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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-830

Filed: 15 May 2018

Macon County, Nos. 15 CRS 51402, 16 CRS 35

STATE OF NORTH CAROLINA

v.

MELANIE LYNN PURSLEY

Appeal by Defendant from order entered 29 July 2016 by Judge William H. Coward and from judgment dated 3 November 2016 by Judge Robert G. Horne in Superior Court, Macon County. Heard in the Court of Appeals 19 February 2018.

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

Edward Eldred, Attorney at Law, PLLC, by Edward Eldred, for Defendant.

McGEE, Chief Judge.

Melanie Lynn Pursley ("Defendant") appeals from an order denying her motion to suppress evidence recovered from her vehicle following a traffic stop. Defendant contends law enforcement unlawfully extended the duration of the stop by questioning a passenger in the vehicle. For the reasons discussed below, we affirm.

I. Factual and Procedural Background

First Sergeant Clay Bryson ("Sergeant Bryson") and Deputy Sheriff Josh Stewart ("Deputy Stewart") of the Macon County Sheriff's Department ("MCSD") were patrolling U.S. Route 441 in separate patrol cars in Macon County, North Carolina, on 10 December 2015. Sergeant Bryson had been employed by MCSD for over sixteen years, had extensive training in the area of drug interdiction, and had investigated more than one hundred drug cases for MCSD. According to the trial court's unchallenged findings, U.S. Route 441 is a major thoroughfare for traffic from Atlanta, and Atlanta is "a major source of controlled substances for western North Carolina." Sergeant Bryson testified there was "a lot of drug activity on [U.S. Route] 441." While on patrol on 10 December 2015, Sergeant Bryson had with him a police dog trained to detect controlled substances.

Sergeant Bryson was parked in his patrol car on the east side of U.S. Route 441, perpendicular to the road, when he noticed a gold Pontiac ("the vehicle" or "Defendant's vehicle") traveling northbound around 3:00 p.m. Sergeant Bryson testified that, as the vehicle approached, he "noticed the female driver, [Defendant], was slumped back and over toward the center console [and] the male passenger . . . [who was wearing] . . . a cowboy type of hat[,] . . . tilted his head slightly, almost to block his face." Sergeant Bryson testified this behavior by Defendant and Defendant's passenger, later identified as Leslie Cox ("Cox"), suggested "nervousness" and "aroused [his] suspicion somewhat [based on] some of the [drug

interdiction] training [he had] been through." Sergeant Bryson pulled his patrol car onto the road and into the far left lane, behind Defendant's vehicle. When Defendant did not voluntarily switch lanes, Sergeant Bryson moved over into the right-hand lane and pulled up alongside Defendant's vehicle. Sergeant Bryson testified that, as he pulled up beside the vehicle, Defendant "swerved over into [his] lane with the two right side tires of [Defendant's] vehicle crossing the dotted white line in the center of the roadway into [Sergeant Bryson's] lane." This caused Sergeant Bryson to pull his patrol car to the right "over the fog line in order to keep from having a [] collision with [Defendant's] vehicle and abruptly hitting [his] brakes." After hitting his brakes, Sergeant Bryson pulled back into the passing lane, behind Defendant's vehicle. Using a radar device, Sergeant Bryson clocked Defendant's speed at sixty-two miles per hour in a fifty-five mile per hour speed limit zone. Sergeant Bryson initiated a traffic stop for Defendant's unsafe movement and the speeding violation, and Defendant pulled off the road into a vacant parking lot.

Sergeant Bryson approached the driver's side of Defendant's vehicle and asked Defendant for her driver's license and vehicle registration. Defendant produced a registration card and began "fumbling all through the vehicle . . . searching for a driver's license." Sergeant Bryson testified that, as Defendant was searching for her license, he "was watching her behavior" and "note[d] a lot of [] nervousness[.]" Defendant's "hands were shaking" when she handed Sergeant Bryson her

registration card, and he could "see her heartbeat[.]" Defendant eventually stopped searching for her driver's license and told Sergeant Bryson she believed she had left it at a gas station in Georgia.

