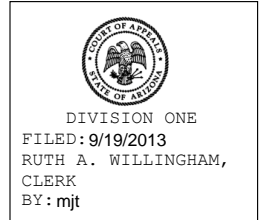


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) No. 1 CA-CR 13-0097  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
SHAYNE RYAN MAYERS, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Mohave County

Cause No. S8015CR201200584

The Honorable Steven F. Conn, Judge

**AFFIRMED**

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Thomas C. Horne, Arizona Attorney General Phoenix  
By Joseph T. Maziarz, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
Barbara A. Bailey, Assistant Attorney General  
Attorneys for Appellee

The Gillespie Law Firm, PC Phoenix  
By Craig C. Gillespie  
Attorneys for Appellant

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**D O W N I E**, Judge

¶1 Shayne Ryan Mayers appeals his conviction for attempted transportation of marijuana for sale, arguing the superior court erred by denying his suppression motion. For the following reasons, we affirm.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 Mayers was driving on Interstate 40 near Kingman during daylight hours. There were no adverse visibility conditions that would require the use of headlights. Nevertheless, Mayers had activated his headlights, and only the right headlight was illuminated.

¶3 Officer Smith, who was observing traffic from the median, noticed Mayers' inoperable left headlight. Intending to issue a repair order, he made a traffic stop. As the officer approached Mayers' vehicle, he smelled marijuana. This prompted a search of the vehicle, which revealed approximately 30 pounds of marijuana. The officer issued a repair order for the left headlight pursuant to Arizona Revised Statutes ("A.R.S.") section 28-924, and Mayers was charged with transportation of marijuana for sale (more than two pounds), a class 2 felony ("count 1"), and possession of drug paraphernalia, a class 6 felony ("count 2").

¶4 Mayers filed a motion to suppress evidence obtained as a result of the traffic stop, arguing the stop violated his Fourth Amendment rights. The trial court denied the motion

after an evidentiary hearing. The parties subsequently agreed to waive a jury trial and submit the determination of guilt or innocence to the court based on stipulated evidence. The State also agreed to reduce the charge in count 1 to attempted transportation of marijuana for sale, a class 3 felony.

¶15 The court found Mayers guilty of the reduced charge and sentenced him to probation, including 30 days in jail. Mayers filed a timely notice of appeal. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and -4033(A).

#### DISCUSSION

¶16 Mayers contends the court erred by denying his suppression motion. He argues Arizona law does not require a vehicle to have operational headlights between sunrise and sunset (absent visibility issues not present here) and that the traffic stop based on his inoperable left headlight was therefore improper.

¶17 When reviewing a trial court's ruling on a motion to suppress, we consider only the evidence proffered at the suppression hearing. *State v. Blackmore*, 186 Ariz. 630, 631, 925 P.2d 1347, 1348 (1996) (citation omitted). We review that evidence in the light most favorable to upholding the ruling. *State v. Hyde*, 186 Ariz. 252, 265, 921 P.2d 655, 668 (1996) (citations omitted). However, we review *de novo* the trial

court's ultimate legal conclusions. *State v. Box*, 205 Ariz. 492, 495, ¶ 7, 73 P.3d 623, 626 (App. 2003) (citation omitted).

¶18 Pursuant to A.R.S. § 28-1594, a police officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of Title 28. See *State v. Acosta*, 166 Ariz. 254, 257, 801 P.2d 489, 492 (App. 1990) (violation of traffic law provides sufficient grounds to stop vehicle). The reasonableness of a vehicular stop does not depend on whether the traffic infraction is designated as civil or criminal. *State v. Boudette*, 164 Ariz. 180, 183-85, 791 P.2d 1063, 1066-68 (App. 1990). A stop for a possible vehicular equipment violation, just as for an operational violation, is constitutional. See *State v. Vera*, 196 Ariz. 342, 343, ¶ 6, 996 P.2d 1246, 1247 (1999) (cracked windshield).

¶19 As the superior court observed, "[t]he issue in this case is whether a police officer can stop a motorist driving during daylight hours with head lamps on when one lamp is not on." Like the superior court, we answer that question in the affirmative. Mayers was under no legal obligation to have his headlights on at the time of the traffic stop, but because it was obvious to the officer that one of the two statutorily required headlights on the vehicle was inoperable, the stop was proper.

¶10 Section 28-924(A) requires motor vehicles to "be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle. The head lamps shall comply with the requirements and limitations of [Article 16]." Section 28-921(A), which is within Article 16, reads, in pertinent part:

A. A person shall not:

1. Drive . . . a vehicle . . . that:

- (a) Is in an unsafe condition that endangers a person.
- (b) Does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this article.

