IN THE COURT OF APPEALS OF IOWA

No. 6-040 / 95-990

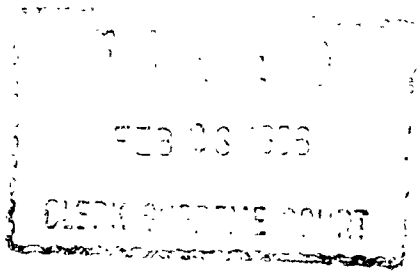
STATE OF IOWA,

Plaintiff-Appellee,

vs.

GLEN EUGENE BEAMAN,

Defendant-Appellant.



Appeal from the Iowa District Court for Black Hawk County, J. G. Johnson, Judge.

Glen Beaman appeals his conviction of carrying a weapon in violation of Iowa Code section 724.4(1) (1995). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Roxann M. Ryan, Assistant Attorney General, and Thomas J. Ferguson, County Attorney, for appellee.

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

SACKETT, P.J.

Defendant-appellant Glen Eugene Beaman appeals his conviction of carrying a weapon in violation of Iowa Code section 724.4(1) (1995). Defendant contends the trial court erred in overruling his motion to suppress evidence he contends was obtained when an officer stopped the car in which he was a passenger without having a reasonable basis to do so. We affirm.

A Waterloo police officer, working the eleven p.m. to seven a.m. shift on July 15, 1994, was giving the 1300 block of Lyon Avenue extra patrol because at about 11:30 p.m. there had been a report of prowlers on foot in the backyards of homes in the area. At about 3:30 a.m. on July 15, 1994, the officer observed a white Chevrolet Corsica circling the neighborhood several times. The officer checked the registration on the car and learned it was registered to Tia Pollock. Two or three weeks before, the officer conducted a high-speed chase of a different vehicle owned by Pollock. Defendant was the driver of that car at the time and was driving with a suspended driver's license.

The officer signaled the Chevrolet to stop. The driver, Shabbona Tooson, told the officer he and his male passenger were looking for the address of a friend who lived in the area. The address was approximately one-half mile from where the car was stopped. The officer checked and found there was an arrest warrant outstanding for Tooson. Tooson was arrested and, as the officer was putting handcuffs on Tooson, Tooson said there was a gun underneath the passenger seat of the car.

Tooson and his passenger, defendant Glen Beaman, were charged with carrying a pistol in a motor vehicle.

Defendant moved to suppress all evidence obtained following the stop. The trial court overruled the motion and found the officer had reasonable cause to "stop a vehicle at 3:30 a.m. driving around a residential neighborhood three times after investigating a prowler in the same area some four hours earlier."

Defendant appeals. He contends the officer did not have a reasonable suspicion criminal activity was afoot so as to justify the investigatory stop.

For a police officer to stop a vehicle for investigatory purposes, he or she must have reasonable cause to believe criminal activity is underway. *See Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880, 20 L. Ed. 2d 889, 906 (1968); *State v. Cooley*, 229 N.W.2d 755, 759-60 (Iowa 1975). A *Terry* stop must be based on reasonable and articulable cause to believe criminal activity is afoot. *Terry*, 392 U.S. at 21, 88 S. Ct. at 1880, 20 L. Ed. 2d at 906; *State v. Mitchell*, 498 N.W.2d 691, 693 (Iowa 1993); *State v. Lamp*, 322 N.W.2d 48, 51 (Iowa 1982); *State v. Jackson*, 315 N.W.2d 766, 767 (Iowa 1982); *Cooley*, 229 N.W.2d at 759-60. The court will look to whether "articulable objective facts were available to the officer to justify the stop." *State v. Stevens*, 394 N.W.2d 388, 391 (Iowa 1986). Officers are bound by the reasons they state for making the stop. *State v. Wiese*, 525 N.W.2d 412, 415 (Iowa 1994); *State v. Rosenstiel*, 473 N.W.2d 59, 61 (Iowa 1991); *State v. Bailey*, 452 N.W.2d 181, 182 (Iowa 1990); *State v. Aschenbrenner*, 289 N.W.2d 618, 619 (Iowa 1980).

We examine several factors in determining whether the investigatory stop was reasonable, including whether the officer is investigating a specific crime, whether the officer has been given a specific description of the suspect or the vehicle, or whether the crime is reasonably close in time to the stop. *State v. Scott*, 405 N.W.2d 829, 831-32 (Iowa 1987). Even conduct that is otherwise lawful may give rise to reasonable grounds. *State v. Richardson*, 501 N.W.2d 495, 496-97 (Iowa 1993).

In order to establish reasonable cause when the grounds are challenged, the State must show the officer had specific and articulable cause to support a reasonable belief criminal activity may have occurred. *Aschenbrenner*, 289 N.W.2d at 619. An investigatory stop by police involving circumstances evoking a mere suspicion or curiosity cannot withstand a constitutional challenge. *Cooley*, 229 N.W.2d at 760.

The officer offered three reasons for the stop: (1) there had been a report of a prowler in the area three hours prior to the stop; (2) the car had been suspiciously driving around the neighborhood; and (3) the owner of the vehicle had owned another car driven by an unlicensed driver three weeks earlier. The officer testified he saw a car driving around the area, back and forth, circling blocks and driving down side streets, which aroused his suspicion it may be connected to the prowler report. The officer's suspicion was reasonable considering the report of a prowler. The prowler was seen on foot, but it is reasonable the occupants of a vehicle circling the neighborhood could be looking for the prowler to pick him or her up.

The officer also knew before the stop the car was registered to Tia Pollock and, a few weeks earlier, another car owned by Pollock was driven by a person whose license was suspended.

The trial court correctly denied the motion to suppress the evidence. We affirm.

AFFIRMED.