Because Defendant had no driver's license or other form of personal identification, Sergeant Bryson asked her to exit the vehicle in order to get Defendant's name and date of birth. While standing behind the vehicle, Sergeant Bryson "engaged [Defendant] in general conversation[,] . . . ask[ing] . . . where [she was] coming from, [and] where [she was] going[.]" Defendant gave Cox's name, indicated Cox was her boyfriend, and stated they were traveling from Georgia and "headed to Kentucky . . . [for Defendant] to meet [Cox's] parents for the first time." Defendant indicated that was "the reason for her nervousness[.]" With Defendant's permission, Sergeant Bryson wrote Defendant's name and date of birth on the back of her registration card. Sergeant Bryson testified he needed that information from Defendant in order to run it through a mobile data terminal located inside his patrol car.

Sergeant Bryson asked Defendant "if [Cox] had an ID on him because [Defendant did] not . . . and asked if [he] could . . . speak to [Cox]." According to Sergeant Bryson, Defendant responded, "of course." Sergeant Bryson approached the passenger side of Defendant's vehicle and tapped on window "to get [Cox] to roll it down." Sergeant Bryson testified:

> I asked [Cox] just a couple of general questions after asking for his ID. He [told] me [he and Defendant were] headed to his camper on Big Cove in Cherokee[.] [I] asked him if he was going to do any gambling over there, just ask[ed] him some general questions. He said they were going over there to work on his camper for the week. . . . As I first walked up to the vehicle – I've been working dope for an extended period of time now. When I walked up to the vehicle I noticed [] Cox had a sore, [an] open sore on the side of his face . . . [that] looked to me [like] that of a meth[amphetamine] sore.

Sergeant Bryson indicated one of his purposes in speaking with Cox was to see if Cox could "vouch" for Defendant. According to Sergeant Bryson, when asked to verify Defendant's name, Cox replied: "I guess that's her name." Sergeant Bryson testified that when he again asked Cox for Defendant's name at the end of their initial conversation, Cox stated "he [did not] remember."

Sergeant Bryson returned to his patrol car to enter the information written on Defendant's registration card into his mobile data terminal. Sergeant Bryson testified it took longer to run a data search using a name and date of birth rather than a driver's license number. Sergeant Bryson also testified he had to search "in the correct [S]tate that [Defendant] was out of, Georgia[,]" and that "[a] lot of times Georgia is slow to respond and . . . I have no control over that." The search revealed Defendant's driver's license expired the previous day. Sergeant Bryson prepared a written warning citation. He testified that an out-of-state citation takes longer to

prepare because the information must be entered manually rather than by automatically accessing a database of the North Carolina DMV.

While preparing Defendant's warning citation, Sergeant Bryson asked Deputy Stewart to run Cox's driver's license "to see if [Cox's license] was valid [such that Cox would] be able to drive [Defendant's vehicle] off from that location." Sergeant Bryson walked back to the passenger side of the vehicle to return Cox's license. He then gave Defendant the printed citation and returned her registration. Sergeant Bryson testified that "[i]n the process of getting the [license] back [to Cox] I asked him if there was anything illegal in the vehicle, anything I needed to know of[,]" and Cox responded: "Not that I'm aware of." Sergeant Bryson testified this was a "red flag[,]" based on his drug interdiction training, because it was "a yes or no question." Defendant continued engaging Sergeant Bryson in conversation about her expired license. Sergeant Bryson testified he did not initiate this conversation with Defendant. As they continued speaking, Sergeant Bryson asked Defendant whether she was "responsible for everything in the vehicle." Defendant "hesitated and [said], my stuff." Defendant stated Cox "ha[d] his own stuff." Sergeant Bryson testified Defendant's response was another "red flag," because "[a] typical response in a situation like that[] [would be][,] I know what's in my vehicle. . . . [M]ost people will give you a straight up yes or no answer." Sergeant Bryson asked Defendant "if [the

drug-sniffing] dog was going to . . . alert on her vehicle, and [Defendant] said, 'I don't reckon.'" This equivocal response from Defendant was "another red flag."

