

## MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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B. Nichole Deaton,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

November 14, 2022

Court of Appeals Case No.  
22A-CR-905

Appeal from the Shelby Superior  
Court

The Honorable R. Kent Apsley,  
Judge

Trial Court Cause No.  
73D01-2108-F2-19

**Mathias, Judge.**

[1] B. Nichole Deaton appeals the Shelby Superior Court’s denial of her motion to suppress. Deaton raises four issues for our review, which we restate as the following three issues:

I. Whether the State presented sufficient evidence of a traffic infraction.

II. Whether the State prolonged the traffic stop to enable a K-9 search of Deaton’s vehicle.

III. Whether the State violated her federal or state constitutional rights when the K-9 unit, after it had alerted to the presence of narcotics in Deaton’s vehicle, tried to get inside the vehicle to pinpoint the location of the narcotics.

[2] We affirm.

## **Facts and Procedural History**

[3] On August 17, 2021, Shelbyville Police Department Officer Alric Staggers observed Deaton operate a vehicle southbound on Hamilton Street in Shelbyville. Deaton turned westbound onto Jackson Street. There, Deaton traveled for more than 200 feet without using a turn signal, came to a stop at a stop sign at the intersection of Jackson Street and Noble Street, and then activated her left turn signal for the first time. Deaton then proceeded southbound onto Noble Street.

[4] Officer Staggers initiated a traffic stop of Deaton’s vehicle for her failure to properly signal her turn. He approached the vehicle and observed a passenger in

the front seat next to Deaton. Officer Staggers asked the two occupants for their identifications and the vehicle registration. He also asked them why they were out on the road at 1:00 a.m. Deaton and her passenger stated that they had been at a friend's house, then they went to Deaton's father's house, and now they were heading back to their homes. Officer Staggers thought Deaton seemed especially nervous for a traffic stop.

[5] Officer Staggers returned to his vehicle to run the identifications and registration through State databases. While waiting for that information to come back, Officer Staggers learned that both Deaton and her passenger had prior criminal charges relating to methamphetamine. Officer Staggers returned to Deaton's vehicle to ask her about those charges, and he asked her to step out of the vehicle. Deaton seemed hesitant to exit the vehicle, but she did, and Officer Staggers asked her if she had anything illegal in the vehicle. Deaton denied that she did, and she denied Officer Staggers's ensuing request for consent to search her vehicle. Officer Staggers then instructed Deaton to return to her vehicle while he went to write up a warning for her failure to properly use a turn signal.

[6] Upon returning to his vehicle, Officer Staggers requested Officer Charles Curry to bring a K-9 unit to the scene. Officer Curry arrived at the scene with a K-9 unit, Buck, about five minutes later. During those five minutes and for a bit thereafter, Officer Staggers was "typing up the warning." Tr. p. 45. Officer Staggers would later testify that typing up the warning takes time "because [he] ha[s] to verify information," he is "typing everything in from the registration

and from [the] driver's license," he is typing "in the location," and he has to "find[] the infraction." *Id.* He also testified that his in-car computer was being slow and kept "spinning." *Id.*

[7] Meanwhile, Officer Curry arrived on the scene and asked Deaton and her passenger to exit the vehicle while Buck walked around its exterior. Buck almost immediately indicated to the presence of contraband in Deaton's vehicle. Buck "trie[d] to pinpoint the odor as close as he c[ould]," and he "trie[d] to stick his entire head" in the driver's door of the car. *Id.* at 10. At that point, Deaton and her passenger "interrupted" the search and said that Buck "is scratching the car." *Id.* at 10-11. Buck then went "from narcotics detection to protection," and Officer Curry asked Officer Staggers to intervene and have Deaton and her passenger "step back a little bit farther . . ." *Id.* at 11. Buck then "turn[ed] back around" and "st[uck] half of his body into the open window of the car" before Officer Curry got Buck "out of the car." *Id.*

[8] During Buck's sniff-search of the vehicle but "after" Buck had alerted to the presence of narcotics, Officer Staggers completed and printed the warning ticket for the turn signal infraction. *Id.* at 69. However, as Buck had alerted to the presence of narcotics at that point, the officers proceeded to search Deaton's car. Inside a bag on the backseat, Officer Staggers "located a gallon[-]size [Z]iplock bag[,] which contained a large glass shard . . . [he] knew to be methamphetamine." *Id.* at 47. The glass shard weighed 155.5 grams, "the largest amount" Officer Staggers had ever seized "by far." *Id.* at 48.

