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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1673**

Joshua Alvin Peterson, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed June 19, 2017
Affirmed
Worke, Judge**

Otter Tail County District Court
File No. 56-CV-16-563

Rich Kenly, Kenly Law Offices, Backus, Minnesota (for appellant)

Lori Swanson, Attorney General, Dominic J. Haik, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Johnson, Judge; and Kirk, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the district court's order sustaining the revocation of his driver's license, arguing that the stop was unlawful and that there was no probable cause to arrest him. We affirm.

FACTS

On February 10, 2016, at approximately 7:33 p.m., Minnesota State Trooper Jonathan Wenzel observed appellant Joshua Alvin Peterson get into the driver's side of a vehicle at a gas station and immediately start driving. The trooper believed that there was little to no time for Peterson to have put on a seatbelt. The trooper also observed that Peterson's vehicle had a third brake light out.

The trooper followed Peterson who sped up and pulled into a driveway. The trooper viewed the driving conduct as "very quick," and estimated that Peterson was driving ten miles or so over the 30-miles-per-hour speed limit. The trooper believed that Peterson was attempting to elude him.

Trooper Wenzel pulled into the driveway. Peterson exited his vehicle and walked very quickly to his home. Trooper Wenzel exited his vehicle, identified himself as a state trooper, and yelled for Peterson to stop because the trooper needed to talk to him. Peterson looked back at the trooper and continued walking to his porch where his wife was standing. The couple went inside their home and locked the door. Because Peterson looked back at the trooper and continued to go into his home after the trooper told him to stop, Trooper Wenzel believed that Peterson could be impaired.

Trooper Wenzel knocked on the door, identified himself, and stated that he needed Peterson to come out and talk to him. Peterson's wife opened the door and told Trooper Wenzel that she would see if Peterson would come to the door. The trooper observed Peterson walk to the door, open a beer, and take a sip. Peterson was "swaying," slurring his words, and had bloodshot and watery eyes. Trooper Wenzel testified that he could

smell the odor of an alcoholic beverage, which was too overwhelming to have come from the beer that Peterson had just opened.

Trooper Wenzel told Peterson to come out and speak with him. Peterson refused and backed up into the threshold of the home. Trooper Wenzel testified that he was concerned for his safety because he did not know what was inside the home, such as firearms. Trooper Wenzel testified that his foot may have been on the threshold as his arm reached into the home to grab Peterson's arm. Peterson, with the help of his wife, forcefully pulled away. Trooper Wenzel warned Peterson that he would be under arrest for obstruction of legal process if he did not come outside and speak with the trooper. Peterson continued to argue, fight, and pull back. Trooper Wenzel called for backup and was assisted in getting Peterson outside.

Trooper Wenzel arrested Peterson for obstruction of legal process and placed him in the trooper's vehicle. Shortly thereafter, Trooper Wenzel removed Peterson from the vehicle and asked him to perform field sobriety tests. Peterson's performance indicated impairment. Peterson agreed to take a preliminary breath test, the result of which showed 0.198 alcohol concentration. Trooper Wenzel placed Peterson under arrest for driving while impaired (DWI). After reading Peterson the implied-consent advisory, Trooper Wenzel offered Peterson a breath test, which he refused.

At an implied-consent hearing, Peterson challenged the basis for the stop and probable cause for his arrest. The district court sustained the revocation of Peterson's driver's license. This appeal followed.

DECISION

This court reviews the district court's findings supporting an order sustaining a license revocation for clear error. *Jasper v. Comm'r of Pub. Safety*, 642 N.W.2d 435, 440 (Minn. 2002). "Findings of fact are clearly erroneous if, on the entire evidence, [the reviewing court is] left with the definite and firm conviction that a mistake occurred." *State v. Diede*, 795 N.W.2d 836, 846-47 (Minn. 2011). "[We] defer to the district court's credibility determinations and ability to weigh the evidence." *Constans v. Comm'r of Pub. Safety*, 835 N.W.2d 518, 523 (Minn. App. 2013). We review de novo questions of law in implied-consent proceedings. *Harrison v. Comm'r of Pub. Safety*, 781 N.W.2d 918, 920 (Minn. App. 2010).

Stop

Peterson argues that Trooper Wenzel lacked a reasonable basis to stop him because the trooper did not mention a seatbelt violation, the trooper did not verify Peterson's speed, and a vehicle is not legally required to have a third brake light.

The United States and Minnesota Constitutions protect citizens from unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. But a law enforcement officer may temporarily detain a person he suspects has engaged in criminal activity if the stop was justified by reasonable articulable suspicion. *Diede*, 795 N.W.2d at 842. While reasonable suspicion is a less demanding standard than probable cause, an officer must articulate a "particularized and objective basis for suspecting the particular person stopped of criminal activity." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted).

Traffic violations, “however insignificant,” provide a legal basis for a stop. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). When an officer has reasonable suspicion that a driver has committed a traffic violation, he may initiate a stop. *Sazenski v. Comm’r of Pub. Safety*, 368 N.W.2d 408, 409 (Minn. App. 1985).

An actual violation of the vehicle and traffic laws need not be detectable. The police must only show that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.

State v. Pike, 551 N.W.2d 919, 921-22 (Minn. 1996) (quotation omitted).

