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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-53

Filed 19 March 2024

Union County, No. 21CRS52096

STATE OF NORTH CAROLINA

v.

MICHAEL RYAN CRUMP, Defendant.

Appeal by defendant from judgment entered on or about 18 May 2022 by Judge Jonathan Wade Perry in Superior Court, Union County. Heard in the Court of Appeals 22 August 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Scott T. Slusser, for the State.

Sean P. Vitrano for defendant-appellant.

STROUD, Judge.

Defendant appeals the denial of his motion to dismiss or suppress contending law enforcement prolonged a traffic stop without reasonable suspicion. We affirm the trial court's order.

I. Procedural Background

In November of 2021, Defendant was indicted for unauthorized use of a motor

vehicle and possession of methamphetamine. Thereafter, in March of 2022, Defendant filed a “MOTION TO DISMISS OR SUPPRESS” arguing he was “seized . . . without reasonable suspicion or probable cause” or alternatively “the traffic stop . . . lasted longer than was necessary[;]” so he requested the trial court “[s]uppress any and all evidence obtained as a result of the detainment of the motor vehicle and its passengers” or alternatively “conduct a pretrial evidentiary suppression hearing regarding the issues raised herein.”

On 13 May 2022, after a hearing, the trial court entered an order denying Defendant’s motion to dismiss or suppress. Thereafter, Defendant pled guilty to possession of methamphetamine expressly reserving his right to appeal the denial of his motion; as part of the plea deal the unauthorized use of a motor vehicle charge was dismissed. The trial court entered judgment. Defendant appeals.

II. Motion to Dismiss or Suppress

Defendant’s sole argument on appeal is that “[t]he trial court erred in denying [his] motion to suppress because officers prolonged the initial stop without reasonable suspicion in violation of *Rodriguez v. United States*, 575 U.S. 348 (2015).”

A. Standard of Review

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 and quotation marks omitted). Further, “[i]n reviewing the denial of a motion to suppress, we examine the evidence introduced at trial in the light most favorable to the State[.]” *State v. Moore*, 152 N.C. App. 156, 159, 566 S.E.2d 713, 715 (2002) (citations omitted).

B. Reasonable Suspicion

Defendant does not challenge any of the findings of fact but instead contends that findings of fact 6-10 do not support the trial court’s conclusions of law. Accordingly, all the findings of fact are binding on appeal. *See Williams*, 209 N.C. App. at 257, 703 S.E.2d at 907. Therefore, the facts regarding the stop are as found in the trial court’s order:

1. At approximately 1:00 a.m. on the morning of June 13, 2021, Corporal Weeks of the Stallings Police Department was stopped at the front entrance of Scott Clark Toyota on Marie Garris Road in Indian Trail, Union County, North Carolina, when a silver Mitsubishi drove by.
2. As the silver Mitsubishi drove past Corporal Weeks, he noticed that the vehicle appeared to have a broken right taillight, and was emanating a white light instead of red.
3. Corporal Weeks initiated a traffic stop of the vehicle due to the broken taillight.
4. Corporal Weeks recognized the vehicle as belonging to James Crump, the Defendant’s father, due to the distinctive damage to the rear of the vehicle.

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5. When they approached the vehicle Corporal Weeks and Corporal Smith, who had joined Corporal Weeks on scene, recognized the passenger of the vehicle as being Michael Crump, the Defendant.
6. Corporal Weeks and Corporal Smith had had several prior interactions with the Defendant, including several where the Defendant's father, James Crump, had reported the subject vehicle being taken by the Defendant without his permission.
7. Neither Corporal Weeks nor Corporal Smith knew of the Defendant being charged with a crime as a result of the reports.
8. At the time Corporal Weeks and Corporal Smith were not aware of any outstanding or active reports involving theft or unauthorized use of James Crump's vehicle.
9. Corporal Weeks' sole reason for stopping the vehicle was the broken taillight.
10. Based on the prior interactions with the Defendant and James Crump, Corporal Weeks contacted Sergeant Simpson and requested he go to James Crump's residence to inquire as to whether the Defendant had permission to be in possession of the vehicle on this occasion.
11. Corporal Weeks returned to his patrol vehicle and, while conversing with Corporal Smith, ran checks on the driver's license, the vehicle's registration, and searched for any outstanding warrants.
12. These checks took only one to two minutes and returned a valid driver's license for the driver, valid registration for the vehicle, and no warrants for either individual.
13. Corporals Weeks and Smith decided to stand-by while they waited for Sergeant Simpson to make contact with James Crump at his residence.

