STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0728

State of Minnesota,
Respondent,

vs.

Johnathon Jones,
Appellant.

Filed May 19, 2025
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-CR-23-17995

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

Mary F. Moriarty, Hennepin County Attorney, Matthew D. Hough, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

G. Tony Atwal, Gabriel Ramirez-Hernandez, Special Assistant Public Defenders, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Bratvold, Judge; and

Cleary, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from the final judgment of conviction for unlawful possession of a firearm, appellant Johnathon Jones argues that the district court erred for two reasons when it denied his motion to suppress evidence of the firearm. First, Jones contends that his seizure by police was unlawful because it was not supported by a reasonable suspicion that he was engaged in criminal activity. Second, he contends that the warrantless search of a bag was not a valid search incident to arrest because his arrest was not supported by probable cause and the search of the bag did not fall within the scope of a search incident to arrest. We affirm.

FACTS

The facts related to the suppression issues are derived from the testimony and exhibits presented during the evidentiary hearing on Jones's suppression motion.

On August 22, 2023, a Minneapolis police sergeant received a tip from a confidential reliable informant[1] (CRI) that there were two individuals near a Minneapolis liquor store who were unlawfully in possession of firearms. The CRI did not identify the individuals by name or describe how the CRI knew that they were not lawfully allowed to

[1] The sergeant testified that, to be classified as a confidential reliable informant for the Minneapolis Police Department, an individual must have previously provided timely and accurate information to law enforcement leading to state or federal criminal charges in at least three separate cases. The informant who provided the sergeant information in August 2023 had worked with the Minneapolis Police Department for about nine years and had previously provided timely and accurate information that qualified the informant as a confidential reliable informant.

possess firearms, but the CRI did provide descriptions of their appearances. The CRI described the individuals as two Black men, one of whom was shirtless, wearing red shoes, and had a black bag. That man was later identified as D.R. According to the CRI's description, the other man was wearing a white tank top and was located near a Chevrolet Suburban SUV. That man was later identified as Jones. In addition to describing D.R. and Jones, the CRI stated that the CRI knew that the men had possessed firearms because the CRI had observed it firsthand.

Shortly after receiving this information, the sergeant communicated to officers via radio that the CRI had told him there were two men unlawfully in possession of firearms. He repeated the CRI's description of the men, including their clothing and their location near a specific liquor store. Within about ten minutes, several officers reported to the area near the liquor store, where they conducted surveillance. The officers observed a group of men who appeared to be grilling or barbecuing while gathered near a Suburban. The group included two men who matched the descriptions that the sergeant had provided. One of the surveilling officers noticed a black bag by the feet of the man in red shoes, D.R. That officer also recalled that the sergeant had provided information that there was a gun located inside a black bag. During their surveillance, the officers did not observe either of the men in possession of a firearm.

After surveilling the area for about 20 minutes, the officers conducted a "takedown" of the men gathered near the Suburban, during which the officers approached the men from all directions to detain them, identify them, and determine whether they were prohibited from possessing firearms.

When the officers approached, D.R. fled the scene on foot. At the same time, Jones stood up from a lawn chair that he had been sitting in, was handcuffed by police, and was placed in the back of a squad car. While Jones was detained, officers confirmed his identity and that he was prohibited from possessing a firearm.

Police then searched the area near the Suburban and found a black bag with a white Nike logo leaning against the chair that Jones had been sitting in.[2] An officer picked up the bag and searched it with the assistance of another officer. Inside the bag, they found, among other items, a firearm; mail addressed to Thomas Gary, which was later determined to be another name used by Jones; and a prescription bottle belonging to Jones. Based on the firearm in the bag and the officers' determination that Jones was prohibited from possessing a firearm, the officers arrested Jones.

Respondent State of Minnesota charged Jones with one count of possessing ammunition or a firearm after a conviction for a crime of violence, in violation of Minnesota Statutes section 624.713, subdivision 1(2) (Supp. 2023). Jones filed a motion to suppress the firearm evidence, asserting that it was obtained as the result of an unconstitutional "initial stop, frisk, detention, arrest, seizure, and search" of his person and property. At the evidentiary hearing on Jones's motion, Jones argued that, when the officers approached the area where he was seized, they immediately arrested him and did so without probable cause. He also contended that the officers' warrantless search of his bag was not supported by probable cause or an exception to the warrant requirement.

