STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1914

State of Minnesota,
Appellant,

vs.

Kartaris Lashawn Harris,
Respondent.

Filed April 17, 2017
Reversed and remanded
Kirk, Judge

Ramsey County District Court
File No. 62SU-CR-15-7850

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

Ronald H. Batty, Maplewood City Attorney, Martin H.R. Norder, Sabrina M. Spangler, Assistant City Attorneys, Kelly & Lemmons, P.A., St. Paul, Minnesota (for appellant)

Charles F. Clippert, Clippert Law Firm, PLLC, St. Paul, Minnesota (for respondent)

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

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

KIRK, Judge

Appellant State of Minnesota challenges the district court's order granting respondent Kartaris Lashawn Harris's motion to suppress evidence and dismiss the complaint, arguing that the district court erroneously concluded that the police officer

lacked a reasonable, articulable suspicion to justify stopping respondent's vehicle. We reverse and remand for further findings.

FACTS

On December 28, 2015, the state charged respondent with second-degree DWI-test refusal and second-degree DWI. Respondent moved to suppress all evidence obtained from the traffic stop and dismiss the complaint, arguing that Maplewood Police Officer Maria Mulvihill lacked a legal basis to initiate a traffic stop.

At the omnibus hearing, Officer Mulvihill testified that, on December 26, 2015, at approximately 10:40 p.m., she was on routine patrol when she began following respondent's vehicle after it pulled away from an intersection. She testified that she saw respondent cross the road's centerline twice. Officer Mulvihill stated that the first instance occurred at a sharp curve in the road, and she did not provide any detail regarding the second instance. She further explained that she did not immediately stop respondent after observing a traffic violation because stopping at a curve in the road would have presented a danger. Because Officer Mulvihill waited to initiate the stop, her squad video—which begins recording 30 seconds prior to activating the squad's emergency lights—does not show respondent commit any traffic violations. Respondent also testified at the omnibus hearing. He denied crossing the centerline and stated that Officer Mulvihill informed him that he was pulled over for failing to come to a complete stop at a stop sign.

The district court granted respondent's motion to suppress evidence and dismiss the complaint. In granting the motion, the district court did not make a factual finding regarding whether respondent crossed the centerline, nor did it make a credibility

determination regarding Officer Mulvihill and respondent's conflicting testimony. Instead, the district court explained:

> While [respondent] contends that the officer is not credible because she gave him a different reason for stopping him, and the video from her squad shows no traffic violations, the court need not pass judgment on this issue. Officer Mulvihill's testimony fails to persuade the court that she had reasonable suspicion to stop [respondent]. . . . She offered no testimony explaining why crossing the centerline on a sharp curve (which would have been to [respondent's] left) gives rise to any reasonable articulable suspicion of criminal activity.

The state's appeal follows.

D E C I S I O N

When appealing a pretrial suppression order, the state must clearly and unequivocally demonstrate that (1) the order will have a critical impact on the state's ability to successfully prosecute the defendant and (2) the order was erroneous. *State v. Scott*, 584 N.W.2d 412, 416 (Minn. 1998). "Dismissal of a complaint satisfies the critical impact requirement." *State v. Trei*, 624 N.W.2d 595, 597 (Minn. App. 2001), *review dismissed* (Minn. June 22, 2001). Accordingly, the question before this court is whether the district court's order was erroneous.

This court reviews a district court's conclusion regarding reasonable, articulable suspicion de novo and reviews its findings of fact for clear error. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005). We defer to the district court's assessment of witness credibility. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003). The district court's findings of fact in support of its suppression ruling

must be sufficiently detailed to permit us to ascertain the basis for its ruling. *State v. Rainey*, 303 Minn. 550, 550, 226 N.W.2d 919, 921 (1975).

