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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1207

Filed 7 October 2026

Mecklenburg County, No. 20CR200923-590

STATE OF NORTH CAROLINA

v.

DAREMAN MCKENZIE PIGATT, II

Appeal by defendant from order and judgment entered 3 December 2024 by Judge Clifton H. Smith in Mecklenburg County Superior Court. Heard in the Court of Appeals 16 September 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Tracy Berry, for the State.

Fox Rothschild LLP, by Margaret McCall Reece, for defendant-appellant.

ARROWOOD, Judge.

Dareman Pigatt (“defendant”) appeals from an order denying his motion to suppress and judgment entered upon his guilty plea for concealed carry of a handgun. For the following reasons, we remand for additional findings.

I. Background

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At approximately 2:30 a.m. on 8 January 2020, an anonymous person in Charlotte called 911 to report that they heard a window break about ten minutes before their call. The caller said that they had witnessed a charcoal grey Dodge Charger with tinted windows leave the area around the time the window was broken and then return about ten minutes later. The caller stated that the Charger was parked in a hotel parking lot on East McCullough Drive behind building AAA but did not provide a description of the occupants of the vehicle.

Charlotte-Mecklenburg Police Department (“CMPD”) Officer Schwob was advised of the 911 call and promptly responded. He arrived on the scene at approximately 2:40 a.m. and observed a charcoal grey Dodge Charger legally parked in the described location. It was the only vehicle in the lot that was running and occupied, and the only vehicle matching the caller’s description behind building AAA. Officer Schwob made no attempt to look for any other vehicle once he saw the grey Charger.

Officer Schwob parked near the rear of the grey Charger and approached the driver’s side door. Defendant was occupying the driver’s seat and there was a female passenger in the front passenger seat. Officer Schwob stated that as he approached defendant’s car from the rear, he witnessed defendant leaning back in his seat. Defendant then looked over his left shoulder and made a movement of lifting up his hips. Footage from Officer Schwob’s body camera shows that when he approached defendant’s door, he shined a flashlight into the car and said “Hey man, what’s up?

What's going on, man? You guys out here, in the parking lot, hanging out kind of thing?" Defendant responded "Yes sir" and then clarified that he was waiting on a friend that was in the hotel.

Officer Schwob remarked that it had looked like defendant was pulling up his pants, but that he was not concerned because "that's you guys's thing." Officer Schwob immediately asked if defendant or the female passenger had seen or heard anything like glass breaking, to which defendant said they had not. Officer Schwob then asked if defendant had an ID on him and explained that he was responding to a call about glass breaking and a Dodge Charger leaving the scene. Officer Schwob stepped back and called a CMPD dispatcher to run a license check on defendant. After several seconds, Officer Schwob stepped back towards the driver's side door and asked defendant if he had any guns or drugs in the car. Defendant denied having anything of that nature.

Officer Schwob then asked for defendant to step out of his car, explaining that defendant had been "bouncing around and reaching." When defendant exited the vehicle, Officer Schwob saw a pistol magazine located in the door. Officer Schwob placed defendant in handcuffs and escorted him over to Officer Schwob's police vehicle. Meanwhile, another officer placed the female passenger in handcuffs and brought her over to wait with defendant. Officer Schwob searched defendant's car and found a handgun located under the driver's seat. Defendant was placed under arrest for carrying a concealed handgun.

Defendant was convicted of misdemeanor concealed carry of a handgun in Mecklenburg County District Court on 28 February 2023. He appealed to Mecklenburg County Superior Court on 1 March 2023. On 15 November 2024, defendant filed a motion to suppress, claiming that the physical evidence against him was seized as a result of an illegal and unconstitutional seizure of defendant's person and subsequent illegal search of his vehicle.

Following a hearing on the motion on 3 December 2024, the Superior Court concluded that there was reasonable and articulable suspicion to seize defendant, and therefore the seizure was lawful. Accordingly, the Superior Court denied defendant's motion to dismiss. That same day, defendant pled guilty to carrying a concealed handgun while reserving his right to appeal. Defendant orally noticed appeal.

II. Discussion

Defendant raises two issues on appeal: 1) whether Officer Schwob had reasonable suspicion to believe that criminal activity was afoot or that defendant was armed and dangerous when he seized defendant; and 2) even if the seizure was lawful, was the subsequent warrantless search of defendant's vehicle lawful?

A. Standard of Review

Our review of a trial court order denying a motion to suppress is “‘strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate

conclusion of law.’ ” *State v. Rowdy*, 389 N.C. 631, 635 (2026) (quoting *State v. Cooke*, 306 N.C. 132, 134 (1982)). We review the trial court’s conclusions of law *de novo*. *Id.*

B. Seizure

Defendant argues that he was seized when Officer Schwob parked near the rear of defendant’s vehicle to prevent him from leaving and approached the driver’s side door. Alternatively, defendant argues that he was seized when Officer Schwob began investigative questioning and when Officer Schwob requested defendant’s ID. Defendant further contends that regardless of when the seizure occurred, Officer Schwob lacked the requisite reasonable suspicion. For the following reasons, we remand for additional findings of fact to determine whether defendant was seized when Officer Schwob parked behind and approached defendant’s car.

