

IN THE COURT OF APPEALS OF IOWA

No. 9-860 / 09-0467
Filed November 12, 2009

STATE OF IOWA,
Plaintiff-Appellee,

vs.

BRANDON MICHAEL MCCONNELEE,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, James D. Coil,
Judge.

Brandon Michael McConnelee appeals from his conviction for second-
offense operating while intoxicated. **AFFIRMED.**

John J. Hines of Dutton, Braun, Staack & Hillman, P.L.C., Waterloo, for
appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney
General, Thomas J. Ferguson, County Attorney, and Brook K. Jacobsen,
Assistant County Attorney, for appellee.

Considered by Eisenhauer, P.J., Potterfield, J., and Zimmer, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

EISENHAUER, P.J.

Brandon Michael McConnelee appeals from his conviction for second-offense operating while intoxicated. He contends the district court erred in denying his motion to suppress. We review alleged constitutional violations de novo in light of the totality of the circumstances as shown by the entire record. *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001). “We give deference to the district court’s fact findings due to its opportunity to assess the credibility of witnesses, but we are not bound by those findings.” *Id.*

At approximately 3:00 a.m. on July 13, 2008, Deputy Sheriff Matthew Harris observed McConnelee’s vehicle driving south on Raymond Road. McConnelee appeared to be driving in the middle of the road, so the deputy followed him for approximately one and a half to two miles. Deputy Sheriff Harris observed McConnelee’s vehicle drive onto the center line no less than three times. He then initiated a traffic stop. McConnelee admitted to having consumed alcoholic beverages. A breath test showed a blood alcohol concentration of .161.

McConnelee filed a motion to suppress any evidence or statements obtained after the traffic stop was initiated, alleging Deputy Sheriff Harris did not have reasonable grounds to believe a criminal offense had been committed. The district court denied the motion, finding the deputy had specific articulable facts sufficient to establish a reasonable belief that McConnelee was operating a motor vehicle while intoxicated. Following a trial on the minutes, McConnelee was convicted of second-offense operating while intoxicated.

An officer may stop a vehicle for investigatory purposes when there is a reasonable suspicion that a criminal act has occurred or is occurring. *State v. Kreps*, 650 N.W.2d 636, 641 (Iowa 2002). Upon our de novo review, we conclude Deputy Sheriff Harris had a reasonable suspicion that a violation of Iowa Code section 321.297 (2007) was occurring. When he first observed McConnelee's vehicle, it was travelling down the middle of the road. He then proceeded to watch McConnelee drive onto the center line on three separate occasions in the course of driving one and a half to two miles.

Because the stop of McConnelee's vehicle was proper, we affirm the district court order denying the motion to suppress.

AFFIRMED.