FILED
AUG 25 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, Plaintiff-Appellant, vs. PAUL MARREL BOEHM, Defendant-Appellee.	)	Filed August 25, 1981 1-150 65176

Appeal from Marshall District Court - Paul E. Hellwege, Judge.

The State seeks discretionary review of trial court's order suppressing evidence seized following an investigatory stop of an automobile in which defendant was a passenger, contending that the officers who stopped the automobile had reasonable and articulable ground to effect the investigatory stop. REVERSED.

Thomas J. Miller, Attorney General of Iowa; and Thomas N. Martin, Assistant Attorney General; for plaintiff-appellant.

Roger R. Schoell, Marshalltown, Iowa, for defendant-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

The State seeks discretionary review of trial court's order suppressing evidence seized following an investigatory stop of an automobile in which defendant was a passenger. The State contends that the officers who stopped the automobile had reasonable and articulable ground to effect the investigatory stop. We agree, and reverse the trial court.

I. Scope of Review. Since a constitutional issue is raised, we make an independant examination to determine the facts. State v. Farrell, 242 N.W.2d 327, 329 (Iowa 1976).

II. Validity of the Investigatory Stop. A valid investigatory stop must be based on specific and articulable facts which, taken together with rational inferences drawn from those facts, warrant a police officer in concluding in light of his or her experience that criminal activity is afoot. State v. Cooley, 229 N.W.2d 755, 760-61 (Iowa 1975). The totality of the circumstances must be considered. United States v. Cortez, U.S. , 101 S. Ct. 690, 695, 66 L. Ed.2d 621, 629 (1981). Circumstances based on mere suspicion or curiosity are not sufficient. Id. at 760.

Based upon our assessment of these circumstances, we agree with the State's assertion that the officers had articulable and reasonable facts upon which to conduct the investigatory stop. As in State v. Reese, 259 N.W.2d 793, 795 (Iowa 1977), the officers were not possessed of any information which tended to connect the automobile with any crime; and they did not possess information that there had been a crime committed in the area. However, unlike Reese, the car in this case was not on a public highway. See also, State v. Billings, 242 N.W.2d 726 (Iowa 1976); State v. Dixon, 241 N.W.2d 21 (Iowa 1976). This car was on private property, substantially away from the public road, behind the main retail building, and in front of the storage building. It was 2:30 a.m., and the owner's business had been closed since 6 p.m. Under these circumstances, we conclude the State proved that the officers had reasonable grounds to make an investigatory stop of the automobile.

REVERSED.