STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1414

State of Minnesota,
Respondent,

vs.

Joseph Benjamin Hulne,
Appellant.

Filed May 19, 2025
Reversed
Cochran, Judge

Clay County District Court
File No. 14-CR-23-2242

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

Cheryl Duysen, Moorhead City Prosecutor, Steven E. Beitelspacher, Tara B. Nagel, Assistant City Prosecutors, Moorhead, Minnesota (for respondent)

Erica A. Skogen Hovey, Jeffrey P. Sprout, Vogel Law Firm, Fargo, North Dakota (for appellant)

Considered and decided by Cochran, Presiding Judge; Slieter, Judge; and Kirk, Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal, appellant challenges the district court's order denying his motion to suppress evidence seized by law enforcement after entering his garage without a warrant. Because appellant did not consent to the entry and the state did not establish exigent circumstances to support law enforcement's warrantless entry into appellant's garage, we reverse.

FACTS

The following facts are not in dispute. On a dark night in September 2022, a police officer on routine patrol observed a car driving without its headlights or taillights illuminated. The driver of the car would later be identified as appellant Joseph Benjamin Hulne. The officer followed Hulne's car. Very shortly thereafter, Hulne turned on his left turn signal and then turned into a residential driveway. As Hulne was in the process of making the left turn, the officer activated his emergency lights to initiate a traffic stop.

After the officer activated his emergency lights, Hulne drove up the driveway and parked in the garage attached to the residence. The officer followed Hulne and parked his vehicle on the driveway behind Hulne's. The officer and Hulne exited their respective vehicles. Hulne stood in the garage and the officer remained on the driveway. The officer told Hulne "come talk to me." Hulne did not exit the garage. The two then had a conversation, with Hulne located just inside the garage and the officer located just outside the garage.

The officer started by informing Hulne that he was stopping him for driving without illuminated taillights and asked him to exit the garage. Hulne acknowledged the unilluminated taillights but declined to exit the garage. The officer again asked him to step out of the garage, reiterating that Hulne was detained on a traffic stop for driving with no taillights. Hulne again refused to exit the garage. The officer and Hulne continued this conversation with the officer requesting Hulne to step out of the garage, informing Hulne that he is detained, and Hulne, standing in the garage, refusing to step outside. Eventually, Hulne stated, "I can seriously just close my garage door and we're good." The officer asked him to repeat, to which Hulne responded, "I can close my garage door." The officer then entered Hulne's garage, grabbed Hulne's arm, and escorted him out of the garage.

Once outside of the garage, the officer conducted an investigation into whether Hulne was driving while impaired. Based on this investigation, the officer arrested Hulne. The officer then obtained a search warrant to test Hulne's blood or urine, which later revealed an alcohol concentration of 0.176.

Respondent State of Minnesota charged Hulne with two counts of driving while impaired pursuant to Minnesota Statutes section 169A.20, subdivision 1(1), (5) (2022). Hulne subsequently moved to suppress the evidence obtained as a result of the officer's warrantless entry into his garage, and the subsequent seizure, as a violation of his rights under the United States and Minnesota constitutions. The district court held a contested omnibus hearing to address the motion.

At the omnibus hearing, the district court heard testimony from the officer who arrested Hulne and received the officer's dashboard-camera video into evidence. The video

depicts the above-described events, starting with the officer following Hulne's car and concluding with Hulne's arrest. The officer testified to his interaction with Hulne and stated that he observed that Hulne's eyes were bloodshot and watery. The officer stated that, based on Hulne's eyes, the equipment violation of driving without illuminated taillights, and Hulne's refusal to exit the garage, the officer thought Hulne may be under the influence. The officer further testified that when Hulne brought up closing the door, the officer saw Hulne "start to back into the garage a little bit" and that is when he went into the garage and escorted Hulne out. On cross-examination, the officer agreed that Hulne did not provide consent for the officer to enter the garage. And the officer further testified that when he escorted Hulne out of the garage, he was not attempting to arrest Hulne because, at that point, he still needed to conduct an investigation.

At the conclusion of the officer's testimony, the state made oral argument in opposition to Hulne's motion. Relying on a nonprecedential decision of this court, the state argued the officer's warrantless entry into Hulne's garage did not violate his constitutional rights because Hulne impliedly consented to law enforcement entering the garage by leaving it open to the public. In a written argument, Hulne argued that he provided no consent, express or implied, for the officer to enter his garage and that his act of opening the garage door did not imply that his garage was open to the public. Hulne also argued that there were no exigent circumstances to justify the warrantless entry into the garage.

