STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1667

State of Minnesota,
Respondent,

vs.

Recardo Daryl Meeks,
Appellant.

Filed September 5, 2017
Affirmed
Hooten, Judge

Beltrami County District Court
File No. 04-CR-14-3918

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Annie P. Claesson-Huseby, Beltrami County Attorney, David P. Frank, Chief Assistant County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Hooten, Judge; and Bratvold, Judge.

U N P U B L I S H E D O P I N I O N

HOOTEN, Judge

Appellant argues that the district court erred by denying his suppression motion, contending that police did not have a reasonable articulable suspicion to continue to detain him after the initial traffic stop and questioning. We affirm.

FACTS

On December 11, 2014, a police officer, while driving in Beltrami County outside of his jurisdiction, stopped appellant Recardo Daryl Meeks after observing Meeks driving his vehicle at varying speeds, crossing the center and fog lines, and tapping his brakes. The police officer initiated the stop after he radioed dispatch to notify the Beltrami County Sheriff's Office and the Minnesota State Patrol.

Upon approaching the vehicle, the officer noticed a strong odor of air freshener coming from the vehicle and suspected that it might be masking the smell of drugs or alcohol. The officer also observed multiple toggle switches and testified that from his training and experience he knows toggle switches are sometimes used to access hidden compartments used for drug trafficking. When questioned about his driving, Meeks responded that he was trying to read his GPS, which told him he had made a wrong turn. The officer testified that Meeks appeared confused and that his driving was not consistent with a motorist who had made a wrong turn.

At this point, a Beltrami County sheriff's deputy responded to the stop. The officer ceded control of the stop to the Beltrami County sheriff's deputy, who testified that based on the officer's description of Meeks' driving conduct, he decided to conduct field sobriety

tests on Meeks to "explore the possibility that [Meeks was] under the influence of a controlled substance." Upon exiting the vehicle, Meeks was given a pat-down search that revealed he was carrying a large amount of cash.

The deputy had Meeks perform a field sobriety test twice, which Meeks failed both times in a manner indicating that Meeks might be under the influence of a controlled substance. While the deputy was performing the field sobriety tests, a Minnesota state trooper and another Beltrami County sheriff's deputy with a K-9 unit also responded to the stop. The deputy who had performed the field sobriety tests then instructed the K-9 unit to conduct a sniff of Meek's vehicle.

While Meeks was performing further field sobriety tests under direction of the trooper, the K-9 alerted to the presence of controlled substances behind the driver's door. Based on Meeks' driving, confused appearance, and failure to successfully perform field sobriety tests, Meeks was arrested.

After Meeks was arrested, law enforcement obtained a search warrant and searched the vehicle, finding approximately 50 grams of methamphetamine and 4 grams of heroin behind the driver's seat. Meeks was charged with first-degree possession of a controlled substance and third-degree test refusal. The test refusal charge was later dismissed.

Meeks moved for all evidence gathered at the stop to be suppressed. The district court denied his motion, and pursuant to Minn. R. Crim. P. 26.01, subd. 4, Meeks waived his right to trial and stipulated to the state's case in order to obtain review of the district court's pretrial evidentiary ruling. Meeks was convicted of first-degree possession of a controlled substance and sentenced to 120 months. Meeks appeals.

D E C I S I O N

Meeks argues that the district court erred by denying his motion to suppress the evidence gathered during the stop because law enforcement unlawfully expanded the scope and duration of the stop by conducting field sobriety tests on him. This argument is without merit.

"When reviewing a pretrial order on a motion to suppress evidence, [appellate courts] may independently review the facts and determine whether, as a matter of law, the district court erred in suppressing or not suppressing the evidence." *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). Appellate courts review the district court's factual findings for clear error and its legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

Meeks does not dispute that the police officer had reasonable suspicion for stopping his car when he observed Meeks' vehicle varying its speed, crossing the center and fog lines, and tapping its brakes. Meeks contends that the officers should have taken him at his word that he was having issues with his GPS and did not have reasonable suspicion to conduct field sobriety testing.

First, it must be noted that "[t]he fact that there might have been an innocent explanation for [appellant's] conduct does not demonstrate that the officers could not reasonably believe that [he] had committed a crime." *State v. Hawkins*, 622 N.W.2d 576, 580 (Minn. App. 2001). Nevertheless, "[a]n initially valid stop may become invalid if it

becomes intolerable in its intensity or scope." *Askerooth*, 681 N.W.2d at 364 (quotation omitted).

Askerooth instructs that we employ a two-part test to determine whether an unreasonable seizure has taken place. *Id*. First, we must determine "whether the stop was justified at its inception." *Id*. Second, we must determine "whether the actions of the police during the stop were reasonably related to and justified by the circumstances that gave rise to the stop in the first place." *Id.* In other words, "each incremental intrusion during a stop must be 'strictly tied to and justified by the circumstances which rendered the initiation of the stop permissible.'" *Id.* (alteration omitted) (quoting *Terry v. Ohio*, 392 U.S. 1, 19, 88 S. Ct. 1868, 1878 (1968) (quotation omitted)).

Therefore, incremental intrusions during a traffic stop must be "tied to and justified by" at least one of the following: "(1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness as defined in *Terry*." *Id*. at 364 (quotation omitted). Here, the original legitimate purpose of the traffic stop justifies law enforcement's decision to expand the stop to include field sobriety testing.

The original and undisputed purpose of the traffic stop was to investigate a vehicle varying its speed, crossing the center and fog lines, and tapping its brakes. There is no mechanical rule for determining what an officer must observe before forming a reasonable suspicion that a driver is intoxicated or impaired. *See State v. Hicks*, 222 N.W.2d 345, 348 (Minn. 1974). Generally, an officer must observe "one or more objective indicators of intoxication or of being under the influence" to adequately form the foundation for an opinion that a driver is impaired. *State v. Schneider*, 249 N.W.2d 720, 721 (Minn. 1977).

This court has stated that in some circumstances, "even a single objective indication of intoxication may be sufficient" for an officer to suspect a driver is under the influence. *Martin v. Comm'r of Pub. Safety*, 353 N.W.2d 202, 204 (Minn. App. 1984).

Here, we have several indications of impairment. Meeks was driving erratically and varying his speed, his vehicle crossed the center and fog lines without identifiable cause, and he was tapping his brakes unnecessarily. Further, law enforcement observed several other indications of suspected drug trafficking in Meeks' car, including a strong odor of air fresheners and multiple toggle switches. Under *Hicks* and *Schneider*, this combination of factors, which Meeks does not dispute, justified officers expanding the scope of the traffic stop to conduct field sobriety tests on Meeks.

Affirmed.