offered no reason for checking the plates on that vehicle. The search results on the officers’ mobile computer indicated that “the registration of this vehicle and the vehicle tabs came back to October of 2011.” After Officer Binfet “ran the plate and realized that it was 2011”, he and Officer Hauge observed that the tabs on the vehicle “were actually 2012.” The officers wondered why there were 2012 tabs on the vehicle when the DMV only displayed that the vehicle had 2011 tabs. Officer Binfet further testified that “[u]sually there’s a lag time with the DMV . . . [of] a month or two” and that since this was more than six months later, it gave him “cause to believe that maybe the tab on that vehicle [was] not correct.” Based on this discrepancy, the officers stopped the vehicle.

After stopping the vehicle, Officer Hauge approached respondent, explained why they stopped his vehicle, and asked for a driver’s license. Respondent indicated that his

license was suspended, so Officer Hauge asked for his name and date of birth. While Officer Hauge spoke to the driver, Officer Binfet approached the passenger's side of the vehicle and "tapped on the window with [his] hand to have the passenger either open the window or unlock the door" so that he could hear the conversation on the driver's side. "The door became unlocked, [so Officer Binfet] opened up the door and squatted down," at which time he noticed a plastic container that appeared to contain marijuana. The officers then removed respondent and his passenger from the vehicle and performed a precursor search of the vehicle for additional evidence of illicit substances. In addition to the plastic container of marijuana on the front passenger's side floor, the officers found a handgun in the backseat, "a scale in the glove box," "a marijuana cigarette, or a joint, just underneath the front seat," another bag of marijuana on the front center "hump," and a box of ammunition in a bag of clothing in the back of the vehicle.

Officer Hauge told respondent that he was under arrest and discussed the vehicle's registration with him further. Respondent stated that he just bought the vehicle, and thought the registration was current. Respondent was not listed as the registered owner of the vehicle in the officer's computer search. The registration sticker's origin was never ascertained, because the officers were unable to match the number on the sticker to the vehicle.

Respondent was charged with possession of a pistol without a permit in violation of Minn. Stat. § 624.714, subd. 1(a) (2010), and operation of a motor vehicle after suspension of his driving privileges in violation of Minn. Stat. § 171.24, subd. 1 (2010). Respondent moved for suppression of the evidence, arguing that the traffic stop was

made without reasonable suspicion, that Officer Binfet opened the passenger door without reasonable articulable suspicion and intruded on respondent's reasonable expectation of privacy, and that the container of marijuana first viewed by Officer Binfet was opaque and therefore could not have provided a basis to search the vehicle any further. The prosecutor argued that the stop of respondent's vehicle was properly based on the observation of the mismatched and expired registration, and that the search of the vehicle was permissible because of the observation of the marijuana in the car.

In an order and memorandum following an omnibus hearing, the district court "found the testimony of the officers to be credible." However, after reviewing two unpublished court of appeals cases from 2002 and 2004, the district court concluded that the officers did not have reasonable suspicion to stop respondent's vehicle. The district court granted respondent's motion to suppress the evidence found in the vehicle on this basis only, and did not address whether opening the passenger door or the resulting search of the vehicle was permissible. The state now appeals.

D E C I S I O N

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A search conducted without a warrant is presumptively unreasonable. *State v. Munson*, 594 N.W.2d 128, 135 (Minn. 1999). An exception to the warrant requirement permits a police officer to make a limited investigatory stop of an individual if the officer has "a reasonable, articulable suspicion that a suspect might be engaged in criminal activity." *State v. Flowers*, 734

N.W.2d 239, 250 (Minn. 2007) (quotation omitted); *see also Terry v. Ohio*, 392 U.S. 1, 30, 88 S. Ct. 1868, 1884–85 (1968).

A reasonable suspicion must have some objective basis, including “specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [the] intrusion.” *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007) (quotation omitted). “Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle.” *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). “[A]n officer may make inferences and deductions that might elude an untrained person.” *State v. Syhavong*, 661 N.W.2d 278, 282 (Minn. App. 2003). An investigatory stop of a vehicle is valid where the officer has a “particularized and objective basis for suspecting the particular persons stopped of criminal activity.” *State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983) (quotation omitted). An objective basis exists so long as “the stop was not the product of mere whim, caprice or idle curiosity.” *State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996). “It should be emphasized that the 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).