“Both the United States and North Carolina Constitutions protect against unreasonable searches and seizures.” *State v. Otto*, 366 N.C. 134, 136 (2012) (citing U.S. Const. amend. IV; N.C. Const. art. I, § 20). This right is “enforced primarily through the ‘exclusionary rule,’ which provides that evidence derived from an unconstitutional search or seizure is generally inadmissible in a criminal prosecution of the individual subjected to the constitutional violation.” *State v. McKinney*, 361 N.C. 53, 58 (2006) (citation omitted).

“[L]aw enforcement officers do not violate the Fourth Amendment’s prohibition against unreasonable seizures ‘merely by approaching individuals on the street or in other public places and putting questions to them if they are willing to listen.’ ” *State*

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v. Isenhour, 194 N.C. App. 539, 542 (2008) (quoting *United States v. Drayton*, 536 U.S. 194, 200 (2002)). Rather, a seizure is effectuated “‘when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen.’” *Florida v. Bostick*, 501 U.S. 429, 434 (1991) (quoting *Terry v. Ohio*, 392 U.S. 1, 19, n. 16 (1968)). “The test for determining whether a seizure has occurred is whether under the totality of the circumstances a reasonable person would feel that he was not free to decline the officers’ request or otherwise terminate the encounter.” *State v. Brooks*, 337 N.C. 132, 142 (1994) (citations omitted).

Our courts have identified a number of relevant circumstances including, but not limited to, “the number of officers present, whether the officer displayed a weapon, the officer’s words and tone of voice, any physical contact between the officer and the individual, whether the officer retained the individual’s identification or property, [and] the location of the encounter.” *State v. Icard*, 363 N.C. 303, 309 (2009). Our courts have also considered whether an officer was in uniform and whether the officer had blocked the individual’s path to leave. *Id.* at 309–10; *State v. Knudsen*, 229 N.C. App. 271, 282–84 (2013) (holding that an individual was seized when uniformed officers blocked his movement along a sidewalk and questioned him).

Defendant compares his encounter with Officer Schwob to the seizure in *State v. Eagle*, 286 N.C. App. 80 (2022). There, a deputy observed a sedan pull into the driveway of a closed business at 3:19 a.m. *Eagle*, 286 N.C. App. at 81. The entrance to the business was blocked by a locked gate. *Id.* The deputy activated her blue lights

and pulled into the driveway, stopping about ten feet behind the sedan. *Id.* The deputy sat in her car and ran the sedan's license plate, during which the occupants of the sedan remained in their vehicle. *Id.* at 82. After approximately one minute, the deputy exited her car and approached the driver's side door of the sedan. *Id.* Upon talking to the driver, the deputy noticed a strong odor of alcohol coming from inside the vehicle and that the driver had red, glassy eyes and slurred speech. *Id.*

This Court held that the deputy in *Eagle* had seized the driver of the sedan when she parked her vehicle behind the car. *Id.* at 93–94. When describing why a reasonable person would not have felt free to drive off, this Court emphasized that when the deputy parked in the driveway behind the sedan, the driver's "ability to utilize her only available exit was hindered and any attempt to exit, whether backing up slowly or attempting a multi-point turn between the gate and the cruiser, was slowed." *Id.* at 91.

This Court specifically contrasted the positioning of the cars from a similar case, *State v. Isenhour*, 194 N.C. App. at 544, in which there was "no suggestion in the record" that the defendant's car was blocked. *Id.* at 90. Additionally, the deputy in *Eagle* had activated her blue lights and the stop happened late at night in an empty, isolated location. *Id.* at 93. This Court also recognized the pressure resulting from potential criminal consequences that come with ignoring a request from an officer. *Id.* at 91–92 (citing *State v. Hoque*, 269 N.C. App. 347, 349–50 (2020)).

Here, similar to *Eagle*, defendant's car was stopped with no path forward¹ when Officer Schwob parked near its rear. Additionally, it was late at night, and there was no indication that anyone else was present in the parking lot. While Officer Schwob did not activate his blue lights, he arrived in a marked car, immediately pulled in behind defendant's car, and walked straight to defendant's driver's side door while in uniform. That sequence of events “ ‘demonstrates a greater show of authority than does an officer who just happens to be on the scene and engages a citizen in conversation.’ ” *Id.* at 91 (quoting *United States v. Jones*, 678 F.3d 293, 302 (4th Cir. 2012)).

Accordingly, if defendant's exit was hindered, then defendant was seized when Officer Schwob parked and approached his car. However, we are unable to determine from the record whether defendant's movement was impeded. The trial court's only finding on the position of the vehicles or defendant's ability to leave and drive away states that: “Officer Schwob parked his patrol vehicle near the rear of the Defendant's vehicle.” The trial court also made no specific determination of when defendant was seized. Officer Schwob's body camera footage shows that the cars were located close together, but it is insufficient for this Court to determine to what extent defendant's movement was hindered.