In a written order, the district court denied Hulne's motion to suppress. However, rather than relying on the state's argument that Hulne consented to the entry, the district court relied on a reason not advanced by the state. The district court determined that the

warrantless entry into the garage was justified because the officer had probable cause to arrest Hulne for the offense of fleeing a peace officer. The district court determined Hulne's "actions of driving his [car] into his garage after [the officer] had activated his emergency lights and siren, then refusing to come out to discuss the traffic violation and expressing that he would close the garage door, establish probable cause for the elements of [f]elony [f]leeing a [p]eace officer" in a motor vehicle.

The district court acknowledged that probable cause alone is not sufficient to support a warrantless entry into a garage because the law also requires exigent circumstances. But the district court did not determine that exigent circumstances existed at the time the officer entered the garage. Instead, the district court noted that Minnesota Statutes section 629.34, subdivision 1(c)(1) (2022), authorizes an officer to arrest a person "when a public offense has been committed or attempted in the officer's presence." The district court further noted that the same subdivision allows law enforcement to "break open an outer or inner door or window of a dwelling house" in order to "make an arrest authorized under this subdivision." Minn. Stat. § 629.34, subd. 1(d) (2022). The officer's entry into Hulne's garage, the district court reasoned, was "akin to, if less serious than, breaking open a door or window to gain entrance."

Following the district court's decision denying the motion to suppress, the parties agreed to proceed pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 4,

because the district court's decision was dispositive.[1] In doing so, Hulne stipulated to the state's evidence and waived his right to a trial by jury. The parties also agreed that if Hulne prevailed on appeal, a trial would be unnecessary.

Based on the stipulated facts, the district court found Hulne guilty on both counts of driving while impaired. The district court subsequently entered judgment of conviction on one count, dismissed the other count, and sentenced Hulne to 364 days in the county jail with 304 days stayed for four years.

Hulne appeals.

DECISION

Hulne challenges the district court's denial of his motion to suppress evidence seized following the officer's warrantless entry into his garage. "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).

The United States and Minnesota Constitutions protect "[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. "[P]hysical entry of the home is the chief evil against which [the Fourth Amendment] is directed." *Lange v. California*,

[1] Rule 26.01, subdivision 4, allows a criminal defendant to stipulate to the state's case to obtain review of a pretrial ruling, upon agreement with the state that the ruling is dispositive of the case.

594 U.S. 295, 303 (2021) (quoting *Payton v. New York*, 445 U.S. 573, 585 (1980)). "The Amendment thus draws a firm line at the entrance to the house." *Id.* (quotation omitted). Consequently, "[w]arrantless residential searches and seizures are presumptively unreasonable under the Fourth Amendment." *State v. Anderson*, 733 N.W.2d 128, 136 (Minn. 2007). "[A] garage adjoining the home enjoys the same constitutional protections against warrantless entry as the home." *Haase v. Comm'r of Pub. Safety*, 679 N.W.2d 743, 746 (Minn. App. 2004) (citing *State v. Crea*, 233 N.W.2d 736, 739 (Minn. 1975)). In light of this protection, law enforcement can enter a home without a warrant to make an arrest only if the state can establish either (1) consent or (2) probable cause to arrest and exigent circumstances. *State v. Paul*, 548 N.W.2d 260, 264 (Minn. 1996).

Hulne argues that the district court erred as a matter of law when it denied his motion to suppress because the undisputed facts do not support the district court's determination that there was probable cause to arrest Hulne for fleeing a peace officer in a motor vehicle and there were no exigent circumstances to support the stop. In response, the state argues that the district court did not err in determining that there was probable cause to arrest Hulne for fleeing a peace officer in a motor vehicle. The state, however, makes no argument that exigent circumstances existed to support the warrantless entry into Hulne's garage. And the state does not argue that Hulne consented to the entry as it did before the district court. We conclude that the district court erred when it denied the motion to suppress.

We begin by noting that there is no dispute that Hulne did not consent to the warrantless entry into his garage. Consequently, we must reverse the district court's order

unless there was probable cause for his arrest and exigent circumstances to support the entry. *See id.* (stating that a warrantless entry into a person's residence is per se unreasonable absent consent or probable cause and exigent circumstances). Assuming without deciding that there was probable cause to arrest Hulne for fleeing a peace officer in a motor vehicle, we conclude the district court erred as a matter of law in denying Hulne's motion to suppress because the district court did not find, and the record does not reflect, that exigent circumstances existed when the officer entered Hulne's garage.[2]

When the facts are undisputed, as they are here, the presence of exigent circumstances is a legal question that we review de novo. *State v. Stavish*, 868 N.W.2d 670, 677 (Minn. 2015). The determination of whether there are exigent circumstances sufficient to justify a warrantless search or seizure requires a "careful case-by-case assessment." *See Missouri v. McNeely*, 569 U.S. 141, 152 (2013) (discussing exigency in the context of a warrantless search). In conducting this analysis, courts consider "[w]hether a now or never situation actually exists" and "whether an officer has no time to secure a warrant." *Lange*, 594 U.S. at 302 (quotations omitted). It is the state's burden to establish exigent circumstances to "overcome the presumption of unreasonableness that attaches to all warrantless home entries." *Welsh v. Wisconsin*, 466 U.S. 740, 750 (1984). There are "two types of tests for exigent circumstances: (1) single factor exigent circumstances, and (2) in the absence of any of these factors, a totality of the circumstances test."

