STATE OF MINNESOTA
IN COURT OF APPEALS
A10-816

State of Minnesota,
Respondent,

vs.

Dean Aaron Anderson,
Appellant.

Filed June 13, 2011
Affirmed
Stauber, Judge

Hennepin County District Court
File No. 27CR0963166

Roger J. Fellows, Brooklyn Park City Attorney, Brooklyn Park, Minnesota (for respondent)

Dean Aaron Anderson, Roseville, Minnesota (pro se appellant)

Considered and decided by Ross, Presiding Judge; Stauber, Judge; and Muehlberg, Judge.*

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

STAUBER, Judge

On appeal from his petty misdemeanor conviction of impeding traffic, pro se appellant argues that (1) he was denied his right to a fair trial when the district court did

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

not ask him for his opening statement and limited his closing argument; (2) there was insufficient evidence to support his conviction of impeding traffic; (3) the district court abused its discretion by excluding testimony regarding the "click-it-or-ticket" program; and (4) the officer's stop of his vehicle was not supported by reasonable articulable suspicion. We affirm.

FACTS

On December 8, 2009, appellant Dean Anderson was issued a citation for impeding traffic in violation of Minn. Stat. § 169.15 (2008). Appellant pleaded not guilty, and the case proceeded to a court trial. At trial, Officer Craig Schmidtke testified that as he was traveling southbound on Lakeland Avenue, a four-lane road with two lanes in each direction, he came upon a minivan driven by appellant traveling slowly in the left southbound lane. Officer Schmidtke testified that when he attempted to pass the minivan in the right southbound lane, the "van moved over the center line and blocked my path of travel." Officer Schmidtke then "backed off" and moved into the left lane behind the van to further observe the driver's behavior. Appellant subsequently stopped the van in the middle of the road, prompting Officer Schmidtke to stop his squad car behind appellant. According to Officer Schmidtke, there were no obstructions in the roadway and no safety concerns that would have required the van to stop. Officer Schmidtke further testified that although there was "a light coating [of snow] on the streets in the area," the "road surfaces weren't bad."

Following trial, the district court made findings on the record and found appellant guilty of the cited offense. The court then imposed the mandatory minimum fine for the offense. This appeal followed.

D E C I S I O N

I.

Appellant argues that his due-process right to a fair trial was violated because the district court (1) did not ask appellant for his opening statement and (2) limited his closing argument. The Fourteenth Amendment to the United States Constitution and Article I, Section 7 of the Minnesota Constitution both guarantee a criminal defendant "due process," which includes the right to a fair trial and the right to present witnesses in one's defense. *State v. Reardon*, 245 Minn. 509, 513–14, 73 N.W.2d 192, 195 (1955); *State v. Carroll*, 639 N.W.2d 623, 627 (Minn. App. 2002), *review denied* (Minn. May 15, 2002). The constitutional guarantee of a fair trial does not, however, mandate a trial which is perfect in every detail. *State v. Billington*, 241 Minn. 418, 427, 63 N.W.2d 387, 392–93 (1954). This court reviews the district court's handling of matters of trial procedure for an abuse of discretion. *See Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45–46 (Minn. 1997).

At the beginning of appellant's trial, the district court made the following statement directed at the prosecutor: "I think we can waive opening statement unless there's something that you want to say." The prosecutor responded that she did not have an opening statement. The trial then proceeded without any objection or further discussion of opening statements.

Appellant appears to argue that the district court's failure to ask him for his opening statement was an abuse of discretion. But appellant never requested the opportunity to give an opening statement nor did he object to the court's failure to ask him if he wanted to give an opening statement. By not raising the issue below, appellant has waived the issue. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that an appellate court generally will not consider an issue not raised before the district court). Moreover, the record reflects that appellant was permitted to argue his theory of the case, cross-examine the state's only witness, present his own testimony, and present a closing argument. Therefore, appellant is unable to establish that the district court's failure to ask appellant for his opening statement denied him his right to a fair trial.

Appellant also contends that his right to a fair trial was violated when the district court did not allow him to give his entire closing argument. We disagree. The district court is authorized and directed to exercise control over trials in order to, among other things, "avoid needless consumption of time." Minn. R. Evid. 611(a). Here, the record reflects that appellant was provided ample time to give his closing argument, most of which consisted of rambling and the discussion of irrelevant issues. The closing argument was preceded by appellant's extensive testimony. Consequently, the record reflects that appellant was provided the opportunity to present a complete defense, and he was not denied his due-process right to a fair trial.