Sergeant Bryson told Defendant he would ask Cox to exit the vehicle and he would then conduct a dog sniff around the exterior perimeter of Defendant's vehicle. Sergeant Bryson testified Defendant's "level of nervousness was elevated" and Defendant continued "engaging [him] in conversation at that point." Defendant indicated that Cox might be in possession of some "personal use" marijuana and that there might be a hunting knife in the vehicle. Sergeant Bryson's dog "[s]howed [] indicators that he smelled illegal controlled substances there inside [Defendant's] vehicle." Sergeant Bryson returned the dog to his patrol vehicle and called for assistance to begin searching Defendant's vehicle. Inside Defendant's vehicle, officers found "[a] large amount of illegal contraband including methamphetamine, some marijuana, [and] some paraphernalia, including baggies, scales, . . . [and] pipes." Defendant was subsequently charged with two counts of trafficking in methamphetamine as well as possession with intent to manufacture, sell or distribute; possession of drug paraphernalia; and possession of marijuana.

Defendant filed a motion on 22 March 2016 seeking to suppress "the use as evidence of any and all items seized from the vehicle[] of [] [D]efendant" during the 10 December 2015 search. Defendant contended Sergeant Bryson "lacked reasonable suspicion and/or probable cause to extend the traffic stop once Defendant had

received her warning ticket[,]" and, to the extent "reasonable suspicion did exist to detain Defendant after she received the written warning, such reasonable suspicion only existed as the product of the [] unreasonable extension of the stop for questioning on matters unrelated to a traffic objective, and [the evidence] was therefore fruit of the poisonous tree." The trial court held a hearing on Defendant's motion to suppress on 26 July 2016 and denied the motion by order entered 29 July 2016. Defendant ultimately pleaded guilty to two counts of Level II trafficking in methamphetamine. Defendant appeals.

II. Notice of Appeal

In accepting Defendant's plea, the trial court noted Defendant "specifically reserve[d] her right to appeal the [] denial of her motion to suppress and the [court's] final judgment of conviction." At sentencing, Defendant's counsel stated: "I also want to make sure that the portion in [Defendant's plea] about reserving the right to appeal the final conviction, including the motion to suppress[,] is on the record." However, as Defendant concedes, the record does not indicate Defendant gave proper notice of appeal from the trial court's final judgment. Defendant filed with her appellate brief a contemporaneous petition for writ of *certiorari* arguing she "in fact gave oral notice of appeal at trial from both [the suppression order and the final judgment]."

N.C. Gen. Stat. § 15A-979(b) (2017) provides: "An order finally denying a motion to suppress evidence may be reviewed upon an appeal from a judgment of

conviction, including a judgment entered upon a plea of guilty." "A Notice of Appeal is distinct from giving notice of *intent* to appeal. . . . The two forms of notice serve different functions, and performance of one does not substitute for completion of the other." *State v. McBride*, 120 N.C. App. 623, 625-26, 463 S.E.2d 403, 405 (1995) (internal citations omitted) (emphasis in original). "[A] defendant who has properly preserved his right to appeal the denial of a suppression motion must also properly appeal the subsequent judgment pursuant to Rule 4 of the Rules of Appellate Procedure." *State v. Cottrell*, 234 N.C. App. 736, 739, 760 S.E.2d 274, 277 (2014) (citation omitted). In the present case, because it does not appear from the record that Defendant appealed from the judgment entered upon her guilty plea, this Court lacks jurisdiction to consider Defendant's appeal, and the appeal is subject to dismissal. *See State v. Miller*, 205 N.C. App. 724, 725, 696 S.E.2d 542, 542-43 (2010) (dismissing appeal where defendant "preserved his right to appeal by filing [] written notice of intent to appeal from the denial of his motion to suppress, [but] failed to appeal from his final judgment, as required by N.C.G.S. § 15A-979(b).").