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14. The Defendant and the driver, Jason Staples, were asked to step out of the vehicle, and both subjects were patted down for officer safety.
15. While waiting for Sergeant Simpson to make contact with James Crump, Corporal Smith retrieved K9 Lily from his patrol car and conducted an open-air sniff on the subject vehicle.
16. K9 Lily alerted for the presence of narcotics on the front passenger door of the vehicle.
17. Corporal Smith returned K9 Lily to his patrol vehicle and had a brief conversation with the driver, Jason Staples, before preparing to search the subject vehicle.
18. Just before Corporal Smith started to search the vehicle Sergeant Simpson advised over the radio that James Crump had stated that the Defendant did not have permission to be in possession of the subject vehicle, and that he and James Crump were [e]n route to the scene.
19. Sergeant Simpson advised Corporals Weeks and Smith to wait to make an arrest until he arrived on scene with James Crump.
20. Corporal Smith searched the vehicle but did not seize anything.
21. Sergeant Simpson arrived on scene with James Crump, who confirmed that the suspect vehicle was his, and that the Defendant did not have permission to be in possession of it.
22. The Defendant was placed under arrest for Unauthorized Use of a Motor Vehicle.
23. The Defendant was searched incident to arrest, and about .5g of a substance believed to be

methamphetamine was found on his person.

24. Corporal Weeks does not recall himself or any other law enforcement officer beginning to issue a citation for a broken taillight. No citation for a broken taillight was issued in this case.

Based on these findings of fact the trial court concluded:

1. Corporal Weeks did possess reasonable articulable suspicion to stop the suspect vehicle.
2. Corporal Weeks developed reasonable articulable suspicion of criminal activity other than the broken taillight that the Defendant was initially stopped for, namely Unauthorized Use of a Motor Vehicle.
3. The traffic stop was permissibly extended based on reasonable articulable suspicion developed by Corporal Weeks and Smith.
4. There was sufficient probable cause for Corporal Weeks to charge the Defendant with Unauthorized Use of a Motor Vehicle and Possession of Methamphetamine.

We first note Defendant concedes that because he was stopped for “[d]riving with a broken taillight” “[t]he lawfulness of the traffic stop at its inception is not at issue here. [Defendant] does not dispute that the officers were legally authorized to detain the car’s occupants for the length of time necessary to address the broken taillight.” Thus, the only issue on appeal is the length of the stop.

In Defendant’s primary cited case, *Rodriguez v. U.S.*, 575 U.S. 348, 191 L. Ed. 2d 492 (2015), a dog sniff was conducted of a vehicle “*after* completion of a traffic stop[;]” *i.e.*, after a records check was completed, documents were returned to the

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vehicle, and a written warning was issued. *Rodriguez*, 575 U.S. at 350, 191 L. Ed. 2d at 496 (emphasis added).

The United States Supreme Court held

that a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures. A seizure justified only by a police-observed traffic violation, therefore, becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket for the violation.

Id. at 350-51, 191 L.Ed.2d at 496.

In *State v. Bullock*, 370 N.C. 256, 257, 805 S.E.2d 671, 673 (2017), North Carolina's Supreme Court, citing *Rodriguez*, explained that

[t]he Fourth Amendment to the United States Constitution states that the right of the people to be secure, against unreasonable searches and seizures, shall not be violated. U.S. Const. amend. IV. A traffic stop is a seizure even though the purpose of the stop is limited and the resulting detention quite brief. Under *Rodriguez*, the duration of a traffic stop must be limited to the length of time that is reasonably necessary to accomplish the mission of the stop, unless reasonable suspicion of another crime arose before that mission was completed. 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. These precautions appear to include

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conducting criminal history checks, as *Rodriguez* favorably cited a Tenth Circuit case that allows officers to conduct those checks to protect officer safety. Safety precautions taken to facilitate investigations into crimes that are unrelated to the reasons for which a driver has been stopped, however, are not permitted if they extend the duration of the stop. But investigations into unrelated crimes during a traffic stop, even when conducted without reasonable suspicion, are permitted if those investigations do not extend the duration of the stop.

The reasonable suspicion standard is a less demanding standard than probable cause and a considerably less demanding standard than preponderance of the evidence. In order to meet this standard, an officer simply must reasonably conclude in light of his experience that criminal activity may be afoot. The officer must be able to point to specific and articulable facts, and to rational inferences from those facts, that justify the search or seizure. To determine whether reasonable suspicion exists, courts must look at the totality of the circumstances as viewed from the standpoint of an objectively reasonable police officer.

State v. Bullock, 370 N.C. 256, 257-58, 805 S.E.2d 671, 673-74 (2017) (citations, quotation marks, ellipses, and brackets omitted).

In distinguishing the circumstances in *Bullock* from *Rodriguez*, the *Bullock* Court explained,

It is worth noting just how different the procedural posture of this case is from the one that the Supreme Court confronted in *Rodriguez*. There, the Eighth Circuit had not reached the question of reasonable suspicion in its opinion. As a result, the Supreme Court essentially had to assume, for the purposes of its Fourth Amendment analysis, that no reasonable suspicion had existed at any time before the dog sniff in that case occurred. And in *Rodriguez*, the officer had issued a written warning and therefore completed the traffic stop before the dog sniff occurred. So the Supreme

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Court found that the stop was necessarily prolonged beyond the time needed to complete the stop's mission, but did not determine whether reasonable suspicion to prolong the stop existed. Instead, the Supreme Court remanded the case to the Eighth Circuit and noted that the reasonable suspicion question remained open for Eighth Circuit consideration on remand. Here, by contrast, the question of reasonable suspicion is squarely before us.

State v. Bullock, 370 N.C. 256, 264-65, 805 S.E.2d 671, 678 (2017) (citations, quotation marks, and brackets omitted).

As to reasonable suspicion,

Reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence. The only requirement is a minimal level of objective justification, something more than an unparticularized suspicion or hunch. The overarching inquiry when assessing reasonable suspicion is always based on the totality of the circumstances.

State v. Peele, 196 N.C. App. 668, 670-71, 675 S.E.2d 682, 685 (2009) (citations, quotation marks, and brackets omitted).

Again, the initial stop is not in question nor is there any issue regarding the Corporals approaching the vehicle as Defendant concedes, "The lawfulness of the traffic stop at its inception is not at issue here." Defendant takes issue with Corporals Weeks' and Smith's actions *during* the stop, specifically calling his father, as Defendant contends they were "not aware of any outstanding or active reports involving theft or unauthorized use[.]" It is important to note that the exact length of time it took for the dog sniff, waiting for Mr. Crump, the pat down, and the search

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incident to arrest is not at issue on appeal. Defendant contends the point at which the stop was unlawfully extended was when his father was called as he contends “[t]he officers did not have reasonable suspicion to believe that Crump or Staples were committing the offense of unauthorized use of a motor vehicle” and “Corporal Smith used the extended time while waiting for a response from Sergeant Simpson to execute the canine sniff.”

Although Corporal Weeks and Corporal Smith “were not aware of any outstanding or active reports involving theft or unauthorized use” at the time of the stop, they both “had had several prior interactions with the Defendant, including several where the Defendant’s father, James Crump, had reported the subject vehicle being taken by the Defendant without his permission.” The Corporals knew Defendant was in Mr. Crump’s vehicle and Mr. Crump was not in Mr. Crump’s vehicle. We conclude the officers had reasonable suspicion for unauthorized use of a motor vehicle as Defendant was not authorized to use the car based upon the Corporals’ recent past experiences with Defendant’s unauthorized use of his father’s car and the circumstances they observed upon the stop; based on these facts, they had a rational belief that “criminal activity may be afoot.” *Bullock*, 370 N.C. at 258, 805 S.E.2d at 674; *see generally State v. McClendon*, 350 N.C. 630, 637, 517 S.E.2d 128, 133 (1999) (“Trooper Lisenby lawfully stopped defendant and asked for his driver’s license and registration. Defendant could not find the registration, and instead produced the title to the car. The title, however, was in the name of Jema

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Ramirez, instead of defendant's name. Trooper Lisenby was entitled to inquire further regarding the ownership of the car to determine whether it was stolen. It was defendant's responses to questions asked during such inquiry that aroused Lisenby's, and later Sergeant Cardwell's, suspicions that criminal activity was afoot."); *State v. Fisher*, 219 N.C. App. 498, 504, 725 S.E.2d 40, 45 (2012) ("Even assuming, *arguendo*, that such innocent behavior as defendant's driving in the flow of traffic, the hand print on the trunk, and the fast food bag, were not proper factors to consider, multiple other factors existed that have been specifically identified by our caselaw as appropriate factors to consider in a reasonable suspicion analysis. As stated *supra*, these factors include nervousness, the smell of air freshener, inconsistency with regard to travel plans, and *driving a car not registered to the defendant*[.]. These factors were present in this case and were sufficient to establish the reasonable suspicion necessary for Officer Cox to detain defendant beyond the time necessary to issue the warning citation." (citations and quotation marks omitted)). As reasonable suspicion had been established by the time the Corporals called Mr. Crump, we conclude the trial court did not err in denying Defendant's motion to dismiss or suppress.

III. Conclusion

For the foregoing reasons, we affirm.

AFFIRMED.

Judges FLOOD and STADING concur.

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Report per Rule 30(e).