



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00162-CR

Ryan C. **JENSCHKE**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 216th Judicial District Court, Gillespie County, Texas
Trial Court No. 6004
Honorable N. Keith Williams, Judge Presiding

Opinion by: Karen Angelini, Justice

Sitting: Karen Angelini, Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: December 6, 2017

AFFIRMED

Ryan C. Jenschke appeals his conviction for the offense of driving while intoxicated with a child passenger. In two issues, Jenschke complains the trial court erred in denying his motion to suppress. We affirm.

BACKGROUND

Two Texas Department of Public Safety (DPS) troopers were on patrol in Fredericksburg, Texas, when they saw a pick-up truck driving on a public roadway. The troopers noticed that the truck's taillights had been painted black. Believing this violated the law, the troopers conducted a

traffic stop. The driver of the truck, Jenschke, was arrested and later charged with the offense of driving while intoxicated with a child passenger. Jenschke filed a motion to suppress, arguing the troopers did not have reasonable suspicion to conduct a traffic stop. The trial court held a suppression hearing and, after considering the evidence and the arguments presented, denied the motion to suppress. The trial court did not make express findings of fact. Jenschke pled guilty to the charged offense, and the trial court sentenced him to two years' confinement, suspended the sentence, and placed him on probation for three years. This appeal ensued.

STANDARD OF REVIEW

We review the trial court's denial of a motion to suppress under a bifurcated standard. *Furr v. State*, 499 S.W.3d 872, 877 (Tex. Crim. App. 2016). We afford almost complete deference to the trial court's determination of historical facts, especially when those determinations are based on assessments of credibility and demeanor. *Id.* However, we review *de novo* whether the facts are sufficient to support an officer's reasonable suspicion. *Id.* When the trial court does not make express findings of fact, we review the evidence in the light most favorable to the trial court's ruling, and assume it made implicit findings that are supported by the record. *Id.* We must uphold the trial court's ruling if it is supported by the record and correct on any theory of law applicable to the case. *Id.*

VIOLATION OF THE LAW

In his first issue, Jenschke argues the trial court erred in denying the motion to suppress because the troopers had no reasonable suspicion to stop him because the truck he was operating at the time of the traffic stop was not in violation of any state or federal law.

Law enforcement officers may make a warrantless traffic stop if the reasonable suspicion standard is satisfied. *Jaganathan v. State*, 479 S.W.3d 244, 247 (Tex. Crim. App. 2015). Reasonable suspicion exists if an officer has specific, articulable facts that, when combined with

the rational inferences from those facts, would lead him to reasonably suspect that a person has engaged in or is (or soon will be) engaging in criminal activity. *Id.* When an officer stops a vehicle because he has reasonable suspicion that a traffic violation has been committed, the question is not whether a traffic offense was actually committed, but whether the officer had a reasonable suspicion that a traffic offense occurred. *Id.* In determining whether reasonable suspicion exists, we apply an objective standard that disregards the subjective intent of the officer. *Furr*, 499 S.W.3d at 878.

A person commits a misdemeanor offense if he operates a vehicle that (1) is not equipped in a manner that complies with the equipment standards and requirements of chapter 547 of the transportation code, or (2) is equipped in a manner prohibited by that chapter. TEX. TRANSP. CODE ANN. § 547.004(a)(2),(3) (West 2011). In this case, the State contends the troopers had reasonable suspicion to stop Jenschke because he was driving a truck that violated multiple provisions of the transportation code. Under the transportation code, a passenger vehicle manufactured in model year 1960 or later is required to have at least two taillamps that emit a red light plainly visible at a distance of 1,000 feet from the rear of the vehicle. *Id.* § 547.322. With respect to the stoplamps on the rear of a vehicle, the transportation code provides: “A stoplamp shall emit a red or amber light, or a color between red and amber, that is: (1) visible in normal sunlight at a distance of at least 300 feet from the rear of the vehicle; and (2) displayed when the vehicle service brake is applied.” *Id.* § 547.323. Turn signal lights on the rear of the vehicle are generally subject to the same visibility requirements. *Id.* § 547.324. Furthermore, the rear of the vehicle must be equipped with at least two red reflectors, which may be included as part of the taillamp. *Id.* § 547.325(e). The transportation code also requires compliance with federal laws regarding motor vehicle standards and equipment. *Id.* § 547.3215.

The evidence presented at the suppression hearing consisted of the testimony of two witnesses and a video recording from the camera in the DPS vehicle. The first witness, DPS trooper Allen L. Meyer, testified that he and another DPS trooper, Steven E. Mayfield, were in a parking lot in Gillespie County on a sunny afternoon when they saw a truck pass in front of them with black paint covering its taillights. After the troopers engaged in a brief discussion and agreed that the painted taillights violated the law, they conducted a traffic stop of the truck. According to Meyer, the black paint on the truck's rear lighting system diminished the effectiveness of the brake lights and the "reflectability" of the taillights. Meyer added: "[O]nce the taillights had been painted black, there were no reflectors on the rear of the vehicle." Meyer further testified that he believed that the painted taillights violated both a provision of the Texas transportation code requiring vehicles to have red reflectors on the rear of the vehicle and a federal statute that prohibited the placing of anything over the taillights or lenses to change the effectiveness of the lighting system.

Jenschke also testified at the hearing. According to Jenschke, his truck's taillights had been painted for "probably a year, if not longer" before he was pulled over by the troopers. It was the first time Jenschke had been pulled over for the painted taillights. Jenschke also stated that a few months before he was pulled over by the troopers, the truck had passed a state safety inspection.

The video recording shows the taillights of Jenschke's truck immediately before and during the traffic stop. It also shows that each of the taillights on Jenschke's truck consists of a single unit comprised of a taillamp, a brake light, a turn signal lamp, and a reflector. It further shows Jenschke operate the truck's brake lights and one of its turn signals. The brake lights and turn signal are visible from the DPS vehicle while it is travelling a short distance behind the truck.

Jenschke argues that the troopers lacked reasonable suspicion to stop him because the painted taillights on his truck did not violate any law. We disagree. By observing Jenschke on a public roadway driving a truck with its taillights covered by black paint, the troopers had specific,

articulable facts that would lead them to reasonably suspect that Jenschke was operating a vehicle that was not equipped as required by the transportation code and, thus, was violating the law. *See id.* § 547.004(a)(2). The transportation code required Jenschke’s truck to be equipped with at least two red rear reflectors. *See id.* § 547.325. The transportation code also required Jenschke’s truck to be equipped with two stoplamps that emitted “a red or amber light, or a color between red and amber” that was “visible in normal sunlight at a distance of at least 300 feet from the rear of the vehicle” and “displayed when the vehicle service brake is applied.” *See* TEX. TRANSP. CODE ANN. § 547.323. Reviewed in the light most favorable to the trial court’s ruling, the evidence shows that the troopers saw Jenschke driving a truck that was not equipped with two red rear reflectors as required by section 547.325 of the transportation code. The evidence further shows that the troopers could have reasonably questioned whether the brake lights on Jenschke’s truck were visible in normal sunlight from a distance of at least 300 feet as required by section 547.323.¹ We hold the troopers had reasonable suspicion to stop Jenschke.

MISTAKE OF LAW

In his second issue, Jenschke argues the trial court could not have relied on a mistake of law theory to justify the traffic stop. In *Heien v. N. Carolina*, 135 S.Ct. 530, 536-39 (2014), the United States Supreme Court held that a law enforcement officer’s reasonable but mistaken belief about the law can support reasonable suspicion to justify a traffic stop, provided that the mistake of law is objectively reasonable. Because we have concluded that the troopers had reasonable suspicion that Jenschke was violating two provisions of the transportation code, we do not address Jenschke’s second issue.

¹Having determined that the facts established that the troopers had reasonable suspicion with regard to sections 547.325 and 547.323 of the transportation code, we need not determine if the troopers had reasonable suspicion with regard to the other transportation code provisions cited by the State.

CONCLUSION

We conclude that the trial court properly denied Jenschke's motion to suppress and affirm its judgment.

Karen Angelini, Justice

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