IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM SAMUEL STEPHENS, VI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88112-COA

ORDER OF AFFIRMANCE

William Samuel Stephens appeals from a judgment of conviction, pursuant to a jury verdict, of carrying a concealed weapon, two counts of possession of a controlled substance, and possession of a dangerous weapon. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

On July 5, 2021, at approximately 6:00 p.m., Reno Police Department Officer Santiago responded to a call reporting a person, later identified as Stephens, asleep in his vehicle at a gas station pump.[1] Officer Santiago noticed that the vehicle was being revved up "very loud," overheating, and leaking fluid. He knocked on the driver's window, but Stephens did not move. Officer Santiago then knocked significantly louder on the window, causing Stephens to startle awake. He told Stephens to roll down the window, but instead of doing so, Stephens eventually opened the vehicle door. Officer Santiago asked Stephens if he had any medical issues, and Stephens said no. Officer Santiago also asked Stephens if he was okay, and Stephens said he was. However, Stephens was moving sluggishly, so Officer Santiago told him to slowly exit the vehicle to be evaluated by medical personnel. Stephens responded "alright" and stepped out.

[1]We recount the facts only as necessary for our disposition.

As Stephens was exiting, Officer Santiago asked if he had any weapons, and Stephens said he had a knife in his pocket. Officer Santiago removed the knife and placed it on the front dash of Stephens's vehicle. They began walking to a shaded area when Officer Santiago noticed a bulge in the front of Stephens's pants. He asked Stephens again if he had any weapons, and Stephens responded that he had a baton in his pants. Officer Santiago patted Stephens down for weapons and felt a metal object in his front waistband. Officer Santiago lifted Stephens's shirt, observed a firearm and quickly removed it. Stephens was detained and placed in handcuffs, at which point another officer removed a satchel that Stephens was wearing and discovered .58 grams of heroin and 3.6 grams of methamphetamine. Stephens was subsequently arrested and charged with carrying a concealed weapon, two counts of possession of a controlled substance, and gross misdemeanor possession of a dangerous weapon.

Prior to trial, Stephens moved to suppress all evidence recovered after he was asked to exit his vehicle because the State had not obtained a warrant before the alleged seizure. Stephens argued that there was no indicia of criminal activity, and alternatively, the community caretaking exception to the Fourth Amendment's warrant requirement did not apply. The State opposed and argued that the community caretaking exception applied and, in any event, any evidence would have been inevitably discovered.

The district court held an evidentiary hearing where Officer Santiago testified. During his testimony, the parties stipulated to admit his body camera footage, which captured his interaction with Stephens. Following the hearing, the court issued an order denying Stephens's motion to suppress and found both that the search was reasonable under the Fourth

Amendment based on the totality of circumstances and that the community caretaking exception applied.

The matter proceeded to a three-day jury trial, and Stephens was found guilty of all four charges and sentenced to an aggregate term of 12-48 months in prison. Stephens timely appealed and now argues that the district court erred in denying his motion to suppress. We disagree.

"Suppression issues present mixed questions of law and fact." *State v. Beckman*, 129 Nev. 481, 485, 305 P.3d 912, 916 (2013) (quoting *Johnson v. State*, 118 Nev. 787, 794, 59 P.3d 450, 455 (2002), *overruled on other grounds by Nunnery v. State*, 127 Nev. 749, 772, 263 P.3d 235, 250-51 (2011)). Findings of fact are reviewed for clear error, but the legal consequences of those facts involve questions of law subject to de novo review. *Id.* at 486, 305 P.3d at 916.

The Fourth Amendment prohibition against unreasonable searches and seizures extends to investigative traffic stops. *State v. Rincon*, 122 Nev. 1170, 1173, 147 P.3d 233, 235 (2006) (citing U.S. Const. amend. IV). Generally, a seizure must be justified by a reasonable suspicion of criminal activity, which requires "specific, articulable facts supporting an inference of criminal activity." *Id.* at 1173, 147 P.3d at 235. "Absent reasonable suspicion, and under very limited and narrow circumstances, an inquiry stop . . . may also be permissible pursuant to the community caretaking exception to the Fourth Amendment." *Id.* at 1175-76, 147 P.3d at 237.

