

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0448**

State of Minnesota,
Respondent,

vs.

Jaren Joseph Dodds,
Appellant.

**Filed January 18, 2022
Affirmed
Jesson, Judge**

Carver County District Court
File No. 10-CR-20-950

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark Metz, Carver County Attorney, Kevin A. Hill, Chaska, Minnesota (for respondent)

Jaren Joseph Dodds, Chaska, Minnesota (pro se appellant)

Considered and decided by Johnson, Presiding Judge; Reilly, Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After approaching appellant Jaren Dodds in an empty parking lot and learning that his license was revoked, a Carver County Sheriff's deputy spotted Dodds running a stop sign later that same night. The deputy cited Dodds with several violations. But the deputy then told Dodds he was free to go if he could obtain a ride from someone else due to his

revoked license. After the deputy returned to his squad car, Dodds started to yell. When the deputy reapproached, the deputy noticed Dodds's speech was slurred and that he smelled of alcohol. Based on this, the deputy suspected that Dodds was intoxicated.

The state charged Dodds with felony test refusal and felony driving while intoxicated. Dodds moved to suppress the evidence, but the district court denied the motion, determining that the stop was supported by a reasonable, articulable suspicion. Dodds appeals. Because the deputy permissibly reapproached Dodds after the citation was completed, we affirm.

FACTS

Shortly before midnight on an early October evening, a deputy and his partner observed a vehicle parked in the Domino's parking lot in Waconia. They approached the car in their squad car without activating their emergency lights. The deputy spoke with the occupants in the car, one of whom was later identified as Dodds. The deputy checked Dodds's registration and discovered that his driving privileges had been revoked. But because Dodds was in a nonmoving vehicle in a private parking lot, the deputy believed that no law had been broken.

An hour later, the deputy observed the same car roll through a stop sign. The car also crossed the center line by roughly two feet. The deputy pulled the car over and noticed the occupants attempt to conceal something within the car. After he identified Dodds (who had been driving) and his passenger, the deputy noted a strong odor of alcohol. The passenger appeared to be "extremely intoxicated" and during the conversation produced two open containers of alcohol. The deputy asked Dodds and the passenger to exit the

vehicle and conducted a search for additional contraband. Dodds warned the deputy that there were approximately three grams of marijuana inside the vehicle, which the deputy eventually located. The deputy issued Dodds a citation for possession of marijuana, failure to provide insurance, and driving after revocation. The deputy then told Dodds he was released from the traffic stop and warned him to keep his voice down because they were in a residential area in the middle of the night.

The deputy returned to his squad car to take pictures of the open containers found in Dodds's vehicle when Dodds started to yell to the deputy. The deputy again cautioned Dodds about yelling in the neighborhood. But Dodds continued to yell. The deputy reapproached Dodds and this time noticed that Dodds's speech was slurred, his eyes were watery and glassy, and his breath smelled of alcohol, which the deputy had not noticed in the previous encounters that night. The deputy then administered field sobriety testing and eventually arrested Dodds for suspicion of driving while intoxicated (DWI).

The state charged Dodds with felony test refusal and felony DWI.¹ Dodds filed a motion to suppress the evidence from the stop and to dismiss, in part, due to an impermissible expansion of the scope of the stop.

The district court denied the motion to suppress. The court explained that the stop of Dodds's car was supported by reasonable suspicion because the deputy observed Dodds fail to stop at a stop sign and knew Dodds's license was revoked. And the district court

¹ Minn. Stat. § 169A.20, subds. 1(1), 2(1) (2020). Dodds was initially also charged with possession of over 1.4 grams of marijuana in a motor vehicle and driving after revocation, but those counts were dropped. Minn. Stat. §§ 152.027, subd. 3, 171.24, subd. 2 (2020).

concluded the deputy did not impermissibly expand the scope of the stop because Dodds reinitiated contact with the deputy when yelling from his car.

Dodds stipulated to the state's case and the district court found him guilty of test refusal and DWI—both felonies. Dodds then moved for a durational departure and a dispositional departure. Because Dodds had a criminal history score of three, the presumptive sentencing range was between 46 and 64 months for a severity-level-seven offense.

At the sentencing hearing, the state asked for the “low end of the box” sentence of 46 months. And the state asserted that since the DWI occurred within two weeks of Dodds being released from jail after three separate felony convictions, he would not be amenable to probation. Nor had Dodds participated in the jail's treatment program. Still Dodds argued that because he voluntarily applied to and was accepted into Teen Challenge, a faith-based treatment program, he is amenable to probation. He also noted the support from his family and that all his criminal history involved alcohol, not violence.

The district court denied the durational departure, noting that there was nothing “less serious or less onerous” than either the typical test refusal or DWI case. The court then denied the dispositional departure, stating that despite his “good attitude,” family support, and young age, his criminal history made whether he is amenable to probation “not a close call.” The district court sentenced Dodds to 46 months in prison on the test-refusal conviction with a five-year term of conditional release and credit of 154 days toward the sentence.

