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NO. COA09-1147

NORTH CAROLINA COURT OF APPEALS

Filed: 3 August 2010

STATE OF NORTH CAROLINA

v.

Rutherford County  
No. 08 CRS 701032

KENNETH RENE RATLIFF

Appeal by defendant from judgment entered 1 May 2009 by Judge James L. Baker in Rutherford County Superior Court. Heard in the Court of Appeals 10 March 2010.

*Attorney General Roy Cooper, by Assistant Attorney General Robert D. Croom, for the State.*

*J. Edward Yeager, Jr., for defendant-appellant.*

STEELMAN, Judge.

Where the State presented evidence that defendant failed to stop at a duly erected stop sign, the officer had a reasonable suspicion to initiate an investigatory stop. The trial court did not err in denying defendant's motion to suppress.

I. Factual and Procedural Background

On 24 April 2008, North Carolina State Highway Patrol Trooper Martin McSwain (Trooper McSwain) stopped Kenneth Rene Ratliff (defendant) for failing to stop at a duly erected stop sign located at the intersection of Thunder Road and Old Stonecutter Road in Rutherford County. Trooper McSwain ascertained that defendant was

operating a motor vehicle while his driver's license was revoked. Defendant was charged with failing to stop at a stop sign (N.C. Gen. Stat. § 20-158(b)(1)) and driving while license revoked (N.C. Gen. Stat. § 20-28(a)).

In superior court, defendant filed a motion to suppress the stop of his vehicle based upon the officer not having a reasonable suspicion that defendant had committed a traffic offense. Judge Baker denied this motion on 30 April 2009. Prior to the case being presented to the jury, the State dismissed the stop sign violation. On 1 May 2009 a jury found defendant guilty of driving while license revoked. Defendant was sentenced to 120 days in custody of the Department of Corrections. This sentence was suspended and defendant was placed on supervised probation for twenty-four months. The court imposed a term of special probation of 30 days in the common jail of Rutherford County pursuant to N.C. Gen. Stat. § 15A-1351 as an intermediate sanction. Defendant appeals.

## II. Standard of Review

Our review of a trial court's denial of a motion to suppress is limited to whether its findings of fact are supported by competent evidence and whether those findings support its conclusions of law. *State v. Goodman*, 165 N.C. App. 865, 867, 600 S.E.2d 28, 30, *disc. review denied*, 359 N.C. 193, 607 S.E.2d 655 (2004). We review the trial court's conclusions of law *de novo*. *State v. Edwards*, 185 N.C. App. 701, 702, 649 S.E.2d 646, 648, *disc. review denied*, 362 N.C. 89, 656 S.E.2d 281 (2007).

III. Denial of Defendant's Motion to Suppress

On appeal, defendant contends that the trial court erred in denying his motion to suppress the stop of his vehicle by Trooper McSwain. We disagree.

We note that defendant made four assignments of error in this appeal, all related to the denial of his motion to suppress. In his brief, rather than addressing each of the four assignments of error in turn, defendant lumps them together in a single, three-page argument. The gist of defendant's argument is that it was physically impossible, due to the terrain of the area, for Trooper McSwain to have observed whether defendant stopped at the stop sign.

Defendant's argument is that his evidence was more compelling than Trooper McSwain's eyewitness testimony, and that the trial court erred in giving credence to the Trooper's testimony. Applying the above-recited standard of review to the instant case, we find that there was competent evidence to support the trial court's finding that Trooper McSwain observed "the vehicle proceed through a stop sign without stopping on Stonecutter Road." Based on this observation, Trooper McSwain had a reasonable articulable suspicion that defendant violated the motor vehicle laws of this State and was justified in stopping the vehicle operated by defendant. *State v. Styles*, 362 N.C. 412, 414-15, 665 S.E.2d 438, 439-40 (2008).

The trial court's findings of fact are supported by competent evidence. These findings in turn support the trial court's conclusions of law. The denial of defendant's motion to suppress is affirmed.

AFFIRMED.

Judges BRYANT and BEASLEY concur.

Report per Rule 30(e).