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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-880

No. COA22-362

Filed 20 December 2022

Jackson County, No. 19 CRS 52292

STATE OF NORTH CAROLINA

v.

DUSTIN RYAN DYER

Appeal by defendant from judgment entered 17 August 2021 by Judge Bradley B. Letts in Jackson County Superior Court. Heard in the Court of Appeals 18 October 2022.

*Attorney General Joshua H. Stein, by Assistant Attorney General Kindelle M. McCullen, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Brandon Mayes, for defendant.*

DIETZ, Judge.

¶ 1 Defendant Dustin Ryan Dyer appeals his convictions for possession of methamphetamine and drug paraphernalia. On appeal, he argues that the trial court erred by denying his motion to suppress evidence obtained following a traffic stop.

¶ 2 As explained below, we agree that the trial court should have granted the motion to suppress. The officer's stated reason for stopping Dyer—his failure to use

a turn signal—was not a traffic violation on the facts found by the trial court. Likewise, the trial court’s findings do not support the court’s determination that the stop was the result of an objectively reasonable mistake of law. We therefore vacate the trial court’s judgment and remand for further proceedings.

### **Facts and Procedural History**

¶ 3 In 2019, Defendant Dustin Ryan Dyer was driving his Chevy Trail Blazer in Jackson County. Dyer approached a stop sign at an intersection where he could either turn left onto eastbound Highway 74 or turn right onto westbound Highway 74. There were no cars traveling on Highway 74 in either direction, and Dyer turned right onto westbound Highway 74. When Dyer made this turn, he did not use a turn signal.

¶ 4 Deputy Henkel of the Jackson County Sheriff’s Office was approaching the intersection behind Dyer as Dyer made this right turn without a turn signal. The officer believed that Dyer had violated a traffic statute requiring the use of a turn signal, so he followed Dyer’s vehicle briefly onto Highway 74 before activating his blue lights and conducting a traffic stop as Dyer turned into a nearby driveway.

¶ 5 During the stop, Deputy Henkel conducted a consensual pat-down of Dyer and found a syringe in Dyer’s pocket. The officer then searched Dyer’s vehicle and recovered various drug paraphernalia and four baggies of methamphetamine.

¶ 6 The State charged Dyer for possession with intent to sell or deliver

methamphetamine and possession of drug paraphernalia. Before trial, Dyer moved to suppress the evidence from the traffic stop, arguing that his failure to use a turn signal under the circumstances was not a violation of the applicable traffic statute. The trial court denied the motion and entered a written order containing findings of fact and conclusions of law. The case then proceeded to trial. The jury found Dyer guilty and the trial court entered a consolidated judgment, sentencing Dyer to a term of 6 to 17 months in prison, suspended for 24 months of probation. Dyer appealed.

### **Analysis**

¶ 7 Dyer argues that the trial court erred by denying his motion to suppress the evidence obtained from the traffic stop. He contends that the officer’s basis for the traffic stop—the failure to use a turn signal—was not a violation of the applicable statute, N.C. Gen. Stat. § 20-154(a), and that the officer’s belief that it was a violation was not an objectively reasonable mistake.

¶ 8 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).

¶ 9 A traffic stop must be supported by “reasonable suspicion.” *State v. Styles*, 362 N.C. 412, 415, 665 S.E.2d 438, 440 (2008). The reasonable suspicion standard

requires that a “stop must be based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion. The only requirement is a minimal level of objective justification, something more than an unparticularized suspicion or hunch.” *State v. Otto*, 366 N.C. 134, 137, 726 S.E.2d 824, 827 (2012) (citations omitted).

¶ 10 State law governs the use of turn signals while driving. The relevant statute for this case, N.C. Gen. Stat. § 20-154(a), provides that the “driver of any vehicle upon a highway or public vehicular area before . . . turning from a direct line . . . *whenever the operation of any other vehicle may be affected by such movement*, shall give a signal as required in this section, plainly visible to the driver of such other vehicle, of the intention to make such movement.” (Emphasis added).

¶ 11 Our Supreme Court addressed the authority of officers to stop vehicles for violations of this statute in *State v. Ivey*, 360 N.C. 562, 565, 633 S.E.2d 459, 461 (2006). In *Ivey*, as in this case, there were no other cars nearby except the defendant’s vehicle and the officer’s vehicle. The officer was following behind the defendant “at some distance.” *Id.* The defendant approached a stop sign and “then turned right, the only legal movement he could make at the intersection.” *Id.* at 565, 633 S.E.2d at 462. The defendant did not use a turn signal and the officer initiated a traffic stop. *Id.*

¶ 12 The Supreme Court held that there was no basis to stop the defendant because the officer’s “only option was to stop at the intersection.” Thus, the Court reasoned,

the officer's "vehicle could not have been affected by defendant's maneuver." *Id.*

¶ 13 Based on the trial court's findings, this case is indistinguishable from *Ivey*. The trial court found that Dyer's vehicle was "in front" of the officer's vehicle at some unknown distance. The court also found that Dyer's vehicle stopped at a stop sign, then turned right without using a turn signal. Like the officer in *Ivey*, Deputy Henkel's "only option" as he approached that same intersection behind Dyer "was to stop at the intersection" before turning left or right. Thus, Deputy Henkel's vehicle "could not have been affected" by Dyer's failure to signal, because Deputy Henkel would have had to slow to a complete stop at the intersection regardless of which direction Dyer turned. *Id.*

¶ 14 The State contends that, because Dyer could have turned either left or right at the intersection, "Deputy Henkel may have been affected" by the lack of a turn signal. But this argument ignores the reasoning of *Ivey*, which was not based on the *defendant's options* when turning. Instead, the Court's reasoning turned on the fact that the only option for *the officer* following behind the defendant was to stop at the same intersection where the defendant stopped. The defendant's failure to signal at that intersection, the Court reasoned, did not affect the officer's movement because the officer would have had to slow to a complete stop at the intersection regardless of which way the defendant turned.

¶ 15 In sum, applying *Ivey*, we hold that Dyer's failure to use a turn signal at this

intersection was not a violation of N.C. Gen. Stat. § 20-154(a) and the trial court erred by concluding that it was.

¶ 16 We next examine the trial court’s alternative ruling that “Deputy Henkel’s conclusion that the defendant’s failure to signal affected the operation of his patrol vehicle” was an objectively reasonable mistake and “thus does not constitute a violation of the defendant’s Fourth Amendment rights.”

¶ 17 As an initial matter, we cannot identify any plausible mistake of fact in this case. The trial court’s findings are entirely consistent with the officer’s testimony and are undisputed on appeal. Thus, we focus on the purported mistake of law, namely the “mistaken interpretation of the statute at issue” identified by the trial court.

¶ 18 For “an officer’s mistake of law while enforcing a statute to be objectively reasonable, the statute at issue must be ambiguous.” *State v. Eldridge*, 249 N.C. App. 493, 499, 790 S.E.2d 740, 743 (2016). The statute at issue in this case is not ambiguous. The relevant statutory language is susceptible to only one reasonable interpretation—that drivers turning onto different lanes must use a turn signal “whenever the operation of any other vehicle may be affected” by the turn. N.C. Gen. Stat. § 20-154(a). Moreover, as this Court indicated in *Eldridge*, an objectively reasonable mistake of law typically requires “that there be an absence of settled caselaw interpreting the statute at issue.” *Eldridge*, 249 N.C. App. at 499, 790 S.E.2d at 744. As explained above, our Supreme Court addressed this precise issue in *Ivey*.

Accordingly, we hold that the officer did not make an objectively reasonable mistake, and the trial court erred by concluding that he did.

¶ 19 Finally, the State argues that, although the trial court based its conclusion of law solely on the violation of N.C. Gen. Stat. § 20-154(a), the trial court’s findings could support reasonable articulable suspicion on other grounds. Specifically, the State points to the court’s finding that Dyer came to a “very abrupt stop” at the stop sign, then “quickly accelerated” after turning, and later slowed down and turned onto gravel driveway (using a turn signal). But these findings are insufficient to support reasonable articulable suspicion of any criminal activity. *See Illinois v. Wardlow*, 528 U.S. 119, 123 (2000). Accordingly, the trial court erred by denying Dyer’s motion to suppress. We therefore vacate the criminal judgment in this case and remand for further proceedings. *Ivey*, 360 N.C. at 566, 633 S.E.2d at 462.

### **Conclusion**

¶ 20 We vacate the trial court’s judgment and remand for further proceedings.

VACATED AND REMANDED.

Judges CARPENTER and GORE concur.

Report per Rule 30(e).