Defendant has submitted a sworn affidavit of Defendant's trial counsel stating that, following entry of judgment, "[a]t some point later that day, [counsel] returned to the courtroom and stated in open court that [Defendant] gave notice of appeal from both the final judgment and the suppression order." Counsel's affidavit further avers that counsel later "communicated with the clerk of court who was in the courtroom

when [counsel] gave [oral] notice of appeal, and [the clerk] told [counsel] her notes reflect[ed] that [counsel] gave notice of appeal in open court."[1] As noted above, before entry of judgment, the trial court stated that Defendant "specifically reserve[d] her right to appeal the[] denial of her motion to suppress and the [] final judgment of conviction." Additionally, after entry of judgment, Defendant's counsel reiterated that Defendant "want[ed] to make sure that the portion in [Defendant's plea] about reserving the right to appeal the final conviction, including the motion to suppress[,] is on the record." The State thus had notice of Defendant's intent to appeal the denial of her motion to suppress. Counsel's affidavit suggests Defendant "lost [her right to] appeal through no fault of [her] own." *See Cottrell*, 234 N.C. App. at 740, 760 S.E.2d at 277. We exercise our discretion pursuant to N.C.R. App. P. 21(a) to issue the writ of *certiorari* and reach the merits of Defendant's appeal. *See State v. Franklin*, 224 N.C. App. 337, 339, 736 S.E.2d 218, 220 (2012).

III. Motion to Suppress

A. *Standard of Review*

"This Court's review of an appeal from the denial of a defendant's motion to suppress is limited to determining 'whether competent evidence supports the trial

[1] In responding to Defendant's petition for *certiorari*, the State noted Defendant "ha[d] not produced the clerk's notes." However, the day after the State filed its response to Defendant's petition, Defendant's appellate counsel filed a motion to attach the clerk's notes as an exhibit to the petition, which this Court allowed on 9 November 2017. The clerk's notes for 3 November 2016, the day of Defendant's sentencing, reflect the terms of Defendant's sentence and include the following notation: "RESERVE RIGHT TO APPEAL-MOTION TO SUPPRESS-NOTICE OF APPEAL."

court's findings of fact and whether the findings of fact support the [trial court's] conclusions of law.'" *State v. Granger*, 235 N.C. App. 157, 161, 761 S.E.2d 923, 926 (2014) (quoting *State v. Biber*, 365 N.C. 162, 167-68, 712 S.E.2d 874, 878 (2011)). "[W]e examine the evidence . . . in the light most favorable to the State[.]" *State v. Hunter*, 208 N.C. App. 506, 509, 703 S.E.2d 776, 779 (2010).

On appeal, "[t]he trial court's findings of fact regarding a motion to suppress are conclusive . . . if supported by competent evidence." *State v. Edwards*, 185 N.C. App. 701, 702, 649 S.E.2d 646, 648 (2007). "[U]nchallenged findings of fact are presumed to be supported by competent evidence and [are] binding on appeal." *Cape Fear River Watch v. N.C. Envtl. Mgmt. Comm'n*, 368 N.C. 92, 99, 772 S.E.2d 445, 450 (2015) (citation and quotation marks omitted) (first alteration added). "Our review of a trial court's conclusions of law on a motion to suppress is *de novo*." *Edwards*, 185 N.C. App. at 702, 649 S.E.2d at 648 (citation omitted). "Under *de novo* review, this Court considers the matter anew and freely substitutes its own judgment for that of the [trial court]." *State v. Ward*, 226 N.C. App. 386, 388, 742 S.E.2d 550, 552 (2013) (citation and internal quotation marks omitted) (alteration in original).

B. *Analysis*

Defendant argues certain findings of fact in the trial court's order denying her motion to suppress were unsupported by the evidence. Defendant also contends the

10 December 2015 traffic stop was unlawfully prolonged by Sergeant Bryson's initial questioning of Cox. We address each argument in turn.

1. Findings of Fact

Defendant asserts there was insufficient evidence to support several findings of fact made by the trial court. Defendant first submits the trial court erroneously found in Finding of Fact Number 10 that, before the traffic stop was initiated, Defendant "leaned back and slumped toward the center console" of the vehicle, which Sergeant Bryson considered an evasive action. Defendant notes that Sergeant Bryson testified Defendant "*was* slumped back and over toward the center console" as Defendant's vehicle approached his patrol car. This discrepancy is "immaterial to the overall finding." *See North Carolina State Bar v. Sutton*, ___ N.C. App. ___, ___, 791 S.E.2d 881, 900 (2016). Later in his testimony, Sergeant Bryson was asked: "Now, after you saw [the vehicle Defendant was driving] – was it [Defendant who was] slumped over?" Sergeant Bryson replied: "Yes, correct." Sergeant Bryson stated he learned in drug interdiction training that this type of posture suggests "nervousness" and indicates a person "[does not] want to encounter law enforcement." Thus, whether Defendant's physical act of slumping occurred before or after Sergeant Bryson first saw her vehicle approaching, Sergeant Bryson observed Defendant's slumped posture before initiating the traffic stop.