¶11 The disagreement in this case centers on the proper interpretation of A.R.S. § 28-921(A)(1)(b). Mayers argues that "as required in this article" modifies "proper condition and adjustment" and does not require that vehicular equipment mandated by Article 16 be "in proper condition and adjustment." According to Mayers, to justify the traffic stop, there must be some statute independent of § 28-921(A)(1)(b) that required his headlights to be in proper condition and adjustment during daylight hours. We conclude otherwise.<sup>1</sup>

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<sup>1</sup> At the suppression hearing, defense counsel drew a distinction between the facts of this case and a headlight "hanging out of its socket, or broken," arguing a traffic stop

¶12 The only interpretation of A.R.S. § 28-921(A)(1)(b) that gives context and effect to every word of the statute is construing "as required in this article" as applying to the "parts," "lamps," "and other equipment" required by Article 16. See *Williams v. Thude*, 188 Ariz. 257, 259, 934 P.2d 1349, 1351 (1997) (citation omitted) (when interpreting a statute, courts presume legislature intended each word and clause to have meaning); *State v. Deddens*, 112 Ariz. 425, 429, 542 P.2d 1124, 1128 (1975) ("Statutes are to be given, whenever possible, such an effect that no clause, sentence or word is rendered superfluous, void, contradictory or insignificant."). If, as Mayers posits, "as required in this article" merely modifies "proper condition and adjustment," the statute would nonsensically prohibit: (1) driving a vehicle that "does not contain *those parts*" in proper condition, with "those parts" having no definition, context, or meaning; and (2) driving a vehicle not equipped with "lamps and other equipment," again with no definition or cross-reference giving those terms context or meaning. A.R.S. § 28-921(A)(1)(b)(emphasis added); e.g., *Shaffer v. Ariz. State Liquor Bd.*, 197 Ariz. 405, 408-09, ¶ 15,

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would be legally appropriate for the latter. There is, however, no principled legal distinction between these scenarios. If an officer can visually determine that a headlamp is inoperable -- because it is hanging from its socket or not illuminated due to a burned out bulb -- a violation of § 28-921(A)(1)(b) exists.

4 P.3d 460, 463-64 (App. 2000) (courts attempt to give statutes a "sensible construction").

¶13 *State v. Fikes*, 228 Ariz. 389, 267 P.3d 1181 (App. 2011), does not compel a contrary conclusion. In *Fikes*, an officer stopped the defendant after observing that one of his vehicle's three brake lights was not functioning. *Id.* at 390, ¶ 2, 267 P.3d at 1182. The defendant argued the officer lacked reasonable suspicion to stop him because he had violated no traffic law. *Id.* at ¶ 3. Relying on A.R.S. §§ 28-927 and -939 to conclude that the law requires only one operational brake light, this Court agreed. *Id.* at 391-92, ¶¶ 7-11, 267 P.3d at 1183-84. Because the defendant had two operable brake lights, he was in compliance with statutory requirements, and there was no legal basis for the traffic stop. *Id.* at 392, ¶ 14, 267 P.3d at 1184.

¶14 In the case at bar, though, Mayers was indisputably required to have two headlamps. And as we have previously determined, both of those headlamps were required to be in proper condition and adjustment. Unlike the situation in *Fikes*, it is not legally permissible to have only one operable headlamp. Mayers' reliance on the following language from *Fikes* is unavailing:

The state also points to a requirement in article 16 that "other equipment" be maintained "in proper condition and

adjustment as required in this article." . . .  
. . . The only statute in article 16 that speaks to the maintenance of stop lamps is § 28-939. And, as discussed, § 28-939 requires that only one stop lamp be maintained. Therefore, Fikes's top rear stop lamp, although not working, did not violate any of the requirements of article 16.

*Id.* at 392, ¶ 14, 267 P.3d at 1184. Read in context, the court is simply making the unremarkable observation that § 28-921(A)(1)(b)'s mandate that equipment required by Article 16 be in proper condition and adjustment has no application to a stop lamp that is not legally required to exist.

¶15 By driving on a highway with a clearly inoperable left headlight, Mayers violated Title 28. Officer Smith therefore had a valid basis for stopping Mayers, and the trial court properly denied the suppression motion.

#### CONCLUSION

¶16 For the reasons stated, we affirm Mayers' conviction and sentence.

/s/  
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MARGARET H. DOWNIE, Judge

CONCURRING:

/s/  
\_\_\_\_\_  
LAWRENCE F. WINTHROP, Presiding Judge

/s/  
\_\_\_\_\_  
JON W. THOMPSON, Judge