[2] While we assume for purposes of our analysis that there was probable cause to arrest Hulne, we note that the duration of the alleged flight was extremely limited and there were no public-safety concerns implicated by the conduct.

State v. Gray, 456 N.W.2d 251, 256 (Minn. 1990) (quotation marks omitted). We consider each type in turn.

Single-Factor Exigency

The following circumstances can constitute a single-factor exigency: "hot pursuit of a fleeing felon," "imminent destruction or removal of evidence," "protection of human life," "likely escape of the suspect," and "fire." *Id.* Hulne argues that none of these single-factor exigent circumstances existed when the officer entered his garage. We agree.

Regarding "hot pursuit," Hulne argues that the officer was not in hot pursuit because "there was no chase of any degree." "'[H]ot pursuit' means some sort of a chase." *United States v. Santana*, 427 U.S. 38, 42-43 (1976). This chase typically requires "immediate or continuous pursuit" of a suspect. *Welsh*, 466 U.S. at 753. However, that pursuit "need not be an extended hue and cry in and about the public streets." *Santana*, 427 U.S. at 43 (quotation omitted).

Even assuming the officer had probable cause to believe that Hulne was fleeing in a motor vehicle, Hulne's "flight" consisted of him turning into his driveway and coming to a complete stop in his garage just after the officer activated his emergency lights. Once he stopped his car, Hulne remained in his garage and had a conversation with the officer. And when the officer did enter the garage, the officer was not in "hot pursuit" of Hulne—Hulne had been standing in the garage talking with the officer. Consequently, the undisputed facts in the record establish that the officer was not in hot pursuit of Hulne when he entered Hulne's garage. *See id.* at 42-43 (requiring that hot pursuit include "some sort of a chase").

Similarly, the record does not support a conclusion that the "likely escape of the suspect" existed to justify the officer's warrantless entry into Hulne's garage. *See Gray*, 456 N.W.2d at 256. Hulne was at his residence when the officer entered the garage. This was not a circumstance where his escape was likely. At oral argument, counsel for the state conceded that the officer had time to obtain a warrant before entering the garage. And if the officer had instead waited for a warrant rather than entering the garage, he could have prevented any attempt at escape by Hulne. *See State v. Olson*, 436 N.W.2d 92, 97 (Minn. 1989) (discussing how law-enforcement presence can reduce the likelihood that a suspect will escape while a warrant is being secured), *aff'd sub nom. Minnesota v. Olson*, 495 U.S. 91 (1990). Consequently, the record does not establish that Hulne was likely to escape if the officer waited for a warrant.

Finally, our review of the record does not reveal any facts that suggest that any of the other single-factor exigent circumstances identified by caselaw apply.[3] As a result, the state has not established exigent circumstances based on a single factor.

Totality of the Circumstances

When no single factor establishes exigent circumstances, exigency can still be established by a consideration of the totality of the circumstances. *Gray*, 456 N.W.2d at

[3] Nothing in the record indicates that there was an ongoing fire or a person on the premises in need of emergency assistance. The only destruction of evidence that is suggested by the record is Hulne's metabolic elimination of alcohol in his body. The Supreme Court, however, has concluded that metabolic elimination of alcohol does not, alone, create an emergency sufficient to establish exigent circumstances. *McNeely*, 569 U.S. at 145.

256. When considering the totality of the circumstances, we are guided by six factors set forth in *Dorman v. United States*, 435 F.2d 385 (D.C. Cir. 1970). These factors are:

> (a) whether a grave or violent offense is involved; (b) whether the suspect is reasonably believed to be armed; (c) whether there is strong probable cause connecting the suspect to the offense; (d) whether police have strong reason[s] to believe the suspect is on the premises; (e) whether it is likely the suspect will escape if not swiftly apprehended; and (f) whether peaceable entry was made.

Gray, 456 N.W.2d at 256 (citing *Dorman*, 435 F.2d at 392-93). These factors are not exhaustive and appellate courts have also considered the time necessary to obtain a warrant and whether law enforcement planned their actions in advance as opposed to acting "as part of unfolding developments." *Id.* at 256-57.