Defendant also challenges the trial court's finding in Finding of Fact Number 12 that Defendant's act of swerving into Sergeant Bryson's lane "indicated [to Sergeant Bryson that Defendant] had been spooked by the sudden presence of law enforcement." According to Defendant, Sergeant Bryson never testified that he believed Defendant was "spooked" or that the act of swerving indicated anything in particular. Although Sergeant Bryson did not use the word "spooked," he did indicate in his testimony that Defendant's act of swerving contributed to his overall assessment of "nervous activity" by Defendant. Sergeant Bryson testified that Defendant's swerving "caused [him] to pull [his] vehicle to the right . . . in order to [avoid] . . . a vehicle collision with [Defendant's] vehicle and abruptly hit[] [his] brakes." Once Sergeant Bryson "was able to move [his vehicle] back over into the lane behind [Defendant's] vehicle[,]" he "decided to clock [Defendant's speed]" and determined Defendant was speeding. We do not find the trial court's characterizations in Finding of Fact Number 12 inconsistent with Sergeant Bryson's testimony. *See Thompson v. Carolina Cabinet Co.*, 223 N.C. App. 352, 358, 734 S.E.2d 125, 128 (2012) ("While plaintiff may not have used the precise words of the findings in his testimony, the findings reasonably paraphrase plaintiff's testimony or are inferences reasonably drawn from that testimony.").

Defendant further asserts that, in Finding of Fact Number 27, the trial court erroneously found that "[a]fter obtaining [Defendant's] name and address, . . .

[Sergeant] Bryson went to the front passenger window to determine the identity of Cox." Defendant argues Sergeant Bryson actually went to the front passenger window in order to see if Cox could "vouch" for Defendant and Defendant's prior statements. Sergeant Bryson's testimony does not indicate, however, that his *only* purpose in speaking with the passenger was to verify Defendant's statements. Defendant fails to acknowledge Sergeant Bryson's testimony that he asked Defendant "who [she was] traveling with [that day], . . . [and asked Defendant] if [the passenger] *had an identification on him*[.]" Sergeant Bryson then testified: "Basically *what else I wanted to do* [was] see if [the passenger could] verify the information [Defendant had provided] to see if [it was] true." This testimony supports the trial court's finding that Sergeant Bryson went to the front passenger window "to determine the identity of Cox." Plaintiff's arguments with respect to the trial court's findings of fact are overruled.

2. Duration of Traffic Stop

Defendant next argues the trial court erred in denying her motion to suppress the evidence seized from her vehicle because Sergeant Bryson "unlawfully prolonged the stop by asking Cox to 'vouch' for [Defendant]." We disagree.

The Fourth Amendment to the United States Constitution secures the right to be free from unreasonable searches and seizures. U.S. Const. amendment IV. "A traffic stop is a seizure even though the purpose of the stop is limited and the

resulting detention quite brief." *State v. Barnard*, 362 N.C. 244, 246, 658 S.E.2d 643, 645 (2008) (citation and internal quotation marks omitted). The "tolerable duration" of a routine traffic stop "is determined by the seizure's 'mission,' which is to address the traffic violation that warranted the stop, and attend to related safety concerns." *Rodriguez v. U.S.*, 575 U.S. ___, ___, 191 L. Ed. 2d 492, ___ (2015) (internal citation omitted). In *Rodriguez*, the United States Supreme Court held that a seizure for a traffic violation "ends when tasks tied to the traffic infraction are – or reasonably should have been – completed[,]" and an otherwise-completed traffic stop may not be prolonged "absent the reasonable suspicion ordinarily demanded to justify detaining an individual." *Id.* at ___, 191 L. Ed. 2d at ___; *see also State v. Downey*, ___ N.C. App. ___, ___, 796 S.E.2d 517, 519 (2017) ("When a law enforcement officer initiates a valid traffic stop, . . . the officer may not extend the duration of that stop beyond the time necessary to issue the traffic citation unless the officer has reasonable, articulable suspicion of some other crime." (citation omitted)). "Reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence. Only some minimal level of objective justification is required." *State v. Salinas*, 214 N.C. App. 408, 409, 715 S.E.2d 262, 264 (2011) (citation and quotation marks omitted). Our Supreme Court

