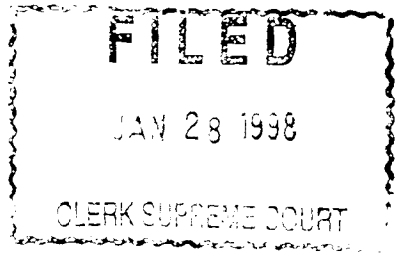
IN THE COURT OF APPEALS OF IOWA

No. 7-711 / 97-0843 000369



STATE OF IOWA,

Plaintiff-Appellee,

vs.

RICKEY CECIL FARRIS,

Defendant-Appellant.

Appeal from the Iowa District Court for Benton County, David M. Remley, Judge.

Rickey Farris appeals from his convictions, following a bench trial, for second-degree burglary and fourth-degree criminal mischief in violation of Iowa Code sections 713.5 and 716.6 (1995). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Roxann M. Ryan, Assistant Attorney General, Ray Lough, County Attorney, and Karen Duncan, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Huitink and Mahan, JJ.

MAHAN, J.

Defendant Rickey Farris appeals the district court's denial of his motion to suppress evidence obtained in an investigatory stop, alleging the stop was improper. On appeal, we affirm by memorandum opinion pursuant to Iowa Supreme Court rule 9.

Deputy Stueke was on patrol when he drove by the residence of a captain in his department just after noon on a weekday. He observed a car containing individuals he did not recognize ready to pull out of the driveway. From his knowledge of the captain, the deputy knew no one would normally be at home at that hour. After he passed the driveway, the deputy watched the car pull out of the driveway behind him. He pulled to the side of the street and stopped just beyond the next intersection with the intent of obtaining the license number of the car as it passed him. Instead, the car turned at the intersection into a dead-end street. Deputy Stueke thought the driver was trying to elude him. The deputy followed the car down the dead-end road and stopped it to investigate. During the stop, the deputy learned the license plates did not belong to that car. When he approached the car, he observed burglarized items in plain view on the back seat. The car was impounded and inventoried.

After the Benton County Attorney filed a trial information charging defendant with burglary and criminal mischief, defendant filed a motion to suppress evidence from the stop. The district court overruled the motion after a hearing. Following a bench trial on stipulated facts, the trial court convicted defendant on both charges.

On appeal, defendant argues the deputy lacked reasonable cause to stop his vehicle; thus the evidence obtained from the stop should have been suppressed. The State responds the investigatory stop was proper and the district court properly refused to suppress the evidence.

We review allegations of constitutional violations, such as search and seizure, de novo. *State v. Haviland*, 532 N.W.2d 767, 768 (Iowa 1995). The police may stop and briefly detain a person for investigative purposes if the officer has reasonable cause to believe a crime may have occurred. *State v. Richardson*, 501 N.W.2d 495, 496 (Iowa 1993). We measure reasonableness of a stop by whether the facts available to the officer at the moment of the stop would warrant a person of reasonable caution to believe the action taken was appropriate. *State v. Wiese*, 525 N.W.2d 412, 414 (Iowa 1994). "The principal function of an investigatory stop is to resolve the ambiguity as to whether criminal activity is afoot." *Richardson*, 501 N.W.2d at 497 (citing 3 W. LaFave, *Search and Seizure* § 9.3(b), at 432 (1987)). Reasonable cause may exist to investigate conduct which may be subject to a legitimate explanation and later turns out to be wholly lawful. *Reid v. Georgia*, 448 U.S. 438, 441, 100 S. Ct. 2752, 2754, 65 L. Ed. 2d 890, 894 (1980).

The deputy was suspicious of the car when he observed it in the driveway at a time no one should be home. When the car turned down a dead-end street to elude him, the deputy believed something was amiss. We find the investigatory stop proper under these circumstances to resolve the issue as to whether a crime had taken place.

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Therefore the trial court properly overruled defendant's motion to suppress evidence obtained in the investigatory stop.

AFFIRMED.