[2] The officers also searched a black bag that they had observed by D.R.'s feet and found a firearm inside of it. The constitutionality of that search is not at issue in this appeal.

The district court denied Jones's motion to suppress, ruling that police had probable cause to arrest Jones based on the CRI's firsthand observation of criminal activity, which was minimally corroborated by police, and that the warrantless search of Jones's bag was a valid search incident to arrest. Jones filed a motion for reconsideration, arguing that the search-incident-to-arrest exception did not apply because Jones was detained, but not yet arrested, when police searched his bag. The district court denied the motion, reiterating that police had probable cause to arrest Jones and that, because the bag was immediately associated with him, the search fell within the search-incident-to-arrest exception to the warrant requirement.

Jones waived his right to a jury trial and stipulated to the state's case to preserve his right to appeal a dispositive pretrial ruling, pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 4. The parties stipulated that the sole dispositive issue for appeal is the constitutionality of the police search of Jones's bag. The district court found Jones guilty as charged and sentenced him to a prison term of 60 months.

Jones appeals.

DECISION

Jones contends that the district court erred by denying his motion to suppress the firearm evidence for two reasons. First, Jones asserts that, when police conducted the takedown maneuver, Jones was seized and the seizure was not supported by reasonable suspicion of criminal activity. Second, Jones argues that police lacked probable cause to arrest him and that the search-incident-to-arrest exception to the warrant requirement did not apply.

The state contends that Jones's first argument—regarding the lawfulness of his seizure—is not properly before us because it exceeds the agreed-upon scope of the appeal under rule 26.01, subdivision 4, which, the state contends, is limited to the second issue—the lawfulness of the search. But, the state argues, in any event, the seizure was supported by reasonable suspicion. The state also defends the district court's ruling on the second issue, arguing that the search was a valid search incident to a lawful arrest.

We begin our analysis with the second issue and then return to the first.

I. The search of Jones's bag was a valid search incident to a lawful arrest.

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Generally, warrantless searches and seizures are unreasonable unless a recognized exception to the warrant requirement applies. *Katz v. United States*, 389 U.S. 347, 357 (1967); *State v. Horst*, 880 N.W.2d 24, 33 (Minn. 2016). The state bears the burden to establish that an exception to the warrant requirement applies. *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003). Evidence obtained during an unconstitutional search or seizure must be suppressed. *State v. Jackson*, 742 N.W.2d 163, 177-78 (Minn. 2007). When the facts are undisputed, appellate courts review a district court's pretrial ruling on a motion to suppress evidence de novo. *State v. Onyelobi*, 879 N.W.2d 334, 342-43 (Minn. 2016).

A. Probable cause supported the arrest.

Jones argues that the search of his bag was unlawful because officers did not have probable cause to arrest him.

"Police may arrest a felony suspect without a warrant in any public place provided they have probable cause." *State v. Cook*, 610 N.W.2d 664, 667 (Minn. App. 2000) (footnote omitted), *rev. denied* (Minn. July 25, 2000). There is probable cause to support a warrantless arrest if "a person of ordinary care and prudence, viewing the totality of circumstances objectively, would entertain an honest and strong suspicion that a *specific* individual has committed a crime." *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quotation omitted). The probable-cause analysis requires an objective inquiry into the circumstances of the case. *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023). Probable cause "requires something more than mere suspicion but less than the evidence necessary for conviction." *State v. Mosley*, 994 N.W.2d 883, 888-89 (Minn. 2023) (quotation omitted) (addressing probable cause for warrantless search of vehicle). Whether probable cause exists is based on the totality of the circumstances. *Id.* at 889.

Probable cause may be established based on an informant's tip if the tip has sufficient indicia of reliability. *Id.* at 890. As the supreme court explained in *Mosley*, analysis of whether a tip has sufficient indicia of reliability takes into account the reliability and the basis of knowledge of the informant, but the analysis is "not a rigid two-pronged test." *Id.* Instead, the informant's reliability and basis of knowledge are "relevant considerations" that, along with other indicia of reliability, are part of the analysis. *Id.* (quotation omitted). If an informant's tip to law enforcement is based on the informant's personal knowledge, officers need not corroborate "significant details" of the tip for it to support a probable-cause determination. *Id.* at 892. "[C]orroboration of minor details is

enough to lend credence to an informant's tip based on personal knowledge." *Id.* (quotation omitted).

