

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT ALFARO A/K/A ALBERTO  
ALFAROIZA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65919

**FILED**

DEC 11 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a controlled substance. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

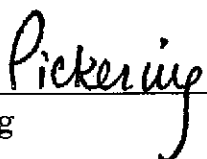
Appellant Albert Alfaro contends that the district court erred and/or abused its discretion by denying his motion to suppress evidence seized during a protective pat-down search. Alfaro claims that the officer who detained and searched him after a traffic stop “had no articulable facts upon which to make a determination that he was not safe.” See *Somee v. State*, 124 Nev. 434, 442, 187 P.3d 152, 158 (2008) (holding that “reasonable belief” to support a limited pat-down search “must be based on specific articulable facts that warrant the search and seizure”); see also NRS 171.1232(1). We disagree with Alfaro’s contention.

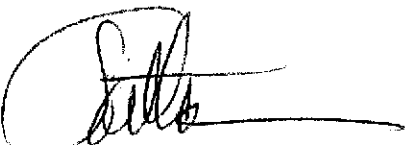
We review the district court’s factual findings regarding suppression issues for clear error and the legal consequences of those findings de novo. See *Lamb v. State*, 127 Nev. \_\_\_, \_\_\_, 251 P.3d 700, 703 (2011). Here, the district court conducted a hearing and determined that (1) Alfaro was “legally detained” after driving his motorcycle without activated taillights, see NRS 171.123(1); see also *Cortes v. State*, 127 Nev.

\_\_\_, \_\_\_, 260 P.3d 184, 188 (2011); (2) Alfaro's "gang-related tattoos and visible weapon supported the police officer's reasonable belief that [he] could be armed and pose a risk to officer safety," see *Terry v. Ohio*, 392 U.S. 1, 27 (1968); *Somee*, 124 Nev. at 442, 187 P.3d at 158; see also *Cortes*, 127 Nev. at \_\_\_, 260 P.3d at 189 (holding that "the presence of a knife in plain view in a lawfully stopped car contributes to reasonable suspicion that other weapons may be present, making the person armed and dangerous even if the knife is moved out of reach"); and (3) the "protective pat-down to check for additional weapons was reasonable and justified under the factual circumstances surrounding [Alfaro's] stop," see NRS 171.1232(1). We agree and conclude that the district court did not err by denying Alfaro's motion to suppress. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Valerie Adair, District Judge  
Michael H. Schwarz  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk