STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0025

State of Minnesota,
Respondent,

vs.

Kirk Patrick Kalkbrenner,
Appellant.

Filed August 12, 2019
Affirmed
Reilly, Judge

Hennepin County District Court
File No. 27-CR-18-3840

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

Jeffrey W. Lambert, Wayzata City Attorney, Wayzata, Minnesota (for respondent)

Dennis B. Johnson, Chestnut Cambronne, Minneapolis, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Hooten, Judge; and Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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, arguing that the district court erred by denying his pretrial motion to suppress evidence obtained during the traffic stop because the court erred in finding that the arresting police officer made a reasonable mistake of fact regarding whether appellant committed a traffic violation. We affirm.

FACTS

This appeal arises out of appellant Kirk Patrick Kalkbrenner's arrest and conviction for impaired driving. In February 2018, a police officer observed that the taillights on appellant's vehicle were not illuminated and initiated a traffic stop. While speaking with appellant, the officer noticed multiple indicia of intoxication and placed appellant under arrest. Appellant was charged with third-degree impaired driving and a taillight infraction. Appellant moved to suppress the evidence obtained as a result of the stop, arguing that the officer mistakenly thought the vehicle's taillights were not illuminated and his mistake was objectively unreasonable. The parties stipulated to the underlying facts of the case and submitted the police reports and a statement from an automotive expert, which stated it is impossible to turn on the headlights without also turning on the taillights and that an examination of the vehicle four days after the stop indicated that all the lights were in working order. The district court did not hear any testimony and decided the matter based on the stipulated facts and briefing by the parties. The court assumed that the officer's "observation of the taillights on [appellant]'s vehicle [w]as a mistake of fact," and denied the motion to suppress on the ground that the officer's mistake was reasonable.

The parties then submitted the case to the district court for a stipulated-facts trial under Minn. R. Crim. P. 26.01, subd. 3,[1] and stipulated to the admission of the evidence, including: the complaint, the police department incident report, the stipulated facts, appellant's memorandum of law in support of his suppression motion, the state's memorandum of law in opposition to the suppression motion, and the order and memorandum denying appellant's motion to suppress. Based on this evidence, the district court found appellant guilty of an amended charge of fourth-degree impaired driving. Appellant now appeals from judgment of conviction, seeking reversal of the order denying his suppression motion.

D E C I S I O N

When reviewing a pretrial order on a motion to suppress evidence, an appellate court independently reviews the facts and determines, as a matter of law, whether the district court erred by denying the motion. *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). When the facts are undisputed, as here, we 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). But the district court's factual findings are reviewed for clear error. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

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

[1] Rule 26.01, subd. 3, provides that "[t]he defendant and the prosecutor may agree that a determination of the defendant's guilt . . . may be submitted to and tried by the court based entirely on stipulated facts, stipulated evidence, or both."

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 this provision." *Whren v. United States*, 517 U.S. 806, 809-10, 116 S. Ct. 1769, 1772 (1996) (citations omitted). When making an investigatory traffic stop, a police officer must have specific and articulable facts that establish "'reasonable suspicion' of a motor vehicle violation or criminal activity." *State v. Duesterhoeft*, 311 N.W.2d 866, 867 (Minn. 1981) (citation omitted).

Here, the undisputed facts demonstrate that the officer observed that the vehicle's headlights were on, but that the taillights were not operational, and an automotive expert provided a statement that it would not have been possible to activate the headlights without also activating the taillights. The record also reveals that appellant had the automobile examined four days after the incident and all the lights were in working order. The report from the body shop indicated that "all lights are working properly," and "when headlights are turned on, taillights come on at the same time."

Given the unrebutted expert testimony and the report from the body shop, the district court found that the officer "may have made a mistake of fact" regarding the taillights. However, the court concluded that "[b]ased upon the stipulated record before the Court, assuming [the officer]'s observation of the taillights on [the] vehicle as a mistake of fact, the Officer's mistake was reasonable."[2] Minnesota law recognizes that an officer's

[2] Appellant cites to *State v. Berry*, No. A12-0313, 2013 WL 141645, at *1 (Minn. App. Jan. 14, 2013) to support his argument that the district court's factual findings were clearly erroneous. However, unpublished opinions of this court are not precedential. Minn. Stat. § 480A.08, subd. 3(c) (2018).

"honest, reasonable mistakes of fact are unobjectionable under the Fourth Amendment." *State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003). Further, a good-faith and reasonable mistake of fact will not invalidate an otherwise valid stop. *See State v. Sanders*, 339 N.W.2d 557, 560 (Minn. 1983) (holding that stop based on a reasonable mistake of identify was lawful). Even if the officer made a mistake of fact as to the taillights, there is no evidence in this record that his mistake was the product of "mere whim, caprice, or idle curiosity" or unreasonable. *State v. Pike*, 551 N.W.2d 919, 921-22 (Minn. 1996). As such, the officer's traffic stop was not "unobjectionable under the Fourth Amendment." *Licari*, 659 N.W.2d at 254.

In sum, based on the stipulated facts and the record before us, the district court did not err by determining that the officer's mistake regarding the taillights on appellant's vehicle was reasonable.[3] Because good-faith and reasonable mistakes of fact are unobjectionable under the Fourth Amendment, we affirm the district court's denial of his suppression motion and affirm his impaired-driving conviction.

Affirmed.

---

[3] We note that often whether a seizure violates the constitutional prohibitions against unreasonable searches and seizures presents a mixed question of fact and law. *State v. Lee*, 585 N.W.2d 378, 382-83 (Minn. 1998). Resolution of contradictory facts requires the fact-finder to make credibility determinations. *See State v. Landa*, 642 N.W.2d 720, 726 (Minn. 2002) (stating that it is the province of the fact-finder to resolve inconsistent testimony). In this case, the parties submitted the case for both a pre-trial suppression hearing and a stipulated-facts trial under Minn. R. Crim. P. 26.01, subd. 3, which did not provide an opportunity for the fact-finder—here, the district court—to make credibility determinations. Likewise, this court's role on appeal is not to reweigh the evidence or determine the relative weight of the evidence presented. *See State v. Johnson*, 568 N.W.2d 426, 435 (Minn. 1997) (noting that appellate courts do not weigh evidence or assess witness credibility).