

IN THE COURT OF APPEALS OF IOWA

No. 3-619 / 12-2169
Filed July 24, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

PHILLIP RAY GRIFFIEON,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Odell G. McGhee II,
District Associate Judge.

A defendant appeals the denial of his motion to suppress evidence
obtained during a traffic stop resulting in an operating-while-intoxicated
conviction. **AFFIRMED.**

Rick Olson, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, John Sarcone, County Attorney, and Kevin Bell, Assistant County
Attorney, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

TABOR, J.

A state trooper stopped Phillip Griffieon for failure to use his headlights. Evidence discovered following the stop resulted in Griffieon's conviction for operating while intoxicated. On appeal, Griffieon argues the district court should have suppressed that evidence because the trooper lacked a legitimate basis for stopping his truck. Deferring to the district court's credibility determination, we conclude the trooper had reasonable suspicion of a traffic violation. Accordingly, we affirm the denial of the motion to suppress.

I. Background Facts and Proceedings

Shortly after 2:30 a.m. on July 8, 2012, Trooper Marc Griggs saw a "black blob"—what he perceived as a motorist traveling without lights—approximately one-half mile away on Highway 69. The trooper followed the Dodge 2012 Ram pickup truck driven by Griffieon. Trooper Griggs activated the video recorder in his car, but the video captured only a brief portion of the pursuit and was poor quality. Trooper Griggs stopped Griffieon outside of the driver's Ankeny home.

During the stop Trooper Griggs noted Griffieon's bloodshot and watery eyes, his slurred speech, and the smell of alcohol. The trooper then initiated field sobriety tests, each of which Griffieon failed. Griffieon admitted he drank approximately nine beers that night. While under arrest for operating while intoxicated at 4:06 a.m., Griffieon submitted to a DataMaster test showing his blood alcohol level to be 0.159%—nearly twice the legal limit.

On October 2, 2012, Griffieon moved to suppress all the evidence from the stop, asserting Trooper Griggs did not have reasonable suspicion or probable

cause to stop him because he “had not violated any rules of the road.” At the suppression hearing, the trooper testified he did not believe Griffieon’s headlights or taillights were turned on. He acknowledged the video recording showed “lots of reflections.” Griffieon testified his truck’s lights automatically came on when he was driving.

The district court denied the motion to suppress on October 10, 2012, reasoning the “[surrounding] facts and circumstances” created a reasonable suspicion to initiate the traffic stop. On October 16, 2012, Griffieon filed a motion to reconsider, pointing the court to a frame of the video where his headlights appear to illuminate a fence post. The district court denied Griffieon’s motion to reconsider “based on the totality of circumstances.”

On December 3, 2012, following the denial of his motion to suppress, Griffieon agreed to a bench trial on the minutes of evidence, and the court found him guilty of his second offense of operating while intoxicated, an aggravated misdemeanor, under Iowa Code section 321J.2 (2011). Following the judgment, Griffieon filed a timely notice of appeal.

II. Scope and Standard of Review

Our review is de novo for an alleged violation of constitutional rights. *State v. Reissetter*, 747 N.W.2d 792, 793 (Iowa Ct. App. 2008); see *State v. Pals*, 805 N.W.2d 767, 771 (Iowa 2011). Our review requires “an independent evaluation of the totality of the circumstances as shown by the entire record” with deference given to the district court’s factual findings, especially concerning the credibility of witnesses. *Pals*, 805 N.W.2d at 771 (quoting *State v. Turner*, 630

N.W.2d 601, 606 (Iowa 2001)); *see also State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004).

III. Analysis

The United States and Iowa Constitutions protect against unreasonable search and seizure. See U.S. Const. amend. IV; Iowa Const. art. I, § 8.¹ Generally, an officer's decision to stop a motorist is reasonable if the officer has probable cause to believe the motorist violated a traffic law. *Pals*, 805 N.W.2d at 773. Under certain circumstances, police may detain a person in the absence of probable cause if the officer has reasonable suspicion to believe criminal activity is taking place. *Id.* at 774 (citing *Terry v. Ohio*, 392 U.S. 1, 21–22 (1968)). Even a minor traffic or equipment violation may give an officer reason for a stop. See *State v. Hoskins*, 711 N.W.2d 720, 726 (Iowa 2006); *accord State v. Kinkead*, 570 N.W.2d 97, 100 (Iowa 1997); *State v. Mitchell*, 498 N.W.2d 691, 693 (Iowa 1993); *see also Reissetter*, 747 N.W.2d at 795 (“The principal function of an investigatory stop is to resolve the ambiguity as to whether criminal activity is afoot.”).

In this case the district court decided the state trooper had reasonable suspicion to stop Griffieon's pickup to resolve whether he was illegally driving without his lights on. To establish evidence gathered through the stop was admissible at trial, the State must “show by a preponderance of the evidence that the stopping officer had specific and articulable facts, which taken together with

¹ Griffieon does not argue we should employ a different analysis under the Iowa Constitution. So we will address both claims in tandem. See *State v. Hoskins*, 711 N.W.2d 720, 725 (Iowa 2006).

rational inferences from those facts, to reasonably believe criminal activity may have occurred.” *Tague*, 676 N.W.2d at 204 (citations omitted); *Kinthead*, 570 N.W.2d at 100 (citing *State v. Wiese*, 525 N.W.2d 412, 414 (Iowa 1994)).

