

Commonwealth of Kentucky
Court of Appeals

NO. 2014-CA-000273-MR

KENTRELL MORRIS

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JAMES M. SHAKE, JUDGE
ACTION NO. 12-CR-003007

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: D. LAMBERT, THOMPSON, AND VANMETER, JUDGES.

VANMETER, JUDGE: Kentrell Morris appeals from a Jefferson Circuit Court judgment after he entered a guilty plea conditioned on his right to appeal the trial court's denial of his motion to suppress evidence recovered in a traffic stop.

Having reviewed the record and applicable law, we affirm.

On June 3, 2012, Detective Johnson of the Louisville Police Department observed Morris operating a motor scooter on South 34th Street. The detective was familiar with Morris, having encountered him several times previously. About three months before, on March 12, 2012, Detective Johnson had spoken to Morris and verified that his operator's license was suspended. Johnson suspected that Morris's license was still suspended, and decided to effectuate a traffic stop. He got behind Morris, but before he could turn on his lights, Morris stopped and approached the officer. They were walking towards the police cruiser together when Morris fled on foot. He was apprehended after a brief chase, and the police discovered a loaded semiautomatic pistol in his waistband.

Morris filed a motion to suppress the evidence recovered as a result of the traffic stop. After conducting a hearing, the trial court denied the motion. Morris entered a conditional guilty plea to charges of possession of a firearm by a convicted felon, second-degree fleeing or evading police, resisting arrest, operation of a motor vehicle by a person whose operator's license has been suspended and no motor vehicle insurance. He received a total sentence of five years. This appeal followed.

An appellate court's standard of review of the trial court's decision on a motion to suppress requires that we first determine whether the trial court's findings of fact are supported by substantial evidence. If they are, then they are conclusive. Kentucky Rules of Criminal Procedure (RCr) 9.78. Based on those findings of fact, we must then conduct a *de novo* review of the trial court's application of the law to those facts to determine whether its decision is correct as a matter of law.

Commonwealth v. Neal, 84 S.W.3d 920, 923 (Ky. App. 2002) (internal citations omitted).

Morris argues that Detective Johnson's knowledge that his license was suspended in March 2012 did not provide sufficient probable cause to effectuate a traffic stop approximately three months later, on June 3, 2012.

A police officer may constitutionally conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot. *Terry v. Ohio*, 392 U.S. 1, 30, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968). A reasonable suspicion is more than an "unparticularized suspicion or 'hunch.'" *Id.* at 27, 88 S.Ct. 1868. Reasonable suspicion, while requiring less of a showing than probable cause, requires at least a minimal level of objective justification for making the stop. *United States v. Sokolow*, 490 U.S. 1, 7, 109 S.Ct. 1581, 104 L.Ed.2d 1 (1989).

Bauder v. Commonwealth, 299 S.W.3d 588, 590-91 (Ky. 2009).

A traffic stop is justified if the police officer has a reasonable, articulable suspicion that the driver is unlicensed. *Id.* at 591 citing *Delaware v. Prouse*, 440 U.S. 648, 663, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979). Morris argues that Detective Johnson had no actual knowledge regarding the status of Morris's license when he decided to initiate the traffic stop, and could have determined the current status of the license instead of relying on information obtained several months before.

In denying the suppression motion, the trial court relied on *Deboy v. Commonwealth*, 214 S.W.3d 926 (Ky. App. 2007), in which a panel of this Court

held that a police officer's knowledge that a driver's license was suspended at some "relatively recent time" is sufficient to create reasonable suspicion of unlawful activity and support an investigatory stop. *Deboy*, 214 S.W.3d at 929. The *Deboy* court did not define a "relatively recent time," but the police officer in that case, although he could not recall the date specifically, stated that the original stop had occurred "less than several months" before the stop at issue.

Detective Johnson testified that he learned of Morris's suspended license in March 2012, three months or less before he made the traffic stop. The trial court concluded, based on the strength and clarity of Detective Johnson's memory of the incident, that his knowledge of the suspension was "relatively recent," and therefore the subsequent stop made in reliance upon that information was permissible. The trial court's findings are supported by substantial evidence in the form of Detective Johnson's testimony, and in light of the holding in *Deboy*, the trial court's denial of the suppression motion was correct as a matter of law.

The trial court did not err in denying the suppression motion, and its final judgment is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ryan C. Vantrease
Louisville, Kentucky

BRIEF FOR APPELLEE:

Jack Conway
Attorney General of Kentucky

Julie Scott Jernigan
Assistant Attorney General
Frankfort, Kentucky