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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-1119

Filed: 1 October 2019

Cleveland County, No. 17 CRS 53030

STATE OF NORTH CAROLINA

v.

JOYCE RENEE HAMPTON, Defendant.

Appeal by defendant from judgment entered 18 May 2018 by Judge Karen Eady-Williams in Cleveland County Superior Court. Heard in the Court of Appeals 5 June 2019.

Attorney General Joshua H. Stein, by Assistant Attorney General Scott K. Beaver, for the State.

Amanda S. Zimmer for defendant-appellant.

BERGER, Judge.

On May 18, 2018, Joyce Renee Hampton (“Defendant”) pleaded guilty to possession of methamphetamine. Prior to entry of her plea, Defendant filed a motion to suppress evidence that was obtained during a traffic stop. The trial court denied Defendant’s motion to suppress. Defendant appeals, alleging the trial court erred when it (1) made findings of fact that were not supported by competent evidence, (2)

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determined the traffic stop had not been impermissibly prolonged under *Rodriquez v. United States*, 575 U.S. ___, 135 S. Ct. 1609 (2000), and (3) concluded that Defendant's Fourth Amendment rights were not violated when she consented to the search of the vehicle. We affirm the denial of Defendant's motion to suppress.

Factual and Procedural Background

Shortly after 6:00 p.m. on June 9, 2017, Defendant was operating a motor vehicle near the intersection of Deere Drive and New House Road in Cleveland County. Upon observing Defendant's vehicle leave the roadway and cross the center line twice, Deputy Jonathan Spiering ("Deputy Spiering") activated his blue lights and initiated a traffic stop of Defendant's vehicle.

When Deputy Spiering approached the vehicle, Defendant was in the driver's seat. There was no one else in the vehicle. Deputy Spiering noticed a container of alcohol in front of the gear shift. Deputy Spiering advised Defendant that she had been stopped because he had observed her driving left of center. Deputy Spiering requested Defendant's license and registration and asked if she had been drinking. Defendant denied drinking, and Deputy Spiering testified that he did not smell any alcohol on or about Defendant and had no concerns that Defendant was impaired.

Deputy Spiering asked Defendant to exit the vehicle and obtained consent to search her. After finding nothing, Deputy Spiering checked the vehicle's registration,

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VIN, and Defendant's license status. While waiting for the information requests to process, Deputy Joshua Drum ("Deputy Drum") arrived on the scene.

The requested VIN information revealed that the vehicle operated by Defendant did not belong to her but rather to someone with whom she was living with. Deputy Spiering then searched to see if Defendant had outstanding warrants. Deputy Drum approached Defendant and asked for consent to search the vehicle. Defendant would not consent to a search because the vehicle did not belong to her. Deputy Drum returned to Deputy Spiering, and Deputy Spiering gave him a citation book to issue a warning citation to Defendant for the left of center violation.

Deputy Spiering was unable to locate any outstanding warrants against Defendant and ran her criminal history. As Deputy Drum began to write the warning citation, Deputy Spiering prepared his K-9 to conduct an external sniff of the vehicle. Defendant, who had been allowed to retrieve her cell phone, spoke with the owner of the vehicle and gave the deputies consent to search the vehicle. Deputy Spiering did not get the K-9 out of his patrol vehicle. Instead, he put on gloves to begin search of the vehicle. While Deputy Spiering searched the vehicle, Deputy Drum continued to write the warning citation. Deputy Drum testified that it took him three to four minutes to write the citation.

During the search of the vehicle, Deputy Spiering located digital scales in Defendant's purse. The scales contained crystal-like residue. Deputy Spiering then

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placed Defendant under arrest for possession of drug paraphernalia. Upon placing her in his patrol car, Defendant admitted that she had methamphetamine on her person.

After the hearing on Defendant's motion to suppress, the trial court entered a written order with the following findings of fact:

1. That on June 9, 2017, the defendant Joyce Hampton was stopped by Deputy J. Spiering for driving left of center.
2. That Deputy Spiering gained consent from Hampton to search her person after he asked her to get out of the car and she complied with his request.
3. That upon her exit from her vehicle, he performed those safety checks as well as checked up on the vehicle's registration, VIN, and license status of Hampton.
4. That while Deputy Spiering is doing these acts, another officer, Deputy Drum, arrives on the scene.
5. That, upon arriving on scene, Deputy Drum has a brief conversation with Deputy Spiering before making contact with the defendant.
6. That Deputy Drum approached Hampton and had a conversation with her concerning consent to search her vehicle.
7. That after his conversation with Hampton, Deputy Drum returned to Deputy Spiering and spoke to the issues of whether or not there was consent to search the vehicle.
8. That upon Deputy Drum's return to Deputy Spiering, Spiering gives Drum his citation book to give Hampton a warning for her driving left of center.