Dodds appeals.

DECISION

I. The deputy had reasonable suspicion to suspect Dodds was driving while intoxicated.

First, Dodds challenges the district court's legal conclusion that the deputy had adequate reasonable suspicion.²

When reviewing pretrial orders on motions to suppress evidence, we independently review the facts and determine whether the district court erred in not suppressing the evidence as a matter of law. *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). We review the district court's factual findings for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009).

The United States and Minnesota Constitutions guarantee “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. Accordingly, evidence obtained pursuant to an unconstitutional search or seizure must be suppressed. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011). Warrantless searches and seizures are generally unreasonable. *State v. Othoudt*, 482 N.W.2d 218, 221-22 (Minn. 1992). But police may conduct “[a] limited investigative stop . . . if there is a particularized and objective basis for suspecting the person stopped of criminal activity.” *State v. Wiegand*, 645 N.W.2d 125, 135 (Minn. 2002). The reasonable-suspicion standard is met when a deputy observes conduct that leads the deputy to reasonably conclude that “criminal

² Unlike at the district court level, Dodds is not challenging the initial contact, the deputy's request for Dodds to exit the vehicle, or the first investigatory stop as violating the Fourth Amendment.

activity is afoot.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). The standard is not high, but it requires more than an unparticularized hunch. *Id.* When determining whether a deputy reasonably suspected criminal activity, courts consider the totality of the circumstances. *State v. Martinson*, 581 N.W.2d 846, 852 (Minn. 1998).

Here, while the deputy and Dodds had multiple contacts throughout the night, we narrowly focus on whether the deputy improperly seized Dodds when he reapproached him following the written citation. After Dodds got the deputy’s attention by yelling, the deputy reapproached and noticed that Dodds’s breath smelled of alcohol. The smell of alcohol is all that is required for reasonable suspicion to suspect that Dodds had been driving while intoxicated and to justify a seizure. *See Hager v. Comm’r of Pub. Safety*, 382 N.W.2d 907, 911 (Minn. App. 1986) (stating that a driver’s odor of alcohol provided reasonable suspicion of driving while impaired and a legal basis for a preliminary breath test).

In sum, because the deputy had reasonable suspicion to seize Dodds after smelling alcohol on his breath, the district court did not err when denying Dodds’s motion to suppress.

II. The district court properly determined that Dodds was not particularly amenable to probation.

Next, Dodds argues that the district court abused its discretion by determining that he is not particularly amenable to probation and therefore denying his motion for a dispositional departure.³

District courts have broad discretion in sentencing. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). And this court reviews a sentencing decision for an abuse of discretion. *Id.* A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record. *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011).

And, a district court's sentencing discretion is limited by the Minnesota Sentencing Guidelines, which prescribe a sentence that is "presumed to be appropriate." Minn. Sent. Guidelines 2.D.1 (2020); *see also Soto*, 855 N.W.2d at 308 (citing this provision of the Minnesota Sentencing Guidelines). A district court may depart from the presumptive sentence only if "identifiable, substantial, and compelling circumstances" warrant departure. *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016) (quoting Minn. Sent. Guidelines 2.D.1). The guidelines provide a nonexclusive list of factors that may be used to support a departure, including whether the defendant is particularly amenable to probation. Minn. Sent. Guidelines 2.D.3.a.(7) (2020). There are several factors, known as the *Trog* factors, that are weighed to determine whether someone is particularly amenable

³ Dodds does not challenge the district court's denial of his motion for a downward durational departure.

to probation. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (stating that, in determining whether to grant a dispositional departure, a district court may consider age, prior record, remorse, cooperation, attitude in court, and support of family and friends). We will reverse a district court’s refusal to depart only in a “rare” case. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018) (quotation omitted).

Here, the district court weighed the *Trog* factors of age, family support, attitude in court, and criminal history. While the district court noted that Dodds’s young age, support from his family, and overall demeanor were in his favor, Dodds’s criminal history was too severe—and too recent—to show that he was particularly amenable to probation. The record supports the district court’s decision. Not only does Dodds have several prior felonies, but he had just been released from jail roughly two weeks before this incident. Thus, the district court’s finding that Dodds is not amenable to probation is supported by the record. And even if the district court were to find that he is particularly amenable to probation, the district court would still not be required to depart from the presumptive sentence. *State v. Pegel*, 795 N.W.2d 251, 253-54 (Minn. App. 2011).

To convince us otherwise, Dodds argues that the district court appeared to downplay the concept of a faith-based treatment center. The argument is not developed beyond this contention. Nor does the record suggest that the district court based its conclusion on the availability or rigor of Teen Challenge. Instead, it was swayed due to Dodds’s criminal history and very recent release from jail.

In sum, because the deputy had reasonable suspicion to suspect Dodds of driving while intoxicated, the district court did not err by denying Dodds’s motion to suppress.

And because the record supports the district court's conclusion that Dodds was not particularly amenable to probation, it did not abuse its discretion when denying his motion for a dispositional departure.

Affirmed.