A determination of reasonable suspicion is a mixed question of fact and law. *State v. Lee*, 585 N.W.2d 378, 382–83 (Minn. 1998). The factual findings underlying the legal determination are reviewed for clear error. *Id.* at 383. But we review de novo a district court’s legal determination of reasonable suspicion of unlawful activity to justify a limited investigatory stop. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000).

The parties dispute whether the officers had reasonable suspicion for their investigatory stop based on the discrepancy between the license plate registration stickers on the vehicle and the mobile computer information.¹ This case is squarely controlled by this court’s decision in *State v. Cox*, 807 N.W.2d 447 (Minn. App. 2011). The facts of *Cox* are nearly identical, involving a police officer entering a vehicle’s license plate number into a mobile computer and finding that the registration for the plates had expired, despite a current year’s registration sticker on the plates. *Id.* at 449. This court analyzed whether the information was particularized to the vehicle and provided the officer with an objectively reasonable inference of criminal activity. *Id.* at 450–51. Concluding that the stop was permissible, the court summarized its holding in the syllabus: “Information from a law-enforcement mobile computer showing that a vehicle’s registration has expired constitutes an objectively reasonable basis for an officer to stop a vehicle to investigate whether the vehicle’s current license-plate tabs are stolen.” *Id.* at 449.

The only remaining question stems from this court’s statement in *Cox* that “a mobile computer, although typically reliable, can be determined to be unreliable when an officer is aware of facts that would make reliance on the information unreasonable.” *Id.* at 452. In *Cox*, there was no indication that the arresting officer was aware of facts that would have caused suspicion that the information retrieved by the mobile computer may

¹ The parties do not dispute that the district court’s ruling has a critical impact on the state’s case. See Minn. R. Crim. P. 28.04, subds. 1(1), 2(1); see also *State v. Scott*, 584 N.W.2d 412, 416 (Minn. 1998) (requiring the state to “clearly and unequivocally” show that the order will have a “critical impact” on the state’s ability to successfully prosecute the defendant (quotation omitted)).

have been unreliable. While the officer in this case testified that there may be a lag time of one to two months in updating the information on the computer, the registration on respondent's vehicle expired several months before the traffic stop occurred. As such, to the extent that the officer may have been "aware of facts that would make reliance on the information unreasonable," *id.* at 452, the time during which the officer believed the computer system was unreliable had passed.

Cox dictates that an officer may initiate an investigatory stop "to investigate whether the vehicle's current license-plate tabs are stolen" based on information from a mobile computer "that a vehicle's registration has expired." *Id.* at 449. Because there is no indication that the officers were aware of facts that made their reliance on the mobile computer information at the time of the stop unreasonable, we conclude that the officers had a reasonable suspicion to stop respondent's vehicle.²

Reversed.

² Our decision is limited to the facts of the instant case. We do not address the issue of whether there would be a different result if the stop had occurred within the period between the purchase of new license-plate registration tabs and the entry of the purchase into the computer. Moreover, we do not address whether Officer Binfet's opening of the passenger door was an unreasonable search, because the district court did not address that issue.

ROSS, Judge (concurring specially)

I concur in the court's decision that the officers had reasonable suspicion to stop Williams's car and that the stop was therefore not unconstitutional. I base my concurrence on the express holding in *State v. Cox*, 807 N.W.2d 447, 449 (Minn. App. 2011): "Information from a law-enforcement mobile computer showing that a vehicle's registration has expired constitutes an objectively reasonable basis for an officer to stop a vehicle to investigate whether the vehicle's current license-plate tabs are stolen." For the same reasons I expressed in my concurring opinion in *Whittle v. Comm'r. of Pub. Safety*, No. A12-1008, 2013 WL 216053 (Minn. App. Jan. 22, 2013), I am confident that, notwithstanding dicta in *Cox*, an officer "does not violate the federal or state constitution by basing a brief investigative stop on [the state motor vehicle] database information even if he believes that the database is not always current."