¹ Officer Schwob's body camera footage shows that defendant's car was parked in front of a row of hedges.

Whether defendant was seized when Officer Schwob parked behind his car and approached his window is determinative because at that moment, Officer Schwob may not have had the requisite reasonable suspicion. Investigatory stops “must be justified by ‘a reasonable suspicion, based on objective facts, that the individual is involved in criminal activity.’” *State v. Campbell*, 359 N.C. 644, 664 (2005) (citation omitted). An anonymous call may support reasonable suspicion only where there are “sufficient indicia of reliability.” *Florida v. J.L.*, 529 U.S. 266, 270–74 (2000). Corroboration by independent police work can indicate the reliability of a tip. *State v. Watkins*, 337 N.C. 437, 442 (1994).

For example, in *Navarette v. California*, 572 U.S. 393, 399–404 (2014), the Supreme Court of the United States found that an anonymous 911 call was sufficiently corroborated by the police to provide reasonable suspicion. There, the caller had reported that a vehicle had run her off the road and provided the location and direction she was traveling, the make and model of the vehicle, the license plate, and the last known location of the vehicle. *Id.* at 395. Officers found the vehicle eighteen minutes later roughly nineteen miles down the highway where the caller was allegedly run off the road. *Id.* at 399.

The Court found that the tip was sufficiently reliable in part because the caller’s report asserting she had been run off the road by a specific vehicle, with specific location and description even down to the license plate, “necessarily claimed eyewitness knowledge of the alleged dangerous driving.” *Id.* at 399. Additionally,

the caller “alleged a specific and dangerous result of the driver’s conduct: running another car off the highway.” *Id.* at 399–403

In contrast, an anonymous tip that a person was carrying a gun did not have sufficient indicia of reliability in *Florida v. J.L.*, 529 U.S. at 271. There, the anonymous caller reported that “a young black male standing at a particular bus stop and wearing a plaid shirt was carrying a gun.” *Id.* at 268. Officers responded to the bus stop and observed three black men, one wearing a plaid shirt. *Id.* The officers did not personally see a firearm or observe any other suspicious behavior, but they approached and seized the man wearing the plaid shirt. *Id.* The Supreme Court determined that the officers did not have reasonable suspicion because the tip contained no predictive information. *Id.* at 271. Additionally, while the tip described the suspect, and police promptly verified that description, a description of a subject’s readily observable location and appearance “does not show that the tipster has knowledge of concealed criminal activity.” *Id.* at 272.

Here, when Officer Schwob parked and approached defendant’s vehicle, his suspicion could only have come from the anonymous call which lacked sufficient indicia of reliability even with a specific description of defendant’s vehicle. Like *J.L.*, the anonymous tip simply provided the readily observable location and description of the Dodge Charger. Without the license plate or other unique characteristics, it also provided less detail to identify the car than was present in *Navarette*. Officer Schwob did no more to corroborate the tip than verify that a vehicle matching the caller’s

description was present in the specific location identified by the caller. He did not look for or see broken glass or a broken window.

Moreover, the tip itself did not demonstrate that the anonymous caller had any personal knowledge that the vehicle described was associated with suspicious or criminal activity. Unlike in both *J.L.* and *Navarette*, the caller did not claim to have personally seen anyone, let alone the occupants of the Charger, break a window or engage in otherwise dangerous or criminal behavior. Nor did Officer Schwob witness any suspicious behavior himself. He simply saw the vehicle parked legally in the parking lot of an open business. *Cf. State v. Watkins*, 337 N.C. 437, 443 (1994) (holding that an officer had reasonable suspicion where he observed a vehicle driving with its lights off in the parking lot of a closed business after receiving anonymous tip).

The 911 call, without any specific allegations of criminal activity or sufficient indicia of reliability, was not enough to provide the requisite reasonable suspicion. Thus, if defendant was seized when Officer Schwob first approached, the seizure was unconstitutional and any evidence resulting from the seizure should be suppressed. Because the trial court's order is insufficient for this Court to determine whether defendant was seized at that point in the encounter, we remand for additional findings concerning whether defendant's exit was impeded by Officer Schwob and a determination of the precise moment defendant was seized. *State v. Jordan*, 385 N.C. 753, 759–60 (2024) (“When the trial court fails to resolve fact issues necessary to

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review the trial court's legal conclusions, 'an appellate court may remand the cause for appropriate proceedings without ordering a new trial.' "). Additionally, because we remand on the issue of whether the seizure was lawful, we do not address whether the subsequent search was constitutional.

III. Conclusion

For the foregoing reasons, we remand this matter for additional findings and further proceedings consistent with this opinion.

REMANDED.

Chief Judge DILLON and Judge TYSON concur.

Report per Rule 30(e).