

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-754

Filed: 21 March 2017

New Hanover County, No. 12CRS056239

STATE OF NORTH CAROLINA

v.

WILLIAM ERIC PYE, Defendant.

Appeal by Defendant from judgment entered 23 March 2016 by Judge Robert F. Floyd in New Hanover County Superior Court. Heard in the Court of Appeals 25 January 2017.

Attorney General Joshua H. Stein, by Associate Attorney General Marie H. Evitt, for the State.

Patterson Harkavy LLP, by Paul E. Smith, for the Defendant.

DILLON, Judge.

William Eric Pye (“Defendant”) appeals from a judgment convicting him of driving while impaired (“DWI”). After careful review, we affirm the trial court’s underlying order denying Defendant’s motion to suppress evidence and motion to suppress blood results (the “motion to suppress all evidence”).

STATE V. PYE

Opinion of the Court

I. Background

In June 2012, Defendant drove in the direction of a driver's license checkpoint. Instead of proceeding through the checkpoint, Defendant turned around and proceeded to drive in the opposite direction. A Wilmington police officer stopped Defendant, determined Defendant had been drinking alcohol, and cited Defendant for DWI.

When the matter came before superior court,¹ Defendant filed the motion to suppress all evidence. After a hearing on the matter, the superior court judge denied the motion to suppress all evidence in an oral ruling. Defendant entered an *Alford* plea in superior court while preserving his right to appeal. Defendant gave proper notice of appeal.

II. Standard of Review

On appeal, Defendant contends that the superior court erred in convicting him as the motion to suppress all evidence should have been granted. Accordingly, the standard of review is “whether the trial judge’s underlying findings of fact are supported by competent evidence . . . and whether those factual findings . . . support the judge’s ultimate conclusions of law.” *State v. Cooke*, 306 N.C. 132, 134, 291 S.E.2d 618, 619 (1982). As Defendant does not challenge the trial court’s findings of fact, we

¹ Defendant pleaded no contest to the DWI charge in district court.

review the trial court's conclusions of law *de novo*. *State v. Haislip*, 362 N.C. 499, 500, 666 S.E.2d 757, 758 (2008).

III. Analysis

Defendant contends that the superior court erred as the officer lacked reasonable suspicion to conduct the stop. For the following reasons, we disagree.

“[W]hen an officer observes conduct which leads him reasonably to believe that criminal conduct may be afoot, he may stop the suspicious person to make reasonable inquiries.” *State v. Foreman*, 351 N.C. 627, 630, 527 S.E.2d 921, 923 (2000) (internal quotation marks omitted). The officer “must be able to point to specific and articulable facts, which taken together with rational inferences from those facts, reasonably warrant [the] intrusion.” *Id.* (alteration in original) (internal quotation marks omitted).

While it is unclear whether Defendant committed a traffic infraction that would have otherwise warranted the stop, we hold that *State v. Griffin*, 366 N.C. 473, 740 S.E.2d 444 (2013) controls and therefore conclude that, under the totality of the circumstances, *see Foreman*, 351 N.C. at 630, 527 S.E.2d at 923, the officer had reasonable suspicion to believe Defendant was engaging in *separate* criminal activity and was evading the checkpoint to avoid detection.

In *Griffin*, our Supreme Court held that the defendant was properly stopped by an officer who observed the defendant approach a police checkpoint, then stop in

the middle of the road “even though he was not at an intersection,” and attempt “a three-point turn by beginning to turn left and continuing onto the shoulder.” *Griffin*, 366 N.C. at 477, 749 S.E.2d at 447. The Supreme Court stated that “[g]iven the place and manner of defendant’s turn in conjunction with his proximity to the checkpoint, we hold there was reasonable suspicion that defendant was violating the law; thus, the stop was constitutional.” *Id.*

Much like the defendant in *Griffin*, *see id.*, Defendant here made a three-point turn within the immediate vicinity of a checkpoint before proceeding to drive away from it.

Defendant contends that he believed he was approaching the scene of an accident rather than a checkpoint as there were no spotlights or checkpoint signs. However, there is no indication that the checkpoint in *Griffin* was marked by either spotlights or checkpoint signs. *See id.* at 474, 749 S.E.2d at 445 (“The checkpoint was marked and illustrated by activated blue lights of patrol cars.”). Moreover, given the length of the road and the time of the stop, Defendant’s subjective belief that he was approaching the scene of an accident strains credulity, especially when one also considers the fact that there were approximately eight officers and two to four vehicles at the scene but no wreckage, ambulances, or firetrucks. There is also no evidence that there was anything obstructing Defendant’s view. We hold that the officer had reasonable suspicion to stop Defendant.

STATE V. PYE

Opinion of the Court

IV. Conclusion

As the officer had reasonable suspicion to stop Defendant, we hold that the superior court properly denied the motion to suppress all evidence. Accordingly, we affirm the trial court's order.

AFFIRMED.

Judges ELMORE and ZACHARY concur.

Report per Rule 30(e).