Here, the *Dorman* factors do not support the presence of exigent circumstances. We consider each factor in turn. First, Hulne's alleged offense of fleeing a police officer was neither grave nor dangerous, as the offense consisted of Hulne driving up a private driveway after which he came to a complete stop, in a garage, shortly after the officer activated his emergency lights. At oral argument, the state argued that the offense of fleeing a peace officer in a motor vehicle is grave because it is a felony. But the United States Supreme Court has emphasized a case-by-case analysis of exigent circumstances and has stated "a felon is not always more dangerous than a misdemeanant." *Lange*, 594 U.S. at 302, 305 (quotations omitted). Second, nothing in the record suggests that Hulne was armed. Third, assuming that there is probable cause for fleeing a peace officer, this probable cause is strong because the officer directly observed Hulne's flight. Fourth, the officer knew that Hulne was on the premises, as he observed him arrive. Fifth, as

discussed above, Hulne was not likely to escape if not swiftly apprehended because, beyond Hulne's drive up the driveway, he made no attempt to escape the officer. Sixth, the officer made peaceful entry and only so far as to seize Hulne. *See Gray*, 456 N.W.2d at 256.

While some of the six *Dorman* factors support a determination of exigent circumstances, the factors taken as a whole do not reflect exigent circumstances. Hulne's alleged offense was not a grave offense, Hulne was not armed, and Hulne's escape was unlikely. This was not the "now or never" scenario contemplated by the exigent-circumstances exception. *See Lange*, 594 U.S. at 302 (quotation omitted). And the state's concession at oral argument that the officer had time to obtain a warrant further supports the conclusion that there was no exigency at the time the officer entered the garage.[4] *See id.* Consequently, based on our de novo review of the undisputed facts, we conclude that the record does not establish an exigency at the time the officer entered the garage.

Minnesota Statutes Section 629.34, Subdivision 1 (2022)

Finally, while the district court did not make a determination regarding exigency, it did determine that Minnesota Statutes section 629.34, subdivision 1, supported the officer's warrantless entry into Hulne's garage. In doing so, the district court noted that under this subdivision, law enforcement may arrest a person without a warrant "when a public offense has been committed or attempted in the officer's presence." Minn. Stat. § 629.34, subd. 1(c)(1). That same subdivision states, "To make an arrest authorized

[4] The court appreciates the state's candor to the tribunal at oral argument as an officer of the court.

under this subdivision, the officer may break open an outer or inner door or window of a dwelling house if, after notice of office and purpose, the officer is refused admittance." Minn. Stat. § 629.34, subd. 1(d). The district court determined that this subdivision allowed the officer's "entrance into [Hulne's] garage after informing [Hulne] that he was investigating the no illuminated taillights offense." We disagree.

Section 629.34, subdivision 1(d), allows an officer to "break open an outer or inner door or window" but only "[t]o *make an arrest* authorized under this subdivision." (Emphasis added.) The record, however, reflects that the officer was not making an arrest when he entered Hulne's garage. The officer testified that when he entered Hulne's garage, he was conducting a traffic stop. And a traffic stop "is more analogous to an investigative stop . . . than to a formal arrest." *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). The record further reflects that the officer specifically testified that when he went to grab Hulne in his garage, the officer was not trying to effect an arrest at that point. As a result, because the officer did not enter the garage to make an arrest, as contemplated by section 629.34 subdivision 1(d), the district court erred in relying on section 629.34 in determining that the officer's warrantless entry was justified.[5]

[5] Furthermore, the district court did not discuss how its reading of section 629.34 comports with Fourth Amendment jurisprudence regarding exceptions to the warrant requirement for residential arrests which, in the absence of consent, requires exigent circumstances. *See, e.g.*, *Lange*, 594 U.S. at 299-302 (requiring exigent circumstances to conduct a residential arrest of a suspected misdemeanant that fled into their garage).

Conclusion

Based on our de novo review, we conclude that the undisputed facts do not establish exigent circumstances justifying the officer's entry into the garage and the subsequent seizure of Hulne, without a warrant. Therefore, even assuming the officer had probable cause to arrest Hulne for fleeing a police officer, the officer's warrantless entry into the garage and seizure of Hulne violated the Fourth Amendment and article I, section 10 of the Minnesota constitution. *Gray*, 456 N.W.2d at 256. "Evidence resulting from an unreasonable seizure must be excluded." *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012). Hulne is therefore entitled to suppression of all evidence obtained as a result of the seizure.

Because the parties agreed that the district court's pretrial ruling was dispositive and that a trial would be unnecessary if Hulne prevailed on appeal, remand for a contested trial is unnecessary. *See* Minn R. Crim. P. 26.01, subd. 4(a), (c); *see also State v. Yang*, 814 N.W.2d 716, 718, 722-23 (Minn. App. 2012) (reversing conviction without remand after concluding that the district court erred in a pretrial ruling in a case tried by rule 26.01, subdivision 4). We therefore reverse the district court's denial of Hulne's motion to suppress and vacate his conviction for driving while impaired.

Reversed.