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9. That as Drum begins to write the warning citation for Hampton, Spiering gets out of his vehicle and prepares to remove his K9 to do a sniff while Drum is writing the warning.

10. That Hampton, who was at this time on her phone at this point with the alleged owner of the vehicle, then gives consent for the vehicle to be searched.

11. That, upon receiving that information, Deputy Spiering then declines to remove his K9 from the vehicle and then begins his search of Hampton's car.

12. That, as Spiering begins to search the vehicle, Drum is writing out the warning citation for Hampton.

13. That in the course of Spiering's search of the vehicle, he located a purse belonging to Hampton that contained digital scales with what appeared to be crystal-like residue on them.

14. That at that point in time, Spiering had probable cause to effectuate the stop and arrest Hampton for possession of drug paraphernalia.

15. At no time prior to the location of the alleged paraphernalia was the defendant placed under arrest.

16. That during the period of the vehicle search, Deputy Drum was writing a warning citation for the left of center violation that was the original basis for the stop.

17. At no time did Deputy Spiering or Deputy Drum prolong the stop involved in this case.

The trial court concluded as a matter of law that Defendant's constitutional rights had not been violated because Defendant consented to the search of the vehicle, and the search was "within the context of the stop and the stop was not extended."

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The trial court also concluded that the discovery of the drug paraphernalia established probable cause. Based upon these findings and conclusions, the trial court denied Defendant's motion to suppress. Defendant appeals, alleging the trial court erred in denying her motion to suppress because (1) findings of fact 16 and 17 concerning law enforcement activity and duration of the stop were not supported by competent evidence, (2) the traffic stop was impermissibly prolonged pursuant to *Rodriquez v. United States*, 575 U.S. ___, 135 S. Ct. 1609 (2000), and (3) Defendant's consent to the search of the vehicle was not voluntary.¹ We disagree.

Standard of Review

Our review of a trial court's denial of a motion to suppress is "strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law." *State v. Cooke*, 306 N.C. 132, 134, 291 S.E.2d 618, 619 (1982). "The trial court's conclusions of law . . . are fully reviewable on appeal." *State v. Hughes*, 353 N.C. 200, 208, 539 S.E.2d 625, 631 (2000).

Analysis

The tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's "mission"—to address the traffic violation that warranted the stop, and attend to related safety concerns. Because addressing the

¹ Defendant does not contest the validity of the initial stop for the left of center violation.

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infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose. Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.

Rodriguez, 575 U.S. at ___, 135 S. Ct. at 1614 (*purgandum*). An “officer may not extend the duration of [the] stop beyond the time necessary to issue the traffic citation unless the officer has reasonable, articulable suspicion of some other crime.” *State v. Downey*, ___ N.C. App. ___, ___, 796 S.E.2d 517, 519 (2017).

The reasonable duration of a traffic stop, however, includes more than just the time needed to write a ticket. Beyond determining whether to issue a traffic ticket, an officer’s mission includes ordinary inquiries incident to the traffic stop. These inquiries include checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.

In addition, an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely.

State v. Bullock, 370 N.C. 256, 257-58, 805 S.E.2d 671, 673 (2017) (*purgandum*), *cert. denied*, 139 S. Ct. 1275 (2019). Inquiries into matters unrelated to the traffic stop are permissible “so long as [the] unrelated inquiries do not *measurably* extend the duration of the stop.” *Id.* at 262, 805 S.E.2d at 676 (*purgandum*).

Defendant contends findings of fact 16 and 17 are not supported by competent evidence, and that the deputies did not have reasonable suspicion to prolong the traffic stop. We disagree.

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Body camera footage from Deputy Drum established that, upon being provided the warning citation book from Deputy Spiering, Deputy Drum immediately began the process of writing the citation. Deputy Drum received the citation book at the 2:56 mark on his body camera recording. Four seconds later, Deputy Spiering gave Defendant's license and registration to Deputy Drum. Deputy Drum placed Defendant's license and registration on the hood of Deputy Spiering's patrol vehicle at the 3:06 mark, and then opened the citation book to find an unused warning citation. He then pulled a pen from his pocket, and began writing the citation at the 3:36 mark. Deputy Spiering can be seen on Deputy Drum's body camera footage putting on gloves to begin his search at the 3:37 mark.