Jones argues that probable cause to arrest him was lacking, relying heavily on our decision in *Cook*. In that case, we determined that, even though a CRI was "undeniably credible" as demonstrated by a history of providing law enforcement with other tips that had led to at least 12 criminal convictions, probable cause was lacking to justify a warrantless arrest because the CRI's tip "lacked sufficient detail and range to establish the CRI's basis of knowledge." *Cook*, 610 N.W.2d at 666-67. The informant's tip included a description of Cook's physical appearance, clothing, vehicle, and a claim that Cook was selling crack cocaine at a particular location while storing the crack cocaine in the waistband of his pants. *Id.* at 666. The information provided by the CRI did not, however, establish the basis of the CRI's claimed knowledge that Cook was selling drugs because the CRI did not claim to have purchased drugs from Cook or to have personally seen Cook selling drugs. *Id.* at 668. Additionally, police corroboration of the tip was insufficient to establish the CRI's basis of knowledge because the corroborated details, such as Cook's clothing, vehicle, and location, "were entirely innocuous and lacked any incriminating aspects." *Id.*

Jones argues here that, like in *Cook*, the details of the CRI's tip that were corroborated by police—such as the description of Jones's clothing and location—were innocuous. He also points out that officers did not observe Jones engaged in criminal activity, making furtive movements, possessing a firearm, fleeing from the scene, or

handling the bag that was searched. For these reasons, Jones asserts that, like in *Cook*, the officers did not have probable cause to arrest him. We are not persuaded.

Here, the sergeant who received the CRI's tip describing Jones and D.R. testified that the information that was provided to him was "firsthand"—that the CRI had personally "observed two individuals in possession of firearms." This fact distinguishes this case from *Cook*, in which there was no explanation of how the informant knew that Cook was selling drugs. *See id.* at 668-69; *see also Mosley*, 994 N.W.2d at 891-92 (concluding that *Cook* was not on point in Mosley's case because *Cook* did not involve an informant who reported their personal observations). Additionally, the officers confirmed details from the CRI's tip. During their surveillance, which took place shortly after receiving the informant's tip, officers observed that D.R. and Jones matched the descriptions that the sergeant had communicated over radio based on the informant's tip. And the location and the vehicle parked there also matched the information provided by the CRI. As in *Mosley*, the corroboration of details that were provided by the CRI supports the existence of probable cause. *See* 994 N.W.2d at 892.

Jones argues, though, that *Mosley* does not control here, because in that case the informant provided their account of what they were observing while they were talking to police, *see id.* at 886, whereas here, the record does not establish that the CRI's tip was contemporaneous with the CRI's observation. This argument is persuasively refuted by the state. As the state observes, while the CRI's account in *Mosley* was contemporaneous, the cases that the supreme court cited when explaining that police do not need to corroborate significant details when a tip is based on the informant's personal knowledge did not

involve an informant's contemporaneous observation. *See id.* at 892; *State v. Wiley*, 366 N.W.2d 265, 269 (Minn. 1985) (concluding that warrant was supported by probable cause where informant observed contraband two days before issuance of warrant); *State v. McCloskey*, 453 N.W.2d 700, 701, 703 (Minn. 1990) (concluding that warrant was supported by probable cause where informant reported observing narcotics at residence within the preceding week).

While we conclude that the rule in *Mosley* does not depend on contemporaneous observation by the informant, the staleness of a tip certainly may be considered among the totality of circumstances in analyzing the existence of probable cause. *See* 994 N.W.2d at 892. Here, the record provides no basis to conclude that the CRI's tip was stale. According to the sergeant, the CRI reported that two individuals were near the identified liquor store and were in possession of firearms. The CRI described the individuals and said that one was near a Suburban. The sergeant quickly communicated the tip, and other officers quickly responded to the identified location to find two men matching the physical and clothing descriptions near a Suburban. On these facts, the tip was not stale.

In sum, the totality of the circumstances, viewed objectively at the time that officers arrested Jones, supports the conclusion that police had probable cause to believe that Jones was in unlawful possession of a firearm.

B. The search of Jones's bag was a lawful search of his person incident to his arrest.

Jones argues that, even if there was probable cause to arrest him, the search of the black bag incident to arrest was still unconstitutional.