[9] Officer Stagers arrested Deaton and transported her to the Shelby County Jail. There, a jail officer “overheard Deaton . . . telling [another] inmate that [Deaton] had stashed [two] baggies of meth in [Officer Stagers’s] vehicle,” and Deaton “was planning on having her daughter try to get arrested so she could retrieve them . . . .” Appellant’s App. Vol. 2, p. 29. Officer Stagers then searched his vehicle and located the two baggies, which contained methamphetamine in a combined weight of 10.71 grams.

[10] The State charged Deaton with Level 2 felony dealing in methamphetamine and Level 6 felony obstruction of justice. Deaton moved to suppress the evidence seized as a result of the traffic stop, and her ensuing statements at the jail, on the ground that the stop and search violated her federal and state constitutional rights. After an evidentiary hearing, the trial court denied Deaton’s motion to suppress. The court certified its order for interlocutory appeal, which we accepted.

### **Standard of Review**

[11] Deaton appeals the trial court’s denial of her motion to suppress. As our Supreme Court has explained:

Trial courts enjoy broad discretion in decisions to admit or exclude evidence. *Robinson v. State*, 5 N.E.3d 362, 365 (Ind. 2014). When a trial court denies a motion to suppress evidence, we necessarily review that decision “deferentially, construing conflicting evidence in the light most favorable to the ruling.” *Id.* However, we “consider any substantial and uncontested evidence favorable to the defendant.” *Id.* We review the trial court’s factual findings for clear error, declining invitations to reweigh

evidence or judge witness credibility. *Id.* See also *State v. Keck*, 4 N.E.3d 1180, 1185 (Ind. 2014) (explaining that “when it comes to suppression issues, appellate courts are not in the business of reweighing evidence” because “our trial judges are able to see and hear the witnesses and other evidence first-hand”). If the trial court's decision denying “a defendant’s motion to suppress concerns the constitutionality of a search or seizure,” then it presents a legal question that we review de novo. *Robinson*, 5 N.E.3d at 365.

*Marshall v. State*, 117 N.E.3d 1254, 1258 (Ind. 2019).

## **I. Whether the State Presented Sufficient Evidence of a Traffic Infraction**

[12] Deaton first argues that Officer Staggars’s traffic stop of her vehicle was unreasonable under the [Fourth Amendment to the United States Constitution](#) and [Article 1, Section 11 of the Indiana Constitution](#). In particular, she asserts that Officer Staggars testified that he was unsure of exactly how far Deaton had traveled on Jackson Street before reaching the intersection where she turned; that she testified that she properly followed our traffic statutes; and that Officer Staggars’s dashboard camera is ambiguous as to when Deaton activated her turn signal.

[13] Although Deaton frames her argument on this issue around reasonableness, in substance her argument is whether the State presented sufficient evidence to support the alleged traffic infraction. The State did—although Officer Staggars testified that he was unsure exactly how far Deaton had traveled on Jackson Street before she turned, he also testified that he was certain she had traveled

for more than two hundred feet without signaling prior to her turn, which is contrary to [Indiana Code section 9-21-8-25 \(2021\)](#). Deaton’s argument to the contrary on this issue is merely a request for this Court to reweigh the evidence, which we will not do.

## II. Whether the State Prolonged the Stop to Allow Buck to Sniff Around the Exterior of the Vehicle

[14] Deaton next argues that that the State violated her rights under the [Fourth Amendment](#) and [Article 1, Section 11](#) because, she alleges, the State extended the traffic stop beyond its mission in order to allow Buck to arrive on the scene and search around the exterior of her vehicle. We initially consider Deaton’s argument under the [Fourth Amendment](#). As we have explained:

“[I]t is unequivocal under our jurisprudence that even a minor traffic violation is sufficient to give an officer probable cause to stop the driver of a vehicle.” [Austin v. State, 997 N.E.2d 1027, 1034 \(Ind. 2013\)](#). . . .

A narcotics dog sweep, however, becomes “an unreasonable investigatory detention if the motorist is held for longer than necessary to complete the officer’s work related to the traffic violation and the officer lacks reasonable suspicion that the motorist is engaged in criminal activity.” [Austin, 997 N.E.2d at 1034](#). In [Rodriguez v. United States, \[575\] U.S. \[348\], 135 S. Ct. 1609, 1612, 191 L. Ed. 2d 492 \(2015\)](#), the United States Supreme Court explained that the tolerable duration of a seizure is dictated by the seizure’s particular “mission.” In the context of a traffic stop, an officer’s mission is to address the underlying traffic violations that warranted the stop and attend to related safety concerns. *Id.* This includes checking the driver’s license, determining whether there are outstanding warrants against the