The fighting issue on appeal is whether Trooper Griggs had reasonable suspicion to believe Griffieon was violating the statute requiring motorists to use headlights after dark. See Iowa Code § 321.384(1).² Griffieon asserts the trooper was more than 500 feet away when he started his pursuit and never passed the pickup to see the front headlights. Therefore, Griffieon claims the trooper could not tell if he complied with the 500-foot mandate in section 321.384(1). Griffieon relies on *State v. Reisetter*, 747 N.W.2d at 794–95, for the proposition that an officer must be within the specified distance to determine if a motorist’s headlights were on.

Reisetter is distinguishable from the present case. 747 N.W.2d at 794–95 (holding the officer could not have reasonable suspicion of a license plate violation when the officer was more than twice the statutory distance from the defendant’s vehicle); see Iowa Code § 321.388.³ The distances for each statute are measured from differing vantage points: the headlight statute relates to the visibility of the road to the driver, whereas the license plate statute focuses on the plate’s visibility to another person. Compare Iowa Code § 321.384 with Iowa

² “Every motor vehicle upon a highway within the state, at any time from sunset to sunrise, and at such other times when conditions . . . provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet ahead, shall display lighted headlamps . . .” Iowa Code § 321.384(1).

³ “Either the rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear.” Iowa Code § 321.388.

Code § 321.388. In *Reisetter*, the Iowa Supreme Court interpreted the statutory distance of fifty feet for license plate violations to require “approximate” officer proximity to the offending vehicle. 747 N.W.2d at 795. We recognize no similar boundary for stopping an unlit vehicle violating section 321.384.

Moreover, the statutory distance comes into play when a stopping officer questions whether the vehicle’s equipment provided adequate illumination. *State v. Tyler*, 830 N.W.2d 288, 295 (Iowa 2013) (addressing Iowa Code § 321.388); see also *Reisetter*, 747 N.W.2d at 794–95. Trooper Griggs did not question the brightness of Griffieon’s headlights. Instead, he initiated the stop because he reasonably believed the lights were not on at all. Even if Griffieon turned his lights on after Trooper Griggs initially viewed Griffieon’s car as a “black blob,” the trooper would have had reasonable suspicion to stop Griffieon. See *State v. Farrell*, 242 N.W.2d 327, 329 (Iowa 1976) (holding the officers had grounds to stop a vehicle at night when the headlights were off for a short period of time).

In our de novo review, Griffieon asks us to independently review the video recording. We recognize in certain contexts a video may “speak for itself.” *Scott v. Harris*, 550 U.S. 372, 378 n.5 (2007). But here the video does not offer a clear contradiction of the trooper’s testimony. The video captures approximately the final fifteen seconds of Trooper Griggs’s pursuit of Griffieon and excludes the trooper’s initial observation of Griffieon’s unlit vehicle. The recording quality is poor: the trooper’s windshield reflects glare from the street lamps and the footage is grainy. The trooper explained at the suppression hearing that his car has an older model recording system. Due to the out-dated recording system and the

trooper's speed, most objects the trooper passes are imperceptible, and Griffieon's truck appears as little more than a moving mass in the distance. At best, the video shows Griffieon's brake lights and turn signals illuminating their surroundings at times, but the poor quality of the recording does not allow us to make our own determination that Griffieon's headlights were turned on.

The reasonableness of the trooper's stop is not undermined by the inconclusive video evidence—especially because our review is of the “totality of the circumstances as shown by the entire record” with deference given to the district court's credibility findings. See *Pals*, 805 N.W.2d at 771. The district court grappled with whether to believe Griggs or Griffieon regarding the headlight operation. The court denied the motion to suppress, siding with Trooper Griggs's perception when the video system was not recording and what it did not memorialize when it was recording. The court explained “[t]he evidence established that [Griffieon]'s vehicle did not have headlights and taillights illuminated at the time the [trooper] encountered and followed [Griffieon]'s vehicle.”⁴ Griggs has been an Iowa State Trooper for twenty years and we have no reason to doubt his description of Griffieon's vehicle as a “black blob.” Griffieon's testimony focused on his belief that his pickup's lights came on automatically when he started the engine, a claim that—as the district court noted—was not verified by any other evidence presented at the suppression hearing.

⁴ The district court also found “several points [in the video] when the vehicle seem[ed] to have no lights on at all.”

Trooper Griggs's perceptions justified an investigatory stop. *See Kinkead*, 570 N.W.2d at 101 ("If officers were not allowed to rely on their sensory perception in performing their jobs, their positions as enforcers of our state's laws would be rendered futile."). We defer to the district court's credibility determination and affirm the denial of Griffieon's motion to suppress.

AFFIRMED.