"A search incident to a lawful arrest is a well-recognized exception to the warrant requirement . . . ." *State v. Bernard*, 859 N.W.2d 762, 766 (Minn. 2015). Under this exception, an arresting officer may search both the person of the arrestee and the area within the immediate control of the arrestee. *State v. Bradley*, 908 N.W.2d 366, 369 (Minn. App. 2018) (citing *Birchfield v. North Dakota*, 579 U.S. 438, 459-60 (2016)).

"A search of the arrestee's person is fundamentally distinct from a search of the area within the arrestee's immediate control." *Id.* at 370 (citing *Birchfield*, 579 U.S. at 460). An officer's search of the area within an arrestee's immediate control is constrained to the area into which the arrestee might reach to gain possession of a weapon or to destroy evidence. *Id.*; *State v. Robb*, 605 N.W.2d 96, 100 (Minn. 2000). The officer's authority to search the area terminates once police have exclusive control and the threat that the arrestee will gain access to a weapon or destroy evidence has ended. *Bradley*, 908 N.W.2d at 370.

In contrast, an officer's authority to search an arrestee's person "does not depend on the probability that weapons or evidence may be found." *Id.* (citing *Birchfield*, 579 U.S. at 640). "Rather, the mere fact of the lawful arrest justifies a full search of the person." *Id.* (quotation omitted). And a search of the arrestee's person includes personal property that is "immediately associated with the person of the arrestee." *Id.* (quotation omitted). If the suspect possesses an item that is closely associated with their person, such as a bag, at the time they are detained, that item "may remain immediately associated with a suspect's person" for purposes of the search-incident-to-arrest exception, even after it is seized by officers and the suspect is detained. *Id.* at 370-71 (citing *State v. Wynne*, 552 N.W.2d 218, 220 (Minn. 1996)).

Jones argues that the evidence does not establish that the black Nike bag was "immediately associated" with Jones and that, as a result, the search cannot be justified as a search of his person. And, he argues, the search cannot be justified as a search of the area within his immediate control because, at the time of the search, Jones was handcuffed in a squad car and the bag was within the exclusive control of law enforcement. Thus, he argues, officers lacked the authority under either theory to search the bag under the search-incident-to-arrest exception.

We conclude that the police's search of the bag was a lawful search of Jones's person incident to arrest because the bag was immediately associated with him. Jones argues that the evidence does not establish the bag as immediately associated with him because there is no evidence that police observed Jones in physical possession of it during their surveillance and the bag was found after detaining Jones. But one of the officers on the scene testified that, during their surveillance, Jones "was behind the Suburban, in that open lot area, near the chairs" and that "the black bags" were "[i]n the exact same location." And officer testimony and body-worn camera footage confirm that the black Nike bag that was searched was leaning against the lawn chair that Jones was sitting in when the officers approached. On this record, we conclude that the district court did not err by determining that the bag was immediately associated with Jones's person and therefore could be searched incident to Jones's arrest.

In sum, because Jones's arrest was supported by probable cause and the bag that was searched was immediately associated with his person, the warrantless search of the bag was authorized under the search-incident-to-arrest exception.

II. The seizure was supported by reasonable articulable suspicion of wrongdoing.

Jones also argues that his suppression motion should have been granted because his seizure was unlawful due to lack of reasonable suspicion of wrongdoing. As noted above, the state contends that the argument is outside the scope of the issues preserved for this appeal, which Jones contests. We need not resolve that dispute because Jones's argument fails on the merits.

A limited warrantless seizure of a person for investigatory purposes is not unconstitutional if the officer has a particular and objective basis for suspecting the person of criminal activity. *State v. Johnson*, 444 N.W.2d 824, 825 (Minn. 1989). "Reasonable suspicion requires more than a mere hunch but is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause." *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021) (quotations omitted). The reasonable-suspicion standard can be satisfied based on information provided by a reliable informant. *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008).

We concluded above that probable cause existed to arrest Jones. We did so based on the CRI's tip and the subsequent corroboration by police. Because those facts satisfy the probable-cause standard for arrest, they also satisfy the lower reasonable-suspicion standard for an investigatory seizure. *See Taylor*, 965 N.W.2d at 752. Thus, Jones's argument that his seizure was not supported by reasonable suspicion and that the gun evidence therefore must be suppressed fails.

Affirmed.