

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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STATE OF ARIZONA, *Appellee*,

*v.*

RENE DELMAR SAENZ, *Appellant*.

No. 1 CA-CR 19-0506

1 CA-CR 19-0507

(Consolidated)

FILED 3-4-2021

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Appeal from the Superior Court in Maricopa County

No. CR2016-001442-001

CR2016-001673-001

The Honorable Julie A. LaFave, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix

By Jana Zinman

*Counsel for Appellee*

Maricopa County Public Defender's Office, Phoenix

By Carlos Daniel Carrion

*Counsel for Appellant*

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**MEMORANDUM DECISION**

Judge Randall M. Howe delivered the decision of the Court, in which Presiding Judge Jennifer M. Perkins and Judge Maria Elena Cruz joined.

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**H O W E**, Judge:

¶1 Rene Delmar Saenz appeals his convictions and sentences for disorderly conduct and two counts of misconduct involving weapons arising from two different cases. He argues that the trial court abused its discretion by denying his motion to suppress and erred by admitting photographs into evidence. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 In January 2016, Detectives Campos and Rios saw Saenz riding a bicycle in an unsafe manner against traffic on the side of a two-lane road. Concerned for Saenz's safety, and noting that he was disrupting the flow of traffic, the detectives stopped him. Detective Campos spoke with Saenz and saw a "combat style knife" strapped to his hip. Saenz admitted that he was a convicted felon, and that his civil rights had not been restored. As a result, the detectives arrested Saenz.

¶3 Detective Campos searched Saenz's backpack incident to arrest and found a 15-inch Bowie knife. Thereafter, Saenz was charged with three counts of misconduct involving weapons, but the State later dismissed two of those charges.

¶4 Before trial on the January 2016 misconduct involving weapons charge, Saenz moved to suppress "all evidence against him." He argued that Detectives Campos and Rios lacked reasonable suspicion to stop him without a warrant. The trial court denied Saenz's suppression motion and he was later found guilty after a trial. Saenz timely appealed this conviction.

¶5 In an unrelated incident, in March 2016, Saenz was in a parked car with three others when he fired a handgun from the back passenger seat. Based on the March 2016 incident, the State charged Saenz with misconduct involving weapons, aggravated assault, and disorderly conduct in a separate case. The State later severed the charges for trial.

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¶6 Before trial on the March 2016 misconduct involving weapons charge, the trial court precluded the State from introducing evidence of the front-seat passenger's gunshot injury. The court also precluded photographs of the car's interior that showed the trajectory of the bullet through the front passenger seat because they were irrelevant and overly prejudicial. The State sought special action relief and this Court found that the State's trajectory evidence was "relevant and probative to establish that [Saenz] knowingly possessed a deadly weapon" and was therefore admissible. At trial, the State introduced photographs showing the damaged front passenger seat and the State's expert explained how the location and shape of the hole indicated that a bullet had traveled in a direction from the back right seat through the front passenger seat. After trial, Saenz was found guilty of misconduct involving weapons. He was also found guilty of disorderly conduct and not guilty of aggravated assault. Saenz timely appealed, and this Court consolidated both of his cases.

DISCUSSION

¶7 Saenz argues that the trial court erred by denying his motion to suppress because the detectives lacked reasonable suspicion to stop him. He contends that he was riding his bicycle off the side of the roadway, not on it; thus, he was not in violation of the statutory requirement that he ride on the "right half of the roadway." See A.R.S. § 28-721(A); see A.R.S. § 28-601(22) (defining "Roadway" as "that portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder").

¶8 We review the denial of a motion to suppress for an abuse of discretion, *State v. Newell*, 212 Ariz. 389, 396 ¶ 22 n.6 (2006), but review "whether the police had a reasonable suspicion of criminal activity that justified conducting an investigatory stop" de novo, *State v. Rogers*, 186 Ariz. 508, 510 (1996) (citing *Ornelas v. United States*, 517 U.S. 690, 699 (1996)). In doing so, "we consider only the evidence presented at the suppression hearing." *State v. Fornof*, 218 Ariz. 74, 76 ¶ 8 (App. 2008).

¶9 The Fourth Amendment prohibits the police from making unreasonable searches and seizures. *Terry v. Ohio*, 392 U.S. 1, 9 (1968). The exclusionary rule prevents the introduction of evidence seized in violation of a person's Fourth Amendment rights. *State v. Hackman*, 189 Ariz. 505, 508 (App. 1997). An investigatory stop is a seizure that nonetheless is constitutionally justified if the stop is "[s]upported by reasonable suspicion that criminal activity is afoot." *Rogers*, 186 Ariz. at 510 (citing *Ornelas*, 517 U.S. at 693). As Saenz admits, a police officer may lawfully stop and detain

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a person as is reasonably necessary to investigate a suspected traffic violation. A.R.S. §§ 13-3883(B), 28-1594; *United States v. Miranda-Guerena*, 445 F.3d 1233, 1237 (9th Cir. 2006) (“There is no reason traffic stops should be treated differently from reasonable suspicion for investigatory stops in general.”).

¶10 The police had reasonable suspicion to stop Saenz because they reasonably suspected that he was obstructing the highway. “A person commits obstructing a highway or other public thoroughfare if the person, . . . [h]aving no legal privilege to do so, recklessly interferes with the passage of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard.” A.R.S. § 13-2906(A)(1).

¶11 At the suppression hearing, Detective Campos testified that he and Detective Rios drove by Saenz as he rode a bicycle against traffic on the gravel shoulder of a two-lane roadway. Saenz was talking on a cell phone and steering the bicycle with one hand while “bouncing all over the place.” Detective Campos explained that he and Detective Rios stopped Saenz after seeing on-coming traffic slow down and swerve away as they approached him. As a result, Detective Campos was afraid that Saenz would be “run over by a car.” Detectives Campos and Rios therefore reasonably suspected that Saenz created an unreasonable inconvenience or hazard for himself and the passing motorists in violation of A.R.S. § 13-2906.

¶12 Saenz asserts, however, that the trial court never mentioned § 13-2906 as a basis for the denial of his suppression motion. Therefore, he contends that “[i]t would be fair to assume that the trial court found that [he] was not reckless and not in violation of § 13-2906.” But this Court will not speculate and will “affirm the trial court’s ruling if the result was legally correct for any reason.” *State v. Hernandez*, 244 Ariz. 1, 4 ¶ 10 (2018) (quoting *State v. Carlson*, 237 Ariz. 381, 387 ¶ 7 (2015)).

¶13 Saenz argues next that the photographs of the bullet hole in the front passenger seat were irrelevant and therefore inadmissible. He further claims that the photographs served no purpose but to inflame the jury. We do not consider his argument, however, because this Court already ruled in a special action proceeding that the photographs were “relevant and probative to establish that [Saenz] knowingly possessed a deadly weapon.” As such, this Court’s prior ruling became the law of the case and cannot be challenged again on appeal. See *State v. Kiles*, 222 Ariz. 25, 36 ¶ 53 (2009) (an appellate decision is the law of the case for all subsequent proceedings in that case, including appeals).

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**CONCLUSION**

¶14 For the foregoing reasons, we affirm.



AMY M. WOOD • Clerk of the Court  
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