> has determined that the reasonable suspicion standard requires that the stop . . . be based on specific and articulable facts, as well as the rational inferences from those facts, as viewed through the eyes of a reasonable,

> cautious officer, guided by his experience and training. Moreover, [a] court must consider "the totality of the circumstances – the whole picture" in determining whether a reasonable suspicion exists.

Id. at 409-10, 715 S.E.2d at 264 (citation and quotation marks omitted) (alterations in original).

A law enforcement officer's "mission" in conducting a traffic stop includes tasks incident to the stop, such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." *Rodriguez*, ___ U.S. at ___, 191 L. Ed. 2d at ___. Additionally, "an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely." *Id.* at ___, 191 L. Ed. 2d. at ___. Citing *Rodriguez*, our Supreme Court recently stated:

> Safety precautions taken to facilitate investigations into crimes that are unrelated to the reasons for which a driver has been stopped . . . 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.

State v. Bullock, ___ N.C. ___, ___, 805 S.E.2d 671, 674 (2017).

In the present case, Defendant does not challenge the initiation of the traffic stop. Instead, Defendant argues that "[u]pon making the stop . . . [Sergeant] Bryson immediately undertook a general investigation into criminal misconduct[.]" According to Defendant, Sergeant Bryson unlawfully prolonged the stop "[b]y taking

the time to remove [Defendant] from the car to ask her 'general questions' outside [the passenger's] hearing, and then taking more time to 'verify' [Defendant's] answers with Cox." As an initial matter, we note that "the Fourth Amendment[] . . . is not violated when the police order the driver of a lawfully detained vehicle to exit the vehicle." *State v. McGirt*, 122 N.C. App. 237, 239, 468 S.E.2d 833, 835 (1996) (citation omitted).

We disagree with Defendant that Sergeant Bryson's "questioning of Cox was wholly unrelated to the stop and was not in furtherance of any safety concerns." The trial court's unchallenged findings of fact show the following: Sergeant Bryson "had handled more than 100 drug cases for the [MCSO], and had received extensive training in the area of drug interdiction, which included the detection of behaviors by individuals that tend to indicate activity related to the use, transportation[,] and other activity with controlled substances." Sergeant Bryson knew U.S. Route 441 was a major drug trafficking corridor from Atlanta into the western part of North Carolina. Before initiating the traffic stop, Sergeant Bryson observed body language by both Defendant and Cox that he considered suspicious. After pulling Defendant over for multiple traffic violations, Sergeant Bryson asked Defendant for her license and registration, at which time he observed "[Defendant's] hand was shaking severely" and he "could see [Defendant's] heart beating under her t-shirt." Sergeant Bryson formed the opinion that Defendant's "level of nervousness was more extreme

than what he sees with typical traffic stops." Defendant was unable to produce her driver's license "or any type of [personal identification]." After she stepped out of her vehicle, Defendant "continued to be nervous, with shaking hands, a visible heartbeat, and a nervous voice." Defendant gave Sergeant Bryson her name and date of birth. Because Defendant did not have any form of identification, Sergeant Bryson asked who her passenger was and whether he had any identification on him. Sergeant Bryson specifically testified, and Defendant does not dispute, that he "*asked [Defendant]* if [he] could . . . speak to [Cox][,]" and Defendant responded, "of course."

