STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0190

State of Minnesota,
Respondent,

vs.

Travis Lee Baas,
Appellant.

Filed December 12, 2022
Affirmed
Reyes, Judge

Blue Earth County District Court
File No. 07-CR-20-597

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

Anneliese L. McCahery, Eckberg Lammers, P.C., Stillwater, Minnesota (for respondent)

Thomas K. Hagen, Kohlmeyer Hagen Law Office, Chtd., Mankato, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the district court's admission of evidence obtained from a traffic stop, arguing that the police officer lacked reasonable, articulable suspicion to initiate the stop. We affirm.

FACTS

At around 1:40 a.m. on November 28, 2019, a Blue Earth County deputy was on routine patrol in downtown Mankato. He had patrolled this area regularly in the past seven years and became familiar with the surroundings. The road was icy and slushy after a recent snow, with snow on the sides of the street. Even though there weren't many people on the street, the deputy expected an influx when the bars closed at 2:00 a.m.

The deputy was travelling on or near Front Street when, from a block away, he saw appellant Travis Lee Baas's vehicle accelerate rapidly after stopping at a stop sign. Based on his experience and observation, the deputy believed that appellant was speeding. The deputy turned onto Front Street in the direction that appellant was headed while appellant travelled parallel to him on Second Street. Based on the time in which it took for appellant to reach the intersections ahead of them, the deputy believed that appellant was travelling faster than normal traffic in this area and too fast for the road conditions. While catching up to appellant's vehicle, the deputy travelled at a speed up to 54 miles per hour. This area has a speed limit of 30 miles per hour.

Once caught up to appellant, the deputy initiated a traffic stop. Appellant provided his driver's license and told the deputy that he had recently left work and had consumed a few alcoholic beverages. During his interaction with appellant, the deputy noticed a moderate odor of alcohol from appellant's person and saw that appellant had watery and bloodshot eyes. The deputy suspected that appellant was intoxicated and expanded the traffic stop into a DWI investigation. Appellant performed field sobriety tests and took a preliminary breath test that showed an alcohol concentration of 0.148. The deputy arrested

appellant and transported him to the Blue Earth County Justice Center. A subsequent urine test indicated an alcohol concentration of 0.114.

Respondent State of Minnesota charged appellant with two counts of fourth-degree DWI, Minn. Stat. § 169A.27, subd. (2) (2018). At a pretrial evidentiary hearing, appellant moved to dismiss the criminal complaint, arguing that reasonable, articulable suspicion did not support the traffic stop. The district court upheld the constitutionality of the traffic stop and denied the motion to dismiss the complaint. Following a court trial, the district court convicted appellant of fourth-degree DWI—operating a motor vehicle under the influence of alcohol. This appeal follows.

DECISION

Appellant argues that the deputy failed to provide objective, particularized facts to support his belief that appellant drove above a reasonable speed so as to have authorized a traffic stop. We disagree.

The United States and Minnesota Constitutions protect persons against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may conduct a "brief, investigatory stop of a motor vehicle when the officer has a reasonable, articulable suspicion that criminal activity is afoot." *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021) (quotation omitted). The reasonable-suspicion standard is "not high." *State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011). It "requires more than a mere hunch but is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause." *Taylor*, 965 N.W.2d

at 752. We review a district court's determination of reasonable suspicion de novo. *State v. Smith*, 814 N.W.2d 346, 350 (Minn. 2012).

Courts examine the totality of the circumstances from the perspective of a trained police officer to determine whether reasonable, articulable suspicion exists for the stop of an automobile. *State v. Poehler*, 935 N.W.2d 729, 733 (Minn. 2019). "When an officer observes a violation of the traffic laws, there is reasonable suspicion to stop the vehicle." *Id.*; *see State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004).

Failure to drive with due care and driving above posted speed limits are both violations of traffic laws. Minn. Stat. § 169.14 subds. 1, 2 (2018). Subdivision 1 of the statute provides that "[n]o person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions." Minn. Stat. § 169.14 subd.1. In other words, an individual may violate subdivision 1 without exceeding any posted or statutory speed limit. *See id.* Recently, we interpreted section 169.14 in a nonprecedential opinion in *State v. Konjaric*, No. A18-0724 2019, WL 1320600, at *2 (Minn. App. Mar. 25, 2019), and concluded that the standard for subdivision 1 is that of a reasonable and prudent person, "given the driving conditions and hazards." Although *Konjari* is not precedential, we find its reasoning persuasive and adopt it here. Whereas subdivision 1 focuses on the reasonableness of the speed, subdivision 2 makes driving above speed limits prima facie evidence that the speed is unreasonable. *Id.*; see *also Hatley v. Klingsheim*, 53 N.W.2d 123, 127 (Minn. 1952) (holding that driving at a speed of 60 miles per hour may be negligent if special weather or hazards exists, despite it being within the statutory speed limit).

Appellant claims it was impossible for the deputy to estimate accurately the speed at which appellant was driving, because the streets were dark, there were houses obstructing the view, and the deputy initially only observed appellant's vehicle from a block away. Appellant further notes that the deputy did not use markers, radar, or the pacing method to estimate appellant's speed. Lastly, appellant questions the reliability of the speed estimation because the deputy testified that he believed it should take about a minute to drive the one-half mile to where he stopped appellant, yet his squad video showed that it took him about one minute and twenty seconds.

Appellant conflates the burden of proof required for a traffic stop with the burden required for a speeding conviction. The reasonable-suspicion standard required for a traffic stop is "not high" and "less demanding than probable cause or a preponderance of evidence." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotations omitted). A traffic stop meets the standard when an "officer observes unusual conduct that leads the officer to reasonably conclude in light of his or her experience that criminal activity may be afoot." *Id.* (quotation omitted). In contrast, to sustain a conviction for speeding, the evidence must be proved beyond a reasonable doubt. *State v. Ali*, 679 N.W.2d 359, 364 (Minn. App. 2004).

Appellant relies heavily on *State v. Frandsen*, 391 N.W.2d 59 (Minn. App. 1986), and *Ali*, 679 N.W.2d. Neither case controls here. Unlike appellant, the defendants in both of those cases were stopped and charged for driving above the speed limit. *Frandsen*, 391 N.W.2d; *Ali*, 679 N.W.2d. Both cases dealt with the sufficiency of evidence for speeding convictions, which requires proof beyond a reasonable doubt. *Frandsen*, 391 N.W.2d at

62; *Ali*, 679 N.W.2d at 364. The issue here, however, is whether the deputy had reasonable, articulable suspicion to support a traffic stop. *Taylor*, 965 N.W.2d at 752.

At trial, the deputy testified that he had training in enforcing DWI laws and in estimating the speed of the vehicles, with a margin of error of two to three miles per hour. The record shows that the deputy witnessed appellant accelerate rapidly after a stop sign. The road was icy and slushy, with snow on the side. While the streets were not busy at the time, the nearby bars were closing soon, and there would be an influx of possibly impaired people. The deputy tried to catch up with appellant by first travelling parallel to the vehicle before entering the same street. The deputy observed that appellant drove faster than normal traffic in the area, and the pursuit lasted approximately 80 seconds. When attempting to reach appellant's vehicle, the deputy accelerated up to 54 miles per hour in an area that has a speed limit of 30 miles per hour.

Based on the road conditions, the time of day, and the deputy's first-hand observations, we conclude that the deputy had reasonable, articulable suspicion that appellant violated Minnesota Statute § 169.14, subdivision 1, for failing to drive with due care, and subdivision 2 for driving above the posted speed limit.

Affirmed.