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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	
vs.	)	
RICK LAMONT HOLLAND,	)	8-608
Defendant-Appellant.	)	87-1763

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	
vs.	)	
RONALD LAM,	)	
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Scott County (No. CR 130956-02), James E. Kelley, Judge.

The codefendants have entered a combined appeal from their convictions, after a joint jury trial, of second-degree burglary. They contend the trial court erred in denying their motions to suppress evidence obtained from an investigatory stop of their car that was not supported by reasonable cause. **REVERSED AND REMANDED.**

Raymond E. Rogers, Acting Chief Appellate Defender, for defendants-appellants.

Thomas J. Miller, Attorney General; Christie J. Scase, Assistant Attorney General; and Gary Sissel, Assistant County Attorney, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson and Sackett, JJ.

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SACKETT, J.

We address the contention of codefendants Rick Lamont Holland and Ronald Lam on this combined appeal that the trial court erred in admitting in their burglary trial evidence obtained as a result of a stop and search of an automobile driven by one codefendant in which the other was a passenger. We reverse and remand for a new trial.

The fourth amendment requires reasonable cause to stop a vehicle for investigatory purposes. When a stop is challenged on the basis that reasonable cause did not exist, the State must show that the stopping officer had specific and articulable cause to support a reasonable belief that criminal activity may have occurred. Circumstances giving rise to suspicion or curiosity will not suffice. The officer is bound by the true reason or reasons for making the stop; that is, the officer may not rely on reasons that he or she could have had but did not actually have. State v. Lamp, 322 N.W.2d 48, 51 (Iowa 1982).

Because we are confronted with an alleged constitutional violation, we resolve the issue by making our own independent evaluation of the totality of the circumstances. State v. Hilleshiem, 291 N.W.2d 314, 316 (Iowa 1980).

The essential purpose of the fourth amendment search and seizure proscription is to impose a standard of

reasonableness upon the exercise of discretion by government officials, including law enforcement officials, in order to safeguard the privacy and security of individuals against invasion. State v. Hilleshiem, 291 N.W.2d at 316.

An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity. Based upon the whole picture the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity. State v. Elis, 348 N.W.2d 224 (Iowa 1984).

The facts surrounding the stop are as follows: At 2:45 a.m. on August 11, 1987, two Davenport police officers were notified a burglar alarm had sounded at a local video store in Davenport. The officers went to the store where they found pry marks on one door and two open doors. No one was inside the store. After about forty-five minutes one officer returned to his parked police car. While sitting in the vehicle he observed a car approaching at a normal rate of speed. The car slowed on seeing the police car. The officer shined his alley lights at the car. The officer saw two males in the car. The car had Illinois license plates. The officer observed the men appeared to be sweating. When the light was shown in the car the

passenger leaned down in the seat and leaned down to one side. The officer followed and then stopped the car.

We specifically find that:

1. The officer observed the defendant's vehicle drive toward the scene of a recent burglary less than an hour after the burglary.
2. There was no other pedestrian or vehicular traffic in the area at the time.
3. It was 3:00 a.m.
4. The car had Illinois license plates. The stop occurred in Davenport, part of the Quad Cities area including Iowa and Illinois.
5. The defendant's car slowed when it saw the police officer.
6. The passenger slid down in the seat when the officer shone a light in his eyes.

This does not present specific and articulable facts which, with rational inferences, can objectively be said to have reasonably warranted the involved stop and attendant intrusion upon defendants' constitutionally guaranteed rights. State v. Cooley, 229 N.W.2d 755, 761 (Iowa 1975); State v. Losee, 353 N.W.2d 876, 879 (Iowa App. 1984).

We hold the court erred in admitting the questioned evidence. We reverse and remand.

REVERSED AND REMANDED.