

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0855-20**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

RICHARD LOTT,

Defendant-Appellant.

Submitted March 30, 2022 – Decided June 9, 2022

Before Judges Gilson and Gummer.

On appeal from the Superior Court of New Jersey, Law Division, Ocean County, Municipal Appeal No. 19-09.

The O'Mara Law Firm, attorneys for appellant (Peter M. O'Mara, on the brief).

Bradley D. Billhimer, Ocean County Prosecutor, attorney for respondent (Samuel Marzarella, Chief Appellate Attorney, of counsel; Dina R. Khajezadeh, Assistant Prosecutor, on the brief).

PER CURIAM

A police officer stopped a motor vehicle defendant Richard Lott was driving because the vehicle had a cracked and partially-missing lens cover over a rear taillight. Thereafter, the officer discovered that defendant was driving while intoxicated.

Defendant appeals from an order denying his motion to suppress evidence obtained after his vehicle was stopped. He argues that the officer did not have a reasonable suspicion that he was violating N.J.S.A. 39:3-66, which requires all lights to be kept in good working order, because the light was illuminating, and it was erroneous for the officer to believe that the cracked and partially missing cover was a motor-vehicle violation. We reject defendant's interpretation of N.J.S.A. 39:3-66, hold that the stop was lawful, and affirm the order denying his motion to suppress. Consequently, defendant's conditional plea of guilty to driving while intoxicated (DWI), N.J.S.A. 39:4-50, remains in place and the resulting penalties are to be enforced.

I.

The material facts are not in dispute. Around midnight on September 27, 2018, Police Officer Robert Walder was on patrol when he observed a vehicle with a cracked driver's side taillight. Walder testified that the taillight should have been red but instead was emitting "a bright white light . . . indicating that

a piece of [the] red lens was missing." The officer explained that the white light "could be confused with either a headlight or a reverse light. It was also bright which could cause vision problems to the car behind it." Walder believed that the vehicle was being driven in violation of N.J.S.A. 39:3-66, which requires that all lights on a motor vehicle be kept "in good working order[.]" Accordingly, Walder stopped the vehicle.

Officer Walder discovered that defendant, who was driving the vehicle, was under the influence of alcohol. Accordingly, defendant was charged with DWI. Defendant was also given summonses for failing to maintain required motor-vehicle lamps in violation of N.J.S.A. 39:3-66 and reckless driving in violation of N.J.S.A. 39:4-96.

Defendant moved to suppress the evidence discovered after the stop. At the evidentiary hearing, which was conducted in municipal court, one witness testified: Officer Walder. The only evidence offered by defendant was a photograph of the cracked taillight. The municipal court denied the motion to suppress.

Thereafter, defendant entered a conditional guilty plea, admitting he had been driving while under the influence of alcohol. The two charges of traffic violations were dismissed. Because it was defendant's second DWI conviction,

his sentence included a two-year loss of his driver's license and a requirement that an ignition-interlock device be installed in his vehicle for three years.

Defendant appealed to the Law Division. The Law Division conducted a de novo review and denied the motion to suppress. The Law Division then imposed the same sentence given by the municipal court but stayed that sentence pending defendant's appeal to us.

II.

In this appeal, defendant argues:

THE STOP OF [DEFENDANT'S] VEHICLE WAS UNLAWFUL, AND VIOLATIVE OF THE FOURTH AMENDMENT, BECAUSE THERE WAS NO PROBABLE CAUSE TO EFFECT A MOTOR VEHICLE STOP.

When a law enforcement officer stops a motor vehicle, the stop is a seizure that must comply with the constitutional protections afforded by the federal and New Jersey Constitutions. State v. Atwood, 232 N.J. 433, 444 (2018); State v. Sloane, 193 N.J. 423, 430 (2008). "Under both the Fourth Amendment [of the United States Constitution] and Article I, Paragraph 7 [of the New Jersey Constitution], ordinarily, a police officer must have a reasonable and articulable suspicion that the driver of a vehicle, or its occupants, is committing a motor-vehicle violation or a criminal or disorderly persons offense to justify a stop."

State v. Scriven, 226 N.J. 20, 33-34 (2016); see also State v. Locurto, 157 N.J. 463, 470 (1999). "The State bears the burden of proving that an investigatory stop is valid." Atwood, 232 N.J. at 444 (citing State v. Maryland, 167 N.J. 471, 489 (2001)).

The question on this appeal involves the application of undisputed facts to a statute: N.J.S.A. 39:3-66. When applying law to undisputed facts, we engage in a plenary review. State v. Stoveken, 464 N.J. Super. 86, 97 (App. Div. 2020).