The United States and Minnesota Constitutions guarantee the right to be secure against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "The temporary detention of an individual during a traffic stop is a seizure." *State v. Thiel*, 846 N.W.2d 605, 610 (Minn. App. 2014), *review denied* (Minn. Aug. 5, 2014). To justify a traffic stop, police must have a reasonable suspicion of criminal activity. *Heien v. North Carolina*, 135 S. Ct. 530, 536 (2014); *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001). "The reasonable-suspicion standard is not high." *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011) (quotation omitted). Police must only show that the stop was based on more than "an inchoate and unparticularized suspicion or hunch." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). "An officer's observation of a traffic violation, however insignificant, provides the officer with an objective basis for conducting a stop." *State v. Doebel*, 790 N.W.2d 707, 709 (Minn. App. 2010) (quotation omitted), *review denied* (Minn. Jan. 26, 2011).

The state argues that the traffic stop was lawful because Officer Mulvihill observed respondent cross the centerline in violation of Minn. Stat. § 169.18, subd. 7(a) (2014), which provides that "[a] vehicle shall be driven as nearly as practicable entirely within a single lane." Respondent counters that the statute includes the phrase "as nearly as practicable," which "allows for flexibility so that a person may cross a lane marker when there is [a] curve in the road or other circumstance where driving entirely within the lane is not practicable." Respondent also continues to deny crossing the centerline.

While respondent is correct in asserting that the language "as nearly as practicable" implies a degree of flexibility, he offers no legal authority to support his interpretation that a driver may cross the centerline simply because the road curves. Contrary to respondent's assertion, this court has previously stated that "[c]rossing the centerline is a violation of the traffic laws and will usually provide the officer with an objective, reasonable suspicion to conduct an investigatory stop." *State v. Wagner*, 637 N.W.2d 330, 336 (Minn. App. 2001); *see Doebel*, 790 N.W.2d at 709 ("An officer's observation of a traffic violation, however insignificant, provides the officer with an objective basis for conducting a stop." (quotation omitted)).

Here, Officer Mulvihill testified that she observed respondent cross the centerline twice, and there is no indication that other factors—such as inclement weather or a vehicle stopped on the shoulder—may have caused respondent to cross the centerline. Despite Officer Mulvihill's testimony, and without finding that her testimony lacked credibility, the district court concluded that she failed to articulate a reasonable, articulable suspicion of criminal activity. The district court's analysis and conclusion on this point directly conflict with this court's observation in *Wagner*: "When there is credible testimony that the driver actually crossed the centerline, this court and the supreme court have uniformly found investigatory stops valid." 637 N.W.2d at 335 (citing *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001) (finding reasonable suspicion when vehicle crossed fog line and there was an anonymous tip); *State v. Schinzing*, 342 N.W.2d 105, 106, 109 (Minn. 1983) (holding objective basis for stop when vehicle did not display license plate, had object hanging from rearview mirror, and made wide turn and crossed centerline); *State v.*

Bunde, 556 N.W.2d 917, 919 (Minn. App. 1996) (finding reasonable suspicion when vehicle turned without signaling and crossed centerline); *Shull v. Comm'r of Pub. Safety*, 398 N.W.2d 11, 14 (Minn. App. 1986) (finding reasonable suspicion when driver drove slower than necessary and crossed centerline)).

Therefore, because Minnesota appellate courts have uniformly upheld traffic stops where an officer credibly testifies that a defendant crossed the centerline, the district court's conclusion that Officer Mulvihill did not articulate a sufficient basis to justify the stop was erroneous absent a determination that her testimony lacked credibility. The district court did not make this necessary determination. Its order does not include a finding regarding whether respondent crossed the centerline and states that the district court "need not pass judgment" on the credibility of Officer Mulvihill's testimony. As a result, we are unable to properly consider whether the traffic stop was supported by a reasonable, articulable suspicion. *See State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983) ("In some cases we have concluded that a remand for findings is necessary before we will decide the validity of the lower court's order."); *Miller*, 659 N.W.2d at 279 ("Because the weight and believability of witness testimony is an issue for the district court, we defer to that court's credibility determinations."). Accordingly, we reverse the district court's order and remand for further findings.

Reversed and remanded.