driver, and inspecting the vehicle’s registration and proof of insurance. *Id.* at [355]. While “[t]hese checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly[,]” a canine sniff, “by contrast, is a measure aimed at ‘detect[ing] evidence of ordinary criminal wrongdoing.’” *Id.* (quoting *Indianapolis v. Edmond*, 531 U.S. 32, 40-41, 121 S. Ct. 447, 148 L. Ed. 2d 333 (2000)). Thus, a traffic stop “prolonged beyond” the “time reasonably required to complete [the stop’s] mission” is “unlawful.” *Id.* at [357] (quoting *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S. Ct. 834, 160 L. Ed. 2d 842 (2005)). “The critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket, . . . but whether conducting the sniff prolongs—i.e., adds time to—the stop.” *Id.* (quotations omitted). The burden is on the State to show that the time for the traffic stop was not increased due to a canine sniff. *Wells v. State*, 922 N.E.2d 697, 700 (Ind. Ct. App. 2010), *trans. denied*.

*Tinker v. State*, 129 N.E.3d 251, 255-56 (Ind. Ct. App. 2019) (some alterations original to *Tinker*), *trans. denied*.

[15] Deaton asserts that the manner in which Officer Staggers executed the traffic stop—in particular, his returning to the vehicle to ask Deaton about her criminal history—unreasonably delayed the stop and the issuance of the warning ticket. Deaton continues that, had Officer Staggers acted more efficiently, the traffic stop would have been over before Buck arrived and alerted to the presence of narcotics in her car.

[16] Deaton’s argument is speculation. Officer Staggers conducted the stop within the time reasonably required to complete the stop’s mission. There was nothing inappropriate or unreasonable about Officer Staggers returning to Deaton’s



vehicle to ask her about her criminal history and for permission to search the vehicle. And, while Officer Staggers was still working on the warning ticket for the traffic infraction, Buck arrived and alerted to the presence of narcotics, which provided the officers with new support to extend the stop. Thus, Officer Staggers did not unreasonably prolong the traffic stop under the [Fourth Amendment](#).

[17] Neither did the State violate Deaton’s rights under [Article 1, Section 11](#). A dog sniff “is not a search” under [Article 1, Section 11](#). *Id.* at 255. “Accordingly, no degree of suspicion is required to summon the canine unit to the scene to conduct an exterior sniff of the car or to conduct the sniff itself.” *Id.* at 255-56 (quoting *State v. Hobbs*, 933 N.E.2d 1281, 1286 (Ind. 2010)). Further, again, “even a minor traffic violation is sufficient to give an officer probable cause to stop the driver of a vehicle,” and, as explained above, the purpose of that stop here was not completed by the time Buck had alerted to the presence of narcotics. *Id.* at 255. Thus, the State did not violate Deaton’s rights under [Article 1, Section 11](#). *See id.* at 255-58 (analyzing whether a stop was unreasonably prolonged under the [Fourth Amendment](#) and [Article 1, Section 11](#) together).

### **III. Whether Deaton’s Constitutional Rights were Violated when Buck tried to Enter her Vehicle**

[18] Last, Deaton asserts that the State violated her [Fourth Amendment](#) and [Article 1, Section 11](#) rights when Buck conducted “a sniff of the interior” of her vehicle. Appellant’s Br. at 23. But Deaton’s argument misconstrues the record. The facts

in support of the trial court’s judgment make clear that Buck alerted during an exterior search of the vehicle, which Deaton acknowledges did not implicate her constitutional rights. Only after he alerted did Buck try to “pinpoint the odor as close as he c[ould]” by twice trying to enter Deaton’s vehicle. Tr., p. 10. Deaton cites no authority for the proposition that, *after* a K-9 has alerted to the presence of contraband in a lawful search, the K-9 *then* violates the search-and-seizure rights of the vehicle’s owner by trying to get inside the vehicle. Neither does Deaton cite evidence in the record to support her premise that Buck’s post-alert actions mattered to the officers’ ensuing search of her vehicle. Rather, we agree with the State that Buck’s “excitement at the odor of over two-hundred grams<sup>[1]</sup> of methamphetamine emanating” from inside the vehicle “may have led [Buck] to overreact,” but it did not “convert the exterior sniff” into an interior search. Appellee’s Br. at 23. We therefore conclude that Deaton has not met her burden on appeal to show a violation of her federal or state search-and-seizure rights on this issue.<sup>2</sup>

## Conclusion

[19] For the above-stated reasons, we affirm the trial court’s denial of Deaton’s motion to suppress.

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<sup>1</sup> The State includes not just the “large glass shard” of more than 150 grams but also methamphetamine allegedly found mingled with the possessions of Deaton’s passenger.

<sup>2</sup> Because we reject Deaton’s various arguments that the stop and search of her vehicle were unlawful, we likewise reject her argument that her post-arrest statements should be suppressed under the fruit-of-the-poisonous-tree doctrine.

[20] Affirmed.

Robb, J., and Foley, J., concur.