STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1357

State of Minnesota,
Respondent,

vs.

Ashley Kay Holdgrafer,
Appellant.

Filed June 24, 2013
Affirmed
Johnson, Chief Judge

Blue Earth County District Court
File No. 07-CR-11-4499

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

Eileen Wells, Mankato City Attorney, Linda B. Hilligoss, Assistant City Attorney, Mankato, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Stephen L. Smith, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Kirk, Presiding Judge; Johnson, Chief Judge; and Stoneburner, Judge.

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

JOHNSON, Chief Judge

Ashley Kay Holdgrafer was convicted of driving while impaired. On appeal, she challenges the reasonableness of the stop of her vehicle. We conclude that the investigating officer had reasonable suspicion to stop Holdgrafer's vehicle and, thus, affirm.

FACTS

In the early morning hours of Sunday, October 30, 2011, Officer Dale Stoltman was on patrol in the city of Mankato. At approximately 2:30 a.m., he approached an intersection behind a vehicle that remained stopped after the stoplight had turned green. The officer saw several persons exit the vehicle. The officer later testified that they "kind of rotated around the vehicle and got in -- what's commonly referred to as a Chinese fire drill." One of the persons who exited the vehicle "took off running" after seeing Officer Stoltman. The other persons re-entered the vehicle, which then proceeded to travel forward through the intersection.

After the vehicle drove through the intersection, Officer Stoltman activated his emergency lights and pulled the vehicle over to the side and spoke with the driver, Holdgrafer. The parties stipulated that Officer Stoltman observed indicia of consumption, including "moderate odor of alcohol, watery/glassy eyes and unsteady gait." Officer Stoltman administered a field-sobriety test, which further indicated that Holdgrafer was under the influence of alcohol. A preliminary breath test indicated an alcohol concentration of .133. Holdgrafer admitted to Officer Stoltman that she had been

drinking alcoholic beverages at a Halloween party. Officer Stoltman arrested Holdgrafer for driving while impaired. Holdgrafer consented to a blood test, which revealed an alcohol concentration of .11.

In December 2011, the state charged Holdgrafer with two counts of fourth-degree driving while impaired, in violation of Minn. Stat. § 169A.20, subds. 1(1), 1(5) (2010). In March 2012, Holdgrafer moved to suppress all evidence arising from Officer Stoltman's stop of her vehicle. The district court held an evidentiary hearing in May 2012, at which it denied the motion on the ground that Officer Stoltman had reasonable suspicion to stop the vehicle.

In July 2012, the case was tried to the court on stipulated facts pursuant to Minn. R. Crim. P. 26.01, subd. 4. The district court found Holdgrafer guilty on both counts. The district court imposed a stayed sentence of 30 days in jail. Holdgrafer appeals.

D E C I S I O N

Holdgrafer argues that the district court erred by denying her motion to suppress. She contends that Officer Stoltman did not have reasonable suspicion to stop her vehicle. When reviewing a district court's order on a motion to suppress evidence, we apply a clearly erroneous standard of review to factual findings and a *de novo* standard of review to issues of law. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

The Fourth Amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV; *see also* Minn. Const. art. I, § 10. The

Fourth Amendment also protects the right of the people to be secure in their motor vehicles. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000).

As a general rule, a law enforcement officer may not seize and search a person or a person's vehicle without probable cause. *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). A law enforcement officer may, however, "consistent with the Fourth Amendment, conduct a brief, investigatory stop" of a motor vehicle if "the officer has a reasonable, articulable suspicion that criminal activity is afoot." *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675 (2000) (citing *Terry v. Ohio*, 392 U.S. 1, 30, 88 S. Ct. 1868, 1884 (1968))). A reasonable, articulable suspicion exists if, "in justifying the particular intrusion the police officer [is] 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. The reasonable-suspicion standard is not high, but the suspicion must be more than an "inchoate and unparticularized suspicion," *Timberlake*, 744 N.W.2d at 393 (quotation omitted), and "something more than an unarticulated hunch," *State v. Davis*, 732 N.W.2d 173, 182 (Minn. 2007) (quotation omitted). Rather, "the officer must be able to point to something that objectively supports the suspicion at issue." *Id.*; *see also Terry*, 392 U.S. at 21, 88 S. Ct. at 1880. The reasonable-suspicion assessment should be based on the totality of the circumstances, which generally includes "the officer's general knowledge and experience, the officer's personal observations, information the officer has received from other sources, the nature of the offense suspected, the time, the location, and anything else that is relevant." *Appelgate v.*

Comm'r of Pub. Safety, 402 N.W.2d 106, 108 (Minn. 1987). "Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle." *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997).

In this case, Officer Stoltman testified that he stopped Holdgrafer's vehicle because it was impeding traffic in violation of section 169.15 of the Minnesota Statutes. That statute provides that a person may not "drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic." Minn. Stat. § 169.15, subd. 1 (2010). Officer Stoltman testified that he was unable to drive through the intersection for approximately 15 to 20 seconds after the stoplight turned green because Holdgrafer's vehicle was stopped in front of his vehicle in a lane of traffic. This information is sufficient to provide Officer Stoltman with a reasonable suspicion that Holdgrafer had violated a traffic law.

Holdgrafer contends that Officer Stoltman did not have reasonable suspicion because his written report failed to indicate whether he was unable to go around the vehicle or whether he attempted to alert Holdgrafer to the fact that she was impeding traffic by honking his horn. Holdgrafer provides no authority for the proposition that she would not be in violation of section 169.15 in either situation. The language of the statute does not contain an exception for the situation in which another motorist is able to drive around an impeding vehicle, and the statute does not require an officer or any other motorist to alert the driver that she is impeding traffic. *See* Minn. Stat. § 169.15 (2010).

Holdgrafer also contends that Officer Stoltman did not have reasonable suspicion because he failed to stop Holdgrafer's vehicle immediately. At the pre-trial hearing,

Officer Stoltman testified that when Holdgrafer's vehicle began to proceed through the intersection, "at that point in time, that's when I activated my overhead emergency lights and I stopped the car." The district court made a finding that "Stoltman followed the vehicle for a very short distance before stopping the vehicle." Holdgrafer contends that Officer Stoltman's delay in stopping her vehicle "is telling because it illustrates Stoltman's awareness that [Holdgrafer's] stunt, as imprudent as it may have been, did not justify stopping her vehicle." Holdgrafer's contention is flawed because the district court's finding does not reflect a delay; the district court found that Officer Stoltman followed Holdgrafer for only "a very short distance," which may refer only to the distance traveled by Holdgrafer after Officer Stoltman activated his emergency lights and before Holdgrafer actually stopped. There is no finding and no evidence that Officer Stoltman followed Holdgrafer's vehicle for any significant distance or length of time before stopping the vehicle. Furthermore, even if those facts had been established, Holdgrafer has provided no authority for the proposition that the delay would defeat the officer's reasonable suspicion to stop the vehicle.

In sum, given the totality of the circumstances, Officer Stoltman had reasonable suspicion to stop Holdgrafer's vehicle after he observed her and her companions impeding traffic at 2:30 in the morning on a Halloween weekend. Thus, the district court did not err by denying Holdgrafer's motion to suppress.

Affirmed.