

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,

Appellant,

v.

BRIAN JOSEPH FUCHS,

Appellee.

No. 2D2025-1542

September 9, 2026

Appeal from the Circuit Court for Hillsborough County; Wesley D. Tibbals, Judge.

James Uthmeier, Attorney, General and Sonia C. Lawson, Assistant Attorney General, Tampa, for Appellant.

Blair Allen, Public Defender and Robert D. Rosen, Assistant Public Defender, Bartow, for Appellee.

KELLY, Judge.

The State appeals from the trial court's order granting Brian Fuchs' motion to suppress evidence. The trial court ruled that sheriff's deputies unlawfully detained Fuchs without a reasonable suspicion of criminal activity by asking him to open the window of his truck after the deputies roused Fuchs from an unconscious state in the driver's seat. Because

we conclude the deputies' actions were within the permissible scope of a welfare check, we reverse.

The record indicates that three Hillsborough County sheriff's deputies responded to a call at approximately 7:30 in the evening about a man passed out in a truck with the engine running. Upon arrival at the reported apartment complex, the deputies observed Fuchs unresponsive in the driver's seat. The truck was parked at an angle with its tires over the parking space lines, the engine was running, the headlights were on, and loud music was coming from inside. Hillsborough County Fire Rescue was also on the scene.

At the suppression hearing, Deputy Marquez testified that he and a trainee officer¹ arrived first and approached the passenger side window of the truck. They observed Fuchs reclined in the driver's seat, apparently sleeping. Although they could see that Fuchs was breathing, he did not respond to initial attempts to rouse him by knocking on the window. Deputy Marquez explained that he could not determine whether Fuchs was impaired or suffering from a medical condition without talking to him. After a few seconds, Fuchs was roused by the repeated knocking, sat up, and adjusted his seat to an upright position.²

Deputy Davidson testified that Fuchs appeared to be disoriented when he awoke. Concerned about Fuchs' well-being, the deputy asked Fuchs to lower the driver's side window. As soon as the window was down, the deputy immediately detected the strong odor of alcohol. He noted that Fuchs' eyes were glassy and bloodshot and his speech was slurred. The deputy stated that once he smelled the odor of alcohol, he

¹ The trainee officer, Deputy Rodriquez, did not testify.

² Body cam video capturing the encounter was not included in the record on appeal.

believed he had the duty to investigate further.

In the order granting Fuchs' motion to suppress, the court found that "[p]rior to the directive to roll down the window, law enforcement officers had not articulated a reasonable suspicion of criminal activity" and that "the totality of the circumstances here and *Greider v. State*[], 977 So. 2d 789 (Fla. 2d DCA 2008)], require the Court to conclude that asking the Defendant to roll down the window converted this encounter into an investigatory stop in violation of the Fourth Amendment."

"We review orders on motions to suppress to determine whether the trial court's factual findings are supported by competent substantial evidence and review legal issues de novo." *State v. Leiby*, 423 So. 3d 405, 409-10 (Fla. 4th DCA 2025) (quoting *Gentles v. State*, 50 So. 3d 1192, 1196 (Fla. 4th DCA 2010)). "When considering a motion to suppress, a court is required to consider the 'totality of [the] circumstances' that led to the discovery of evidence." *Id.* (alteration in original).

Welfare checks fall under the "community caretaking doctrine," an exception to the Fourth Amendment's search warrant requirement, which recognizes the duty of police officers to ensure the safety and welfare of the public. *See State v. Brumelow*, 289 So. 3d 955, 956 (Fla. 1st DCA 2019). "It is well recognized that police officers may conduct welfare checks and that such checks are considered consensual encounters that do not involve constitutional implications." *Dermio v. State*, 112 So. 3d 551, 555 (Fla. 2d DCA 2013) (citing *Greider*, 977 So. 2d at 792). However, once a police officer's concern for the welfare of the person has been satisfied, a continued detention is not permissible unless the police officer has reasonable suspicion that the person has committed or is committing a crime. *See Greider*, 977 So. 2d at 792-93.

"Whether the police acted reasonably must be viewed from the 'perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.' " *State v. Shillingford*, 136 So. 3d 1242, 1244 (Fla. 5th DCA 2014) (quoting *Ryburn v. Huff*, 565 U.S. 469, 477 (2012)); see also *Taylor v. State*, 326 So. 3d 115, 118 (Fla. 1st DCA 2021) ("The touchstone of any Fourth Amendment analysis—including one involving a welfare check—is reasonableness, which is measured by the totality of existing circumstances.").

The trial court found that "the totality of the circumstances" and the holding in *Greider* mandated suppression because asking Fuchs to roll down his window converted the consensual welfare check into an unlawful investigatory stop. We disagree.

In *Greider*, the officer was on patrol and came across the defendant parked legally in a parking space. 977 So. 2d at 791. He conducted a wellness check by talking to Greider through the open passenger side window and determined that Greider was safe and that "he didn't think any criminal activity had occurred or was about to occur." *Id.* at 791-92. The officer then walked around the vehicle to the driver's side and had a second encounter with Greider. The officer ordered Greider to lower the front driver's side window, a towel covering the window fell, and contraband was revealed in plain view. This court concluded "that the second encounter was an unlawful detention and invoked constitutional safeguards." *Id.* at 794.

Here, and unlike in *Greider*, there was no communication between Fuchs and the deputies that would have dispelled any safety concerns before Deputy Davidson directed Fuchs to roll down the window. Under the totality of these circumstances, we conclude that it was reasonable for Deputy Davidson to ask Fuchs to open his window out of concern for

Fuchs' well-being and that of the public. As the State points out, even though Fuchs sat up in response to the knocking on the passenger window, it was impossible for Deputy Davidson to adequately assess Fuchs' condition without speaking with him. *See Daniels v. State*, 346 So. 3d 705, 709 (Fla. 2d DCA 2022) ("[O]fficers may detain individuals to resolve ambiguities about suspicious yet lawful or innocent behavior.").

Because we conclude that the trial court erred in granting Fuchs' motion to suppress, we reverse the suppression order and remand for further proceedings. *See Dermio*, 112 So. 3d at 556 (holding that the deputy's request for Dermio to roll down the window did not transform the consensual encounter into an investigatory stop where the deputy's concern for Dermio's safety had not been alleviated).

Reversed and remanded.

BLACK and GUARD, JJ., Concur.

Opinion subject to revision prior to official publication.