MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,
RESPONDENT

vs.

THOMAS STEVE HIGGS,
APPELLANT

DOCKET NUMBER WD84161

DATE: MAY 3, 2022

Appeal from:

The Circuit Court of Boone County, Missouri
The Honorable Jonathan H. Jacobs., Judge

Appellate Judges:

Division Four: Cynthia L. Martin, Chief Judge, Thomas N. Chapman, Judge and W. Douglas Thomson, Judge

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Attorneys:

Richard A. Starnes, for Respondent

William J. Swift, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT,
v.
THOMAS STEVE HIGGS, APPELLANT.

WD84161 Boone County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Thomas N. Chapman, Judge, and W. Douglas Thomson, Judge

Thomas Higgs appeals from the judgment of the Circuit Court of Boone County convicting him of the class D felony of unlawful possession of a firearm after a bench trial. In his four points on appeal, Higgs contends that the trial court clearly erred in denying his motion to suppress and in admitting evidence at trial over his objections because (1) the arresting officer racially profiled Higgs in finding reasonable suspicion to perform a *Terry* stop; (2) the totality of the circumstances did not support a finding of reasonable suspicion to perform a *Terry* stop; (3) the arresting officer's actions from the outset were not consensual and constituted a seizure; and (4) the failure to provide a *Miranda* warning prior to custodial interrogation rendered both the statement and physical evidence inadmissible.

AFFIRMED.

Division Four holds:

The trial court did not clearly err in denying Higgs's motion to suppress and in admitting evidence at trial over his objections. Higgs's first point was not preserved for appellate review, and although we exercise our discretion to review for plain error, Higgs's claimed error does not facially establish substantial grounds for believing that manifest injustice or miscarriage of justice resulted. As to Higgs's second point on appeal, the trial court did not clearly err in finding that the totality of the circumstances established that the officer possessed a reasonable suspicion to conduct a *Terry* stop of Higgs. As to his third point, the trial court did not clearly err in finding that the encounter between Higgs and the officer was consensual from the outset and thus did not constitute a seizure. As to his last point, the trial court did not clearly err in finding that the officer was not required to read Higgs *Miranda* warnings before requesting consent to search.

Opinion by: W. Douglas Thomson, Judge Date: May 3, 2022

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