IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-119

Filed: 18 September 2018

Wake County, No. 14 CRS 225053

STATE OF NORTH CAROLINA

v.

JAMIE PETER ERIKSEN

Appeal by defendant from order entered 16 December 2016 by Judge Carl Fox and judgment entered on or about 5 July 2017 by Judge Elaine M. O'Neal in Superior Court, Wake County. Heard in the Court of Appeals 27 August 2018.

Attorney General Joshua H. Stein, by Assistant Attorney General T. Hill Davis, III, for the State.

Richard Croutharmel, for defendant-appellant.

STROUD, Judge.

Defendant appeals from a motion to suppress and judgment entered upon his guilty plea to impaired driving. We affirm.

On 24 October 2014, Kevin Merrill, a firefighter at Stony Hill Fire Department, was working at the scene of an automobile accident. Defendant drove toward firefighter Merrill and began asking him questions about the accident. Firefighter

Merrill smelled alcohol so he asked defendant to pull over into a parking lot; defendant complied . Trooper Quentin Stanton of the North Carolina State Highway Patrol was present because of automobile accident, and Merrill waved to him and said, "I need your help. I believe he's extremely drunk[.]" Trooper Stanton drove up behind defendant's car with his blue lights and siren engaged, and defendant drove away and back onto the road. Defendant eventually stopped. Defendant was cited for driving while impaired.

The trial court denied defendant's motion to suppress, and defendant then pled guilty to DWI but reserved his right to appeal the denial of his motion. Defendant appeals.

Defendant's sole argument on appeal is that the trial court erred in denying his motion to suppress, because Trooper Stanton violated his "constitutional rights to be free from an unreasonable seizures when [Stanton] stopped him based on an anonymous tip[.]"

> It is well established that the standard of review to determine whether a trial court properly denied a motion to suppress is whether the trial court's findings of fact are supported by the evidence and whether the findings of fact support the conclusions of law. The trial court's conclusions of law are reviewed de novo and must be legally correct. Additionally, findings of fact to which defendant failed to assign error are binding on appeal.

State v. Williams, 209 N.C. App. 255, 257, 703 S.E.2d 905, 907 (2011) (citations, quotation marks, and brackets omitted).

> [A] traffic stop is permitted if the officer has a reasonable, articulable suspicion that criminal activity is afoot.
>
> Reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence. The standard is satisfied by some minimal level of objective justification. This Court requires that the stop be based on specific and articulable facts, as well as the rational inferences from those facts, as viewed through the eyes of a reasonable, cautious officer, guided by his experience and training.
>
> Moreover, a court must consider the totality of the circumstances—the whole picture in determining whether a reasonable suspicion exists.

State v. Styles, 362 N.C. 412, 414, 665 S.E.2d 438, 439–40 (2008) (citations, quotation marks, and brackets omitted).

Defendant's entire argument is based on the law of anonymous tips as the basis for reasonable suspicion, but these cases do not apply here because "[w]here the informant is known or where the informant relays information to an officer face-to-face, an officer can judge the credibility of the tipster firsthand and thus confirm whether the tip is sufficiently reliable to support reasonable suspicion." *State v. Hudgins*, 195 N.C. App. 430, 434, 672 S.E.2d 717, 719 (2009). As the trial court found, a firefighter working the scene of an accident asked Trooper Stanton to come over because he believed defendant was drunk. A firefighter on duty at an accident scene is not an anonymous bystander but part of his job is ensuring safety of people at or near the accident scene and that often requires working with the law enforcement officers also present. Here, "the informant relay[ed] information to an officer face-

to-face[;]" *id.*, in addition, the informant was a firefighter who specifically asked for Trooper Stanton's help because he believed defendant was drunk. Furthermore, Trooper Stanton approached defendant with his lights and siren engaged, and defendant drove away from him through the accident scene. Trooper Stanton had reasonable suspicion of criminal activity based upon both Merrill's tip and defendant's response to the blue lights and siren. Defendant's argument is entirely without merit.

We affirm the trial court's denial of defendant's motion to suppress.

AFFIRMED.

Judges DIETZ and MURPHY concur.

Report per Rule 30(e).