The community caretaking exception permits law enforcement to aid drivers in distress when doing so is "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973). It applies if an officer initiates an inquiry stop based on an "objectively reasonable belief that

emergency assistance is needed," which "may arise if a police officer observes circumstances indicative of a medical emergency or automotive malfunction." *Rincon*, 122 Nev. at 1176, 147 P.3d at 237. However, "the exception will be narrowly applied and an inquiry stop is justified only where there are clear indicia of an emergency." *Id.*

Stephens argues on appeal that the community caretaking exception to the Fourth Amendment's warrant requirement did not apply because there was "no indication of a medical emergency or automotive malfunction." Further, he argues that even if Officer Santiago's initial contact with Stephens was justified, any seizure was no longer necessary or authorized after Stephens told Officer Santiago that he was okay. The State responds that the community caretaking exception applied because Officer Santiago only asked Stephens to exit the vehicle to be examined by medical personnel after Stephens displayed concerning symptoms and agreed to the medical examination.

Here, the district court made several factual findings in support of its conclusion that the community caretaking exception applied. The court noted Officer Santiago's testimony that Stephens was "sluggish and slow" and found that Stephens appeared "not fully coherent" on the body camera footage. In addition, the court also found that Stephens's vehicle had been running at the gas pump for 15 minutes while he was asleep at the wheel. As a result, the district court determined that "the circumstances [were] sufficient for Officer Santiago to form the reasonable belief that [Stephens] was in need of assistance." It further found that there were "sufficient circumstances to support the belief of an automotive malfunction" because Stephens's vehicle was leaking fluid and making noises while sitting at the gas pump. These findings, based on Officer Santiago's testimony and the

body camera footage admitted by stipulation, are not clearly erroneous and are supported by substantial evidence. *See Beckman*, 129 Nev. at 486, 305 P.3d at 916.

Although Stephens told Officer Santiago that he was okay, his physical appearance and movement were indicative of a possible medical emergency or other condition that made Stephens unsafe to drive. *Cf. United States v. Ingram*, 151 F. App'x 597, 599 (2005) (concluding that the community caretaking exception could not apply "[o]nce the officers were able to observe that the passengers were in no distress of any kind"). Further, the state of Stephens's vehicle, which was leaking fluid and making loud noises, indicated a possible automotive malfunction. Up to the point that Officer Santiago discovered Stephens's firearm, he did not ask Stephens any questions that were criminally investigatory in nature. Thus, Officer Santiago's request to have Stephens medically examined was "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Cady*, 413 U.S. at 441. Under these circumstances, Officer Santiago had an "objectively reasonable belief that emergency assistance [was] needed," and therefore the district court did not err in finding that the community caretaking exception applied and denying Stephens's motion to suppress.[2] *Rincon*, 122 Nev. at 1176, 147 P.3d at 237.

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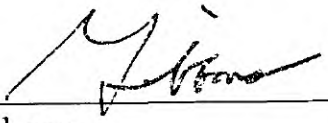
[2]To the extent that Stephens argues that the circumstances did not show a "credible risk" of danger or were insufficient to apply the community caretaking exception, this court does not reweigh evidence or credibility on appeal. *See Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008) ("This court will not reweigh the evidence or evaluate the credibility of witnesses because that is the responsibility of the trier of fact.").

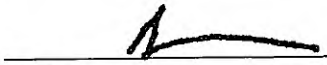
We also note that the district court's order denied Stephens's motion to suppress on two independent grounds; the court not only found that the

Accordingly, we

ORDER the judgment of conviction AFFIRMED.[3]



_____, C.J.
Gibbons



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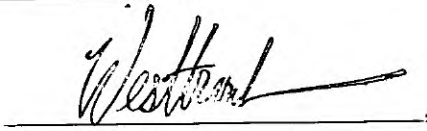

_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

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community caretaking exception applied, but also that the seizure itself was reasonable under the Fourth Amendment based on the totality of the circumstances. However, Stephens failed to challenge the district court's alternative basis on appeal, and any such challenge is therefore waived. *Hung v. Genting Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1286 (Ct. App. 2022) ("[W]hen a district court provides alternative bases to support its ultimate ruling, and an appellant fails to challenge the validity of each alternative basis on appeal, this court will generally deem that failure a waiver of each such challenge and thus affirm the district court's judgment."). Thus, even if this court agreed that the community caretaking exception was inapplicable, reversal is not warranted.

[3]Insofar as the parties have raised other issues which are not specifically addressed in this appeal, we have considered the same and conclude that they need not be addressed or do not present a basis for relief.