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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1026**

State of Minnesota,
Respondent,

vs.

Eric Jerome Arechiga,
Appellant.

**Filed May 28, 2013
Affirmed
Willis, Judge***

Anoka County District Court
File No. 02-CR-11-6284

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

David Brodie, Coon Rapids City Attorney, Douglas L. Johnson, Assistant City Attorney,
Coon Rapids, Minnesota (for respondent)

John Arechigo, Arechigo & Stokka, LLP, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Presiding Judge; Hooten, Judge; and Willis,
Judge.

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

UNPUBLISHED OPINION

WILLIS, Judge

On appeal from his conviction of third-degree driving while impaired, appellant challenges the district court's denial of his suppression motion, arguing that the police officer lacked reasonable, articulable suspicion to support the stop of his car. We affirm.

FACTS

At approximately 5:40 a.m. on August 7, 2011, a Coon Rapids police officer was patrolling near Northdale Boulevard and Wren Street in Coon Rapids when she saw a car travelling without its headlights on. After following the car a short distance, she made a traffic stop, which resulted in the driver of the car, appellant Eric Arechiga, being charged with third-degree driving while impaired (DWI). Arechiga moved to suppress the evidence against him on the ground that the officer lacked reasonable, articulable suspicion to justify the stop.

At the hearing on the suppression motion, the officer and Arechiga offered conflicting testimony. The officer testified that she was stopped at a stop sign at Wren Street and 115th Avenue when she first saw Arechiga's car, which, she testified, was west of her location and was travelling eastbound on 115th Avenue without its headlights on. Arechiga testified that he was never west of Wren Street on 115th Avenue that morning and that his headlights were on. It was undisputed that the officer followed Arechiga's car as it travelled eastbound on 115th Avenue and south on Swallow Street before she activated the squad car's emergency lights and stopped the car. The video recording system in the officer's squad car began recording 30 seconds before the officer

activated the squad car's emergency lights; the recording shows that the headlights on Arechiga's car were on. The officer said that at some point as she followed the car, the headlights came on.

The district court denied Arechiga's suppression motion, and Arechiga stipulated to the prosecution's case to obtain review of the pretrial ruling, and the parties submitted the case to the district court under Minn. R. Crim. P. 26.01, subd. 4. The district court found Arechiga guilty of DWI. Arechiga argues on appeal that the district court erred by concluding that the officer had a reasonable, articulable suspicion to justify stopping the car.

D E C I S I O N

When reviewing a pretrial order on a motion to suppress evidence, we review the district court's legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). The issue of whether an investigatory stop is supported by reasonable suspicion is a legal determination. *See State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000) (stating that questions of reasonable suspicion are reviewed de novo).

When facts are disputed at a pretrial hearing on a suppression motion, "acceptance or rejection of oral testimony, either in whole or in part, based on the trier of fact's assessment of credibility, is reserved for the trier of fact, and an appellate court will not normally interfere." *State v. Berger*, 412 N.W.2d 16, 19 (Minn. App. 1987) (quotation omitted). At such a hearing, the district court functions as the finder of facts, "deciding for purposes of admissibility which evidence to believe and whether the state has met its burden of proof." *State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983) (quotation omitted).

We review the district court’s factual findings under a clearly erroneous standard.” *Gauster*, 752 N.W.2d at 502. A finding of fact is clearly erroneous if, after reviewing the record, this court “reaches the firm conviction that a mistake was made.” *Kvam*, 336 N.W.2d at 529. The credibility of witnesses is a question for the finder of fact, to whose determinations we show great deference. *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn.1992), *aff’d*, 508 U.S. 366, 113 S. Ct. 2130 (1993).

The Fourth Amendment to the United States Constitution governs investigative stops. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). Police officers are permitted to “conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *State v. Timberlake*, 744, N.W.2d 390, 393 (Minn. 2008) (quotation omitted). “Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle.” *George*, 557 N.W.2d at 578. It is undisputed that if the officer saw Arechiga’s car being operated with its headlights off, there was a violation of the law sufficient to justify the stop. *See* Minn. Stat. § 169.48, subd. 1(a)(1) (2012) (providing that vehicle lights must be displayed from sunset to sunrise).

The district court generally found both the officer and Arechiga “somewhat credible” but could not completely reconcile their testimony. Arechiga argues that because he testified that he turned onto eastbound 115th Avenue from Wren Street, the officer could not have seen his car travelling east on 115th Avenue west of that intersection with its headlights off. Arechiga contends, therefore, that the district court should have found his testimony more credible than the officer’s, and because it did not,

he invites this court to make that determination on appeal. But on appellate review, we give great deference to the district court's credibility determinations. *Dickerson*, 481 N.W.2d at 843. Here, the district court specifically credited the officer's testimony that she saw Arechiga's car travelling with its headlights off and did not lose sight of the car between the time that she made this observation and the time that she made the stop. Nothing in the record suggests that the district court's decision to credit this testimony was clearly erroneous.

Because the officer had a reasonable, articulable suspicion to justify stopping Arechiga's car, the district court did not err by denying Arechiga's suppression motion.

Affirmed.