Officers may cite motorists for failing to wear a seatbelt independent of another moving violation. *State v. Wendorf*, 814 N.W.2d 359, 363 (Minn. App. 2012). Because the failure to wear a seatbelt provides a basis for a citation, the failure to wear a seatbelt provides a reasonable basis for an investigatory stop. *Id.* at 363, 365.

Here, the district court found that there was little to no time for Peterson to put on a seatbelt before driving. Trooper Wenzel testified that he observed Peterson get into his vehicle and immediately start driving. The trooper believed that there was little to no time for Peterson to put on a seatbelt. The district court’s finding is supported by the trooper’s testimony, which the district court found credible.

Driving at a speed in excess of the posted speed limit is unlawful, and an objective basis for a stop exists when an officer believes that a driver is speeding. Minn. Stat. § 169.14, subd. 2 (2016); *Sazenski*, 368 N.W.2d at 409. Further, a driver’s evasive driving conduct may give a police officer “a particular and objective basis” for suspecting the

driver of criminal activity. *State v. Johnson*, 444 N.W.2d 824, 827 (Minn. 1989) (quotation omitted).

The district court found that Trooper Wenzel believed that Peterson was speeding in an attempt to evade him. Trooper Wenzel testified that Peterson sped up “highly over” the 30-miles-per-hour speed limit, and based on his training and experience, he estimated that the vehicle was traveling approximately ten miles over the speed limit. The trooper testified that he believed that Peterson sped up and pulled into the driveway in an attempt to elude him. The district court found Trooper Wenzel to be credible.

Peterson argues that Trooper Wenzel only believed that he was speeding, but did not use his radar. But an officer’s visual estimation of a driver’s excessive speed is sufficient to support a traffic stop. *Sazenski*, 368 N.W.2d at 409. A finding of reasonable suspicion on the basis of excessive speed does not depend upon whether a driver is charged with speeding or whether the officer “clock[s] the vehicle’s exact speed.” *Frank v. Comm’r of Pub. Safety*, 384 N.W.2d 574, 576 (Minn. App. 1986). Even if Peterson was not traveling ten miles over the 30-miles-per-hour speed limit, a mistake of fact does not invalidate a traffic stop so long as that mistake is reasonable. *See State v. Sanders*, 339 N.W.2d 557, 559 (Minn. 1983) (stating that an officer’s reasonable mistake of fact does not invalidate a search if the officer had reasonable, articulable suspicion of criminal activity); *see also State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003) (stating that “searches based on honest, reasonable mistakes of fact are unobjectionable under the Fourth Amendment”).

“When a vehicle is equipped with stop lamps or signal lamps, such lamps shall at all times be maintained in good working condition.” Minn. Stat. § 169.57, subd. 3(a) (2016). Peterson claims that the law does not require vehicles to have a third brake light, but the law does require that all brake lights on a vehicle be maintained and in good working condition. He does not challenge the district court finding that the third brake light was out.

The district court did not err in concluding that Trooper Wenzel had reasonable suspicion to stop Peterson based on the seatbelt violation, Peterson speeding in an attempt to evade the trooper, and the equipment-maintenance violation.

Arrest

Peterson also argues that the arrest was illegal because Trooper Wenzel’s blocking the door with his foot and reaching in and grabbing Peterson’s arm was unreasonable.

Absent probable cause and exigent circumstances, police officers may not enter an individual’s home to effect a warrantless arrest. *Payton v. New York*, 445 U.S. 573, 583-90, 100 S. Ct. 1371, 1378-82 (1980).

[But] [w]hile it may be true that under the common law of property the threshold of one’s dwelling is “private,” as is the yard surrounding the house, it is nonetheless clear that under the cases interpreting the Fourth Amendment [a person] [is] in a “public” place [when in the vestibule of her house].

United States v. Santana, 427 U.S. 38, 42, 96 S. Ct. 2406, 2409 (1976) (holding that for Fourth-Amendment purposes, an open doorway is a public place); *State v. Alayon*, 459 N.W.2d 325, 328 (Minn. 1990) (“Defendant freely chose to open the door and stood in the open doorway, which the United States Supreme Court and this court have held to be a

‘public’ place for fourth amendment purposes.”). A defendant who is in a public place when officers initiate an arrest may not thwart the arrest by retreating into his residence. *Santana*, 427 U.S. at 43, 96 S. Ct. at 2410.

Here, Peterson exited his vehicle and walked quickly to his home. Trooper Wenzel identified himself as a state trooper and yelled for Peterson to stop. Peterson looked back at the trooper, but went inside his home. Trooper Wenzel knocked on the door, which Peterson’s wife opened. Trooper Wenzel told Peterson to come out and speak with him. Peterson refused and backed into the threshold of the home. Trooper Wenzel may have placed his foot on the threshold of the doorway when he reached to grab Peterson’s arm and Peterson pulled away.

Trooper Wenzel had probable cause to arrest Peterson in the open doorway for obstruction of legal process for failing to comply with the trooper’s orders to stop and talk to him. *See* Minn. Stat. § 609.50, subd. 1(2) (2016) (stating that it is a crime for an individual to intentionally obstruct, resist, or interfere with a peace officer who is performing official duties). Trooper Wenzel also had probable cause to arrest Peterson for DWI after observing Peterson driving and indicia of intoxication as Peterson stood in the doorway. The district court did not err in concluding that Trooper Wenzel did not violate the Fourth Amendment by arresting Peterson in the doorway of Peterson’s home.

Affirmed.