While writing the citation, Deputy Drum had a question about the temporary license plate on Defendant's vehicle and approached Deputy Speiring, who can be seen searching Defendant's vehicle. Deputy Drum's question was related to the license plate information he included on the citation. Deputy Drum's body camera footage confirmed that approximately four minutes elapsed from when Deputy Spiering handed him the citation book until he completed the citation. Deputy Drum then put the citation book back in Deputy Speiring's patrol vehicle, and he began walking towards Defendant's vehicle. At that time, Deputy Drum's body camera footage shows Deputy Spiering searching Defendant's purse.

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Deputy Spiering's body camera footage shows that he began putting on gloves to conduct the search at 13:48,² and he located the digital scales as a result of Defendant's consent to search at the 17:30 mark. Thus, less than four minutes elapsed from the time Deputy Spiering put on his gloves to begin the search until he located the digital scales with the white crystal-like residue. At that point, the mission of the original stop had not concluded, and Deputy Spiering had probable cause to arrest Defendant for possession of drug paraphernalia.

Thus, the trial court's finding of fact 16, that Deputy Drum was writing Defendant a warning citation for the traffic violation while Defendant's vehicle was being searched, is supported by competent evidence. Similarly, finding of fact 17, that neither Deputy Spiering nor Deputy Drum prolonged the stop, was also supported by competent evidence, because the search occurred while the original mission of the stop was ongoing. Accordingly, the trial court's findings of fact are binding for the purpose of our review.

The trial court's findings of fact support the conclusions of law that the stop was not impermissibly prolonged, that the deputies had probable cause to arrest Defendant for possession of drug paraphernalia, and that Defendant's consent to the search of the vehicle occurred in the context of the mission of the original stop. Prior

² The times set forth for Deputy Spiering's body camera footage differ from the times on Deputy Drum's body camera footage because Deputy Drum arrived on scene later. In addition, Deputy Spiering's video includes footage of him driving and initiating the stop of Defendant's vehicle.

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to completing the warning citation, Deputy Spiering located drug paraphernalia in Defendant's purse, and thus, had probable cause to arrest Defendant. The development of probable cause justified prolonging the encounter, and this intervening event ultimately led to the discovery of methamphetamine.

In addition, Defendant makes multiple arguments related to her consent to search the vehicle. Essentially, Defendant contends that the original mission ended when Deputy Spiering gave Deputy Drum the warning citation book. According to Defendant, any consent provided by Defendant after that point could not have been voluntarily given. Defendant specifically contends that when a police officer hands another officer a warning citation book, the mission of the stop has concluded. However, Defendant cites no authority for this argument.

“When a defendant's consent is given freely, intelligently, and voluntarily, and a defendant is not subject to coercion, a defendant's consent to search a vehicle for contraband entitles the officer to conduct a reasonable search anywhere inside the vehicle which reasonably might contain contraband.” *State v. Baublitz*, 172 N.C. App. 801, 807-08, 616 S.E.2d 615, 620 (2005) (*purgandum*). “When a defendant's detention is lawful, the State need only show that defendant's consent to the search was freely given, and was not the product of coercion.” *State v. Sanchez*, 147 N.C. App. 619, 626, 556 S.E.2d 602, 608 (2001) (citation and quotation marks omitted).

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Here, Defendant initially denied consent to search the vehicle because it did not belong to her. She subsequently requested an opportunity to retrieve her cell phone to call the owner in an effort to obtain his permission to allow the search. As Deputy Spiering began to ready his K-9, Defendant was on the phone with the owner of the vehicle. Deputy Drum was in the process of writing the citation. Neither Deputy Drum nor Deputy Spiering were actively engaged with Defendant when she gave consent to search the vehicle. Both were conducting other duties related to the stop while Defendant was on the side of the road talking on her cell phone. Deputy Drum testified that Defendant provided consent to search.

As stated above, the search of the vehicle was within the context of the original mission of a lawful stop. There is no evidence in the record to support Defendant's argument that her consent to the search was not voluntary. The trial court's findings of fact support its conclusion that Defendant's Fourth Amendment rights were not violated.

Conclusion

We affirm the trial court's order denying Defendant's motion to suppress evidence obtained during the traffic stop.

AFFIRMED.

Judges DIETZ and HAMPSON concur.

Report per Rule 30(e).