II.

This court reviews a claim of insufficiency of evidence through "a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit" the district court to reach the verdict that it reached. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The district court's factual findings are reviewed under the clearly-erroneous standard, but the district court's legal determinations are reviewed de novo. *See State v. Wiernasz*, 584 N.W.2d 1, 3 (Minn. 1998). The reviewing court assumes that the district court believed the state's witnesses and disbelieved any evidence to the contrary. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

Appellant was found guilty of impeding traffic in violation of Minn. Stat. § 169.15. This statute provides:

> No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or except when the vehicle is temporarily unable to maintain a greater speed due to a combination of the weight of the vehicle and the grade of the highway.

Minn. Stat. § 169.15.

Appellant argues that the evidence is insufficient to convict him of impeding traffic because the snowy weather and slippery driving conditions mandated that he reduce his speed and drive according to the conditions. We disagree. Although the record reflects that light snow was falling and there was a light coating of snow on the streets, Officer Schmidtke testified that the "road surfaces weren't bad." A review of the

officer's dashboard camera, as well as the photographs submitted by appellant, supports Officer Schmidtke's testimony. More importantly, appellant was not cited for driving too slowly. The cited behavior consisted of appellant stopping in the middle of his lane when there were no conditions or obstructions that mandated the stop. Appellant's conduct of completely stopping in his lane was the impediment of the normal and reasonable movement of traffic. Accordingly, there was sufficient evidence to support appellant's conviction of impeding traffic in violation of section 169.15.

III.

"Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed absent a clear abuse of discretion. On appeal, the appellant has the burden of establishing that the [district] court abused its discretion and that appellant was thereby prejudiced." *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (citation omitted).

At trial, appellant attempted to inquire of Officer Schmidtke whether he was familiar with the "statewide click-it-or-ticket" program. The state objected on the grounds of relevance and the district court sustained the objection. Appellant argues that the court's ruling was an abuse of discretion because the question goes to the officer's "frame of mind."

Generally, evidence is admissible only if it is relevant. Minn. R. Evid. 402. Evidence is relevant when it logically tends to prove or disprove a material fact. *State v. Lee*, 282 N.W.2d 896, 901 (Minn. 1979). Here, appellant was charged with impeding traffic. The offense had nothing to do with whether appellant was wearing his seatbelt.

Moreover, appellant fails to articulate how the "click-it-or-ticket" program has any relevance to the offense of which appellant was charged. And, despite the lack of relevance, the record indicates that the "click-it-or-ticket" program was discussed on the record before the district court sustained the state's objection. Therefore, appellant is unable to establish that he is entitled to a new trial.

IV.

To lawfully seize a person temporarily to investigate a crime, an officer must have a reasonable, articulable suspicion that the person was or will be engaged in criminal activity. *Terry v. Ohio*, 392 U.S. 1, 21–22, 88 S. Ct. 1868, 1880 (1968); *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). To justify an investigative stop, a police officer "must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry*, 392 U.S. at 21, 88 S. Ct. at 1880. This court must analyze the totality of the circumstances to determine whether the officer who made the stop is able to articulate a particularized and objective basis for suspecting the stopped person of criminal activity. *State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983). In applying the *Terry* standard, "Minnesota case law shows how very low the threshold is to stop a vehicle in order to carry out the duty to investigate possible violations of the law." *State v. Claussen*, 353 N.W.2d 688, 690 (Minn. App. 1984). "All that is required is that the stop be not the product of mere whim, caprice, or idle curiosity." *State v. Johnson*, 257 N.W.2d 308, 309 (Minn. 1977) (quotation omitted).

Throughout his brief, appellant appears to challenge the validity of the stop. But this issue was not raised below and, therefore, appellant has waived the issue. *See Roby*,

547 N.W.2d at 357. Moreover, there is no merit to the argument that the officer's stop was invalid. The record reflects that as the officer attempted to pass appellant in the right lane, appellant's vehicle began to cross into the right lane. The record also reflects that after Officer Schmidtke pulled into the left lane behind appellant's vehicle, appellant stopped his vehicle in the middle of the left lane. As addressed above, appellant's conduct constituted impeding traffic in violation of Minn. Stat. § 169.15, thereby providing the officer with a legitimate basis to stop appellant's vehicle.

Affirmed.