

HENNEPIN COUNTY
ATTORNEY'S OFFICE

COMPLAINT DENIAL

C.A. Case No. 25A00461

Date: February 28, 2025
Referring Agency: Hennepin County Sheriff's Office
Police Case No.: 25000541
Potential Charge(s): Controlled Substance Crime – Possession
Prohibited Person in Possession of a Firearm
Suspect(s): F.V.

Introduction

This matter was originally submitted to the Hennepin County Attorney's Office for consideration of out-of-custody charges on January 14, 2025. The case was placed in queue for processing but was prioritized due to the recent revelation of social media video capturing a portion of the incident. The Hennepin County Attorney's Office is aware that the conduct observed within that video is being investigated and the HCAO limits this decline to the submitted case against F.V., the driver of the motor vehicle that was stopped by deputies. The propriety of any use of force is not before the HCAO for consideration at this time and is not addressed in this written review.

Summary of Facts

On January 9, 2025, two deputies (driver is identified as "Deputy One" and passenger is identified as "Deputy Two" herein) were on patrol in the City of Minneapolis in a marked Sheriff's vehicle. While in a gas station parking lot near Franklin Avenue and 22nd Avenue, a vehicle was observed that did not have a front license plate. Upon initial inspection, the deputies noted that they also did not see a rear license plate. The deputies made the decision to stop the vehicle, which at this time had exited the gas station lot and pulled into a parking lot next door.

Deputies did not activate the lights on their squad car until F.V. had already parked his vehicle in the parking lot. (Squad Video at 11:26:27). As the squad car parks, Deputy One states "New Jersey plate" in recognition of a temporary out-of-state plate in the rear window of the target vehicle (*Id.* at 11:26:28). Before deputies exit the squad, F.V. is observed on video opening the driver's door and exiting his vehicle (*Id.* at 11:26:32). Deputy One proceeds to give instructions for F.V. to put his "hands up." (*Id.* at 11:26:34). The video indicates that F.V. got out of his car and stood there as the deputies approached him. (*Id.* at 11:26:36). F.V.'s actions as captured on the squad car video did not indicate any risk of flight or other furtive movements.

F.V. expressed confusion about why he was being approached and tells the deputies he “live[s] here,” but did not place his hands on his car. (Id. at 11:26:39). Deputies continue to issue commands and Deputy Two grabs F.V.’s left arm. (Deputy One BWC at 11:26:42). Deputy One then grabs F.V.’s right arm and tells him not to move. (Id. at 11:26:43). F.V. repeatedly asks “why” and “what happened” as deputies go through this process. (Id. at 11:26:47). Deputy One then tells F.V. he is going to jail (Id. at 11:26:48) and produces a pair of handcuffs (Id. at 11:26:51). F.V. asks why he has to go to jail and Deputy One responds that “you don’t get out of the car.” (Id. at 11:26:54).

Deputies struggled to handcuff F.V. and put him on the ground (Squad Video at 11:27:03) where he was struck five times in the head as captured on the video posted to social media. According to the deputies’ written reports, these strikes were delivered as a distraction technique to secure compliance with handcuffing.

F.V. was handcuffed, suspected narcotics were recovered on his person, and a gun was found in the vehicle that he had been driving. The case was submitted for consideration of charges of drug possession and an allegation that F.V. was prohibited from possessing firearms.¹

Analysis

The suspected narcotics were recovered in a search incident to arrest. In order to justify this exception to the warrant requirement, the interaction between the deputies and F.V. must comport with the Fourth Amendment of the United States Constitution and Article 1, Section 10 of the Minnesota State Constitution. This analysis starts with the basis for the stop.

Here, deputies initially had reasonable suspicion to stop F.V.’s vehicle based on the lack of license plates. Had this been the extent of the suspicion, the interaction between deputies and F.V. should have been limited to an explanation of why the stop occurred and to part ways (see State v. Lopez, 631 N.W.2d 810 Minn. Ct. App. 2001). The placement of the New Jersey temporary plate in the back window may have supported further inquiry into the validity of the out-of-state registration as a part of the stop. However, this inquiry was not reached as the interaction turned to immediate orders to F.V. to place his hands on his vehicle.

This rapid escalation of the situation, including physical contact and handcuffing, exceeds the limits of a stop based on reasonable suspicion outlined in Lopez. And while in some circumstances law enforcement officers may have a legitimate concern for safety if a driver exits a vehicle during a traffic stop without warning, the video evidence in this case indicates that F.V. had parked in a parking lot before the squad car even approached his vehicle and that he exited his car and stopped as the deputies approached him.

¹ The available information is unclear as to whether F.V. has any conviction that would prohibit him from possessing a firearm under Minnesota law. Available records, both private and public, reflect contact with the criminal justice system outside of Minnesota. However, records from a prosecution in Minnesota prepared by Hennepin County DOCCR that occurred after the out-of-state events show no prior felony history. (see 27CR2319024). Certified copies of the out-of-state events would need to be acquired to give a final answer to this question.

Once orders were given F.V. to place his hands on the vehicle, he was told he was being taken to jail and handcuffs were produced, the interaction converted from a stop to an arrest. A reasonable person in F.V.'s position would not have felt free to leave. And the deputies did not appear to have probable cause to escalate this interaction from a stop to an arrest.

It should be noted that subjects are not permitted to engage in self-help remedies in opposing what the individual believes to be an unlawful arrest (see *State v. Ingram*, 570 N.W.2d 173 Minn. Ct. App. 1997). Such obstruction can be an intervening force that eliminates the taint of an arrest conducted without probable cause. However, in this case there is insufficient evidence that would demonstrate that F.V.'s actions constituted obstruction of legal process.

In light of the suspected illegal drugs being recovered as a result of an unlawful arrest, we must look to whether the recovered items would be admissible or if they would be excluded as fruit of the poisonous tree. "The factors considered are (1) the purpose and flagrancy of the misconduct; (2) the presence of intervening circumstances; (3) whether it is likely that the evidence would have been obtained in the absence of the illegality; and (4) the temporal proximity of the illegality and the evidence alleged to be the fruit of the illegality." *State v. Olson*, 634 N.W.2d 224, 229 (Minn. Ct. App. 2001)(citing *State v. Sickels*, 275 N.W.2d 809, 814 (Minn. 1979)).

Having reviewed all available information, including body worn camera video, squad video, police reports, and F.V.'s statements, and applying it to the above factors, it is the State's position that it is unlikely to prevail should admission of evidence be challenged.

Conclusion

It is the HCAO's position that it is very unlikely that the State's case would overcome a challenge to the stop and arrest of F.V. As such, charges are being declined.