Our review is guided by well-established principles of statutory interpretation. L.R. v. Camden City Pub. Sch. Dist., 452 N.J. Super. 56, 81 (App. Div. 2017). When interpreting a statute, courts look to its actual language and give words their generally accepted meaning. Rivera v. Union Cnty. Prosecutor's Off., 250 N.J. 124, 141 (2022) (citing DiProspero v. Penn, 183 N.J. 477, 492-93 (2005); N.J.S.A. 1:1-1). "In most situations, if the law is clear, our analysis is complete." Ibid.

N.J.S.A. 39:3-66 states:

All lamps, reflectors and other illuminating devices required by this article shall be kept clean and in good working order and, as far as practicable, shall be mounted in such a manner as to reduce the likelihood of their being obscured by mud or dust thrown up by the wheels.

N.J.S.A. 39:3-61(a) sets forth the types of "lamps and reflectors" required on certain motor vehicles. That statutory provision provides, in relevant part, that on the rear of a motor vehicle there shall be "two tail lamps, two or more stop lamps, as prescribed by [N.J.S.A. 39:3-66.3], two turn signals, and two reflectors, one of each at each side." See N.J.S.A. 39:3-61(a). The required colors of the lights on the rear of a vehicle are set forth in N.J.S.A. 39:3-50(a). That statutory provision states that the rear lamps or reflectors on a vehicle "shall be" red. See N.J.S.A. 39:3-50(a).

Defendant argues that a cracked and partially-missing cover to a taillight is not a violation of N.J.S.A. 39:3-66. He contends that because the light was working and emitting a light, it was in good working order within the meaning of N.J.S.A. 39:3-66.

In making this argument, defendant relies on State v. Sutherland, 231 N.J. 429 (2018). In Sutherland, the New Jersey Supreme Court held that a police officer did not have a reasonable suspicion to stop a motor vehicle when the vehicle had the required number of working rear lights, but an extra light was not working. 231 N.J. at 431. The vehicle involved in the Sutherland case had four taillights, two on each side. One of the taillights on the rear passenger side was not working. A police officer stopped Sutherland's vehicle believing that it

was in violation of two motor-vehicle statutes: N.J.S.A. 39:3-61(a) and N.J.S.A. 39:3-66.

Following the stop, Sutherland was found to be driving while his driver's license was suspended for a DWI conviction. Id. at 433. He was charged with fourth-degree operating a motor vehicle during a period of license suspension in violation of N.J.S.A. 2C:40-26. Ibid. The defendant moved to suppress the evidence discovered after the traffic stop, arguing that the stop was unconstitutional. Our Supreme Court held that the two motor-vehicle provisions, when read together, require that a motor vehicle have only two working rear lamps, with at least one working lamp on each side. Id. at 444. The Court went on to hold that "if a vehicle has two taillights on each side of the vehicle—more than the law requires—and one of those multiple taillights on one side is not working, a violation of N.J.S.A. 39:3-61(a) and -66, as was assumed and charged here, has not occurred." Ibid. The Court also found that "the officer's erroneous application of the functioning taillight requirement was not an objectively reasonable mistake of law." Id. at 445. The Court explained that the facts in Sutherland did not require it to consider whether a reasonable mistake of law on the part of a police officer will make a search constitutional. Ibid.; see also Heien v. North Carolina, 574 U.S. 54, 57 (2014).

The facts and holding in Sutherland are distinguishable from this case and do not control the outcome. Unlike in Sutherland, defendant's vehicle did not have a working rear driver's side taillight. Instead, the taillight on defendant's car had a cracked and broken lens cover, and the light that was being emitted was bright white. Officer Walder testified, without rebuttal, that the white light could be confused with either a headlight or a reverse light and could cause vision problems to a driver of a car behind defendant's vehicle.

Officer Walder's testimony supports a reasonable suspicion that the rear taillight on defendant's vehicle was not in good working order as required by N.J.S.A. 39:3-66. Contrary to the plain language of N.J.S.A. 39:3-66, the taillight on defendant's car was not in good working order because the lens over that light was cracked and a portion of the lens was missing. The taillight, therefore, was not emitting a red light; rather, it was emitting a bright white light.

Accordingly, we hold that Officer Walder had a reasonable suspicion to conduct an investigatory motor-vehicle stop of defendant's car. Given that holding, we need not address whether Officer Walder acted with an objectively reasonable mistaken view of the law. See Sutherland, 231 N.J. at 445.

Having affirmed the Law Division order denying defendant's motion to suppress, defendant's conditional guilty plea is upheld. The stay of his sentencing pending this appeal is vacated. The matter is remanded so that the sentence can take effect.

Affirmed and remanded. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION