



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-17-00278-CR

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**ALAN PARRISH WRIGHT, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 278th District Court  
Madison County, Texas<sup>1</sup>  
Trial Court No. 16-12519-278-12, Honorable Hal R. Ridley, Presiding

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November 20, 2018

**MEMORANDUM OPINION**

Before QUINN, C.J., and PIRTLE and PARKER, JJ.

In this appeal from his conviction for possession of a controlled substance, Alan Parrish Wright, appellant, asserts that the trial court erred in denying his motion to suppress evidence. We affirm.

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<sup>1</sup> Pursuant to the Texas Supreme Court's docket equalization efforts, this case was transferred to this Court from the Tenth Court of Appeals. See TEX. GOV'T CODE ANN. § 73.001 (West 2013).

## Background

Appellant was driving northward on Interstate Highway 45 in Madison County when he passed a Department of Public Safety trooper who was stopped on the side of the roadway. The trooper observed that the license plate on appellant's vehicle was bent, such that the trooper was unable to read it. The trooper entered the roadway to view the license plate. Appellant moved from the left-hand travel lane to the right-hand lane. The trooper moved to the left-hand lane, from which he was able to read the license plate. The trooper pulled behind appellant and activated his emergency lights to initiate a traffic stop. As appellant applied his brakes, the trooper observed that appellant's middle brake light was not working.

After appellant stopped, the trooper approached appellant's vehicle. When he looked through the window into the car, he saw marijuana in the car. Appellant and his vehicle were then searched, and the trooper recovered hash oil and two baggies of marijuana. Appellant was arrested and later charged with the third-degree felony offense of possession of a controlled substance.<sup>2</sup>

Appellant filed a motion to suppress, alleging that the trooper had conducted an illegal search and seizure of his person and his property. The trial court denied the motion. Appellant pleaded guilty as part of a plea bargain and was convicted. He was sentenced to a term of ten years in the Institutional Division of the Texas Department of Criminal Justice, probated for a period of five years; a \$2,000 fine; and \$180 in restitution.

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<sup>2</sup> See TEX. HEALTH AND SAFETY CODE ANN. § 481.116(c) (West 2017).

In this appeal, appellant asserts that the trial court abused its discretion in denying his motion to suppress evidence because the stop and detention of his vehicle was without reasonable suspicion or probable cause and, therefore, unlawful.

### Standard of Review

We review a trial court's ruling on a motion to suppress for abuse of discretion. *Crain v. State*, 315 S.W.3d 43, 48 (Tex. Crim. App. 2010). Under this standard, the trial court is given almost complete deference in its determination of historical facts and with respect to its rulings on application of law to questions of fact and to mixed questions of law and fact, where resolution of those questions depends on an evaluation of credibility and demeanor; for other mixed questions of law and fact, we conduct a de novo review. *Id.*

When the trial court makes findings of facts, as it did in this case, we determine whether the evidence, when viewed in the light most favorable to the trial court's ruling, supports those findings. *State v. Kelly*, 204 S.W.3d 808, 818 (Tex. Crim. App. 2006). We will uphold the trial court's ruling on a motion to suppress if it is correct under any theory of law applicable to the case, even if the trial court did not rely on that theory in making its ruling. *State v. Copeland*, 501 S.W.3d 610, 612-13 (Tex. Crim. App. 2016).

### Analysis

The trooper followed appellant's car onto the roadway because he could not read the vehicle's license plate due to the bend in the plate. At the hearing on appellant's motion to suppress, the trooper testified that the right side of the license plate was bent toward the left side of the vehicle. He specified that "the complete side" was bent. The

bend in the plate created a shadow on the plate such that the trooper was unable to tell whether it was a paper or metal plate. He testified that he had to move to the left side of appellant's vehicle to read the last digit on the license plate. He explained, "The license plate is reflective, and the license plate reflected light back onto the other portion of the plate after it was bent." When asked if he could read the plate when he was directly behind appellant, the trooper answered, "Not until I got right up on top of him and stopped him."

The trooper believed that the plate violated section 504.945 of the Texas Transportation Code because of the distorted visibility, and he initiated a traffic stop. The statute provides that an offense has been committed:

if the person attaches to or displays on a motor vehicle a license plate that: . . . (5) has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time; . . . (7) has a coating, covering, protective substance, or other material that: (A) distorts angular visibility or detectability; . . . or (C) alters or obscures the letters or numbers of the license plate number or the color of the plate.

TEX. TRANSP. CODE ANN. § 504.945(a) (West 2018). Appellant claims that his detention was unlawful because there was no valid basis for the stop. Specifically, appellant argues the stop was not valid "because there was no obscured license plate."

The argument advanced by appellant suggests that since it was not proven that his license plate violated section 504.945, the trooper therefore lacked reasonable suspicion to stop him. However, the State was not required to prove that an actual violation of the statute had occurred to justify the trooper's decision to stop the car to investigate whether a violation had in fact occurred. *Martinez v. State*, 500 S.W.3d 456,

466 (Tex. App.—Beaumont 2016, pet. ref'd) (deciding if reasonable suspicion for traffic stop existed does not depend on State proving that driver actually violated traffic law, but on whether evidence established that objectively reasonable officer would have viewed license plate as being in violation of Transportation Code). A traffic stop is justified if the officer has specific articulable facts that, when combined with rational inferences from those facts, would give the officer a reasonable suspicion that the driver has engaged in criminal activity. *Garcia v. State*, 43 S.W.3d 527, 530 (Tex. Crim. App. 2001). The reasonable suspicion standard requires that the State demonstrate only “some minimal level of objective justification” to justify the initial stop. *Hamal v. State*, 390 S.W.3d 302, 306 (Tex. Crim. App. 2012). In this case, “the standard is whether a reasonable officer would have developed suspicion that the license plate on [appellant’s] car violated the obscured-plate statute.” *Czerwinski v. State*, No. 13-16-00472-CR, 2018 Tex. App. LEXIS 2960, at \*9 (Tex. App.—Corpus Christi April 26, 2018, no pet.) (mem. op., not designated for publication) (holding that testimony from officer that license plate frame on defendant’s car obscured the word “Texas” supported trial court’s implicit finding that a reasonable officer would have suspected that statute was violated and justified the traffic stop).

In its findings of fact, the trial court found that the trooper testified that “his attention was drawn to [appellant’s] vehicle traveling North and noticed a bent or obscured license plate.” It further found the trooper’s testimony was unequivocal and undisputed that he could not read the license plate without adjusting his lane of travel behind appellant’s vehicle. The trial court concluded that the videotape of the traffic stop “does not establish conclusively that the license plate was obscured, although it is bent . . . .”

Viewing the evidence in the light most favorable to the trial court's ruling, the record supports the trial court's factual findings. We conclude that the trial court did not abuse its discretion by finding that the trooper had an objectively reasonable basis to believe that appellant's license plate violated section 504.945. See, e.g., *Walden v. State*, Nos. 11-13-00284-CR & 11-13-00285-CR, 2015 Tex. App. LEXIS 6170, at \*3, \*7 (Tex. App.—Eastland June 18, 2015, pet. ref'd) (mem. op., not designated for publication) (holding that when officer could not read first digit on license plate because plate was bent, he had probable cause to stop and detain driver for a traffic violation, even if he could fully read the license plate after the vehicle was stopped).

Because we have determined that there is evidence to support the conclusion that the initial stop of appellant's vehicle was justified, we need not reach the parties' arguments concerning whether the trooper's observation of a non-working brake light provided another justification for the traffic stop. See TEX. R. APP. P. 47.1.

#### Conclusion

We affirm the trial court's order denying appellant's motion to suppress.

Judy C. Parker  
Justice

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