STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1713

State of Minnesota,
Respondent,

vs.

Robert Richard Rousu,
Appellant.

Filed November 25, 2019
Affirmed
Reilly, Judge

Becker County District Court
File No. 03-CR-17-1335

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brian W. McDonald, Becker County Attorney, Kristal E. Kadrie, Assistant County Attorney, Detroit Lakes, Minnesota (for respondent)

Robert Rousu, Callaway, Minnesota (pro se appellant)

Considered and decided by Bjorkman, Presiding Judge; Reilly, Judge; and Cochran, Judge.

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

REILLY, Judge

Appellant challenges his impaired-driving conviction on the ground that the district court erred by determining that the arresting police officer had a reasonable, articulable basis to initiate a traffic stop and denying his motion to dismiss the complaint. We affirm.

FACTS

On July 2, 2017, a White Earth Police Officer saw appellant Robert Richard Rousu's vehicle swerve into the opposite lane of traffic. The officer initiated a traffic stop and observed indicia of appellant's intoxication. Appellant was arrested and charged with two counts of impaired driving. Appellant moved to dismiss the complaint for lack of probable cause on the ground that the officer made an illegal stop. After a hearing, the district court determined that the officer presented credible testimony that appellant drove over the centerline of the road and that the officer had reasonable, articulable suspicion to stop the vehicle based upon this observed traffic violation.

Appellant agreed that the district court's pretrial ruling was dispositive of the case and stipulated to the state's evidence under Minn. R. Crim. P. 26.01, subd. 4, to preserve review of the district court's ruling.[1] In April 2018, the district court adjudicated appellant guilty of one count of second-degree driving while impaired, and dismissed the second count of second-degree impaired driving. Appellant now appeals from judgment of conviction and seeks reversal of the order denying his pretrial motion to dismiss.

D E C I S I O N

When reviewing a pretrial order on a suppression motion, an appellate court reviews the district court's factual findings for clear error and legal determinations de novo. *State v. Milton*, 821 N.W.2d 789, 798 (Minn. 2012). When the facts are undisputed, as here, we

[1] While the parties characterize the stipulation as a *Lothenbach* plea, it appears they intended to proceed under Minn. R. Crim. P. 26.01, subd. 4, which "replaced *Lothenbach* as the method for preserving a dispositive pretrial issue for appellate review in a criminal case." *State v. Myhre*, 875 N.W.2d 799, 802 (Minn. 2016).

review the district court's pretrial denial of a motion to suppress de novo. *State v. Onyelobi*, 879 N.W.2d 334, 342-43 (Minn. 2016). We defer to the district court's credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012).

Both the United States and Minnesota Constitutions protect against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. The "[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a 'seizure' of 'persons' within the meaning of [the Fourth Amendment]." *Whren v. United States*, 517 U.S. 806, 809-10, 116 S. Ct. 1769, 1772 (1996) (citations omitted). "Generally, warrantless searches are per se unreasonable." *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). However, a law-enforcement officer may initiate a limited, investigatory stop without a warrant if the officer has a reasonable, articulable suspicion of criminal activity. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (citing *Terry v. Ohio*, 392 U.S. 1, 22, 88 S. Ct. 1868, 1880 (1968)); *see also State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

"Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate . . . that he or she had a particularized and objective basis for suspecting the seized person of criminal activity." *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quotations omitted). In determining whether reasonable suspicion exists to justify a stop, Minnesota courts consider the totality of the circumstances. *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001). "The factual basis required to justify an investigative seizure is minimal." *Klamar*, 823 N.W.2d at 691.

A traffic violation, "however insignificant," may provide an objective basis for stopping the vehicle. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). Here, the officer testified that appellant's vehicle swerved over the centerline and into the opposite lane of traffic. The officer stated that appellant's vehicle came so far into the opposite lane of traffic that the officer "had to actually pull off to the right to . . . avoid any kind of collision." The district court found the officer's testimony credible. "When there is credible testimony that the driver actually crossed the centerline, this court and the supreme court have uniformly found investigatory stops valid." *State v. Wagner*, 637 N.W.2d 330, 335 (Minn. App. 2001) (citing *Richardson*, 622 N.W.2d at 825 (finding reasonable suspicion when vehicle crossed fog line)).

Appellant argues that the state failed to provide audio and video from the officer's squad camera at the hearing. While the squad recordings were not admitted into evidence, the officer testified that he observed appellant's vehicle cross the centerline. Generally, "a conviction can rest on the uncorroborated testimony of a single credible witness." *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). The district court found the officer's testimony regarding appellant's driving conduct to be credible, and we will not disturb the court's credibility determinations. *Klamar*, 823 N.W.2d at 691. Because the totality of the circumstances forms an objectively reasonable and articulable basis for the traffic stop, we determine that the district court did not err by denying appellant's pretrial motion to dismiss.

Affirmed.