

No. 29164-2-III

Brown, J. (dissenting) — In my view, we should defer to the fact-finding discretion of this judge who determined from disputed facts “an actual reason for the stop” was the muffler violation. Clerk’s Papers at 48 (Conclusion of Law 3.3). The officer cited Gilberto Chacon Arreola for the muffler violation. Certainly, a stop can serve multiple, legal, complimentary purposes so long as an actual stop reason passes legal muster. We should not expect investigating officers to be blind to other potential concurring violations detected when investigating an actual stop reason. While Officer Anthony Valdivia may have had suspicions regarding whether Mr. Chacon was involved with driving under the influence of alcohol, the trial court believed the officer’s testimony regarding his muffler-violation stop practices. Although Mr. Chacon asserts a pretext stop, this court recognized in *State v. Minh Hoang*, 101 Wn. App. 732, 742, 6 P.3d 602 (2000), that under *State v. Ladson*, 138 Wn.2d 343, 979 P.2d 833 (1999) suspicious patrol officers “may still enforce the traffic code, so long as enforcement of the traffic code is the actual reason for the stop.” I would affirm. Accordingly, I respectfully dissent.

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Brown, J.