Sergeant Bryson testified that his purpose in speaking with Cox was "to try to verify [Defendant's] identification." Attempting to verify a driver's identification and driving privileges is an ordinary inquiry incident to a traffic stop. *See Bullock*, ___ N.C. at ___, 805 S.E.2d at 673; *see also Franklin*, 224 N.C. App. at 349, 736 S.E.2d at 225 (holding officer did not unlawfully prolong traffic stop, where officer "took only the actions which would be required by police diligence[:] requesting a driver's license and vehicle registration, running a computer check, and issuing a ticket." (citation and internal quotation marks omitted)). Contrary to Defendant's argument, the traffic stop did not become "a general investigation into criminal misconduct" merely because Sergeant Bryson asked Cox about Defendant's identity and the purpose of their travel. The record does not suggest that, during their initial conversation, Sergeant Bryson asked Cox any questions concerning possible criminal activity by

either Defendant or Cox.[2] Sergeant Bryson testified as follows about his initial interaction with Cox:

> So I [went] up to the vehicle there, the [passenger side] window [was] rolled up, I ha[d] to tap on it to get [Cox] to roll it down. I asked him just a couple of general questions after asking for his ID. [Cox] [told] me [he and Defendant were] headed to his camper on Big Cove in Cherokee, [I] asked him if he was going to do any gambling over there, just ask[ed] him some general questions. [Cox] said they were going over there to work on his camper for the week.

Sergeant Bryson asked Cox to confirm Defendant's name, and inquired about Cox's relationship with Defendant. Sergeant Bryson "returned to [his patrol] vehicle at [that] point in time."

Defendant has not cited any authority holding that a law enforcement officer cannot lawfully engage other occupants of a vehicle during a routine traffic stop by, for example, asking to see the occupants' identification, inquiring about the occupants' purpose of travel, or making general observations about an occupant's conduct and appearance. *See*, *e.g.*, *State v. Hernandez*, 208 N.C. App. 591, 601, 704 S.E.2d 55, 61 (2010) (finding officer did not unlawfully prolong traffic stop because, *inter alia*, "neither the driver *nor any of the passengers* had a driver's license or other

[2] The record shows Sergeant Bryson did not ask Cox about the contents of Defendant's vehicle until after preparing the warning citation and approaching Cox a second time to return his license. Defendant's argument on appeal is limited to whether Sergeant Bryson's *initial* conversation with Cox unlawfully extended the duration of the traffic stop, and we express no opinion about any other portion of the stop. *See* N.C.R. App. P. 28(b)(6) ("Issues not presented in a party's brief, or in support of which no reason or argument is stated, will be taken as abandoned.").

form of identification in their possession[.]" (emphasis added)); *State v. Euceda-Valle*, 182 N.C. App. 268, 273, 641 S.E.2d 858, 862-63 (2007) (finding officer had reasonable suspicion to conduct a dog sniff during traffic stop, where, *inter alia*, "the occupants of the vehicle were very nervous and there appeared to be some confusion between the occupants as to specifically where they were going[.]"). We conclude Sergeant Bryson's initial conversation with Cox "was simply time spent pursuing the mission of the stop[,]" which included verifying Defendant's identity and determining whether Defendant was authorized to operate the vehicle. *Bullock*, ___ N.C. at ___, 805 S.E.2d at 676; *compare with State v. Jackson*, 199 N.C. App. 236, 242, 681 S.E.2d 492, 496 (2009) (holding scope of Defendant's detention "was necessarily limited" to determining whether the non-defendant driver of the vehicle "was operating his vehicle without a license[,]" and officer unlawfully extended duration of traffic stop by continuing to interrogate driver about vehicle's contents after determining driver had a valid license.).

This Court has held that "*[o]nce the purpose of [a traffic] stop has been addressed*, there must be grounds which provide a reasonable and articulable suspicion in order to justify further delay." *State v. Heien*, 226 N.C. App. 280, 286, 741 S.E.2d 1, 5 (2013) (citations omitted) (emphasis added). In this case, the purpose of the traffic stop – *i.e.*, Defendant's traffic violations and "related safety concerns" – had not been "addressed" when Sergeant Bryson first approached Cox. *See State v.*

Bedient, ___ N.C. App. ___, ___, 786 S.E.2d 319, 322 (2016). Sergeant Bryson had not yet confirmed Defendant's identity, driving privileges, vehicle registration, or criminal background, and no citation had been issued for the traffic violations that precipitated the stop. *See Jackson*, 199 N.C. App. at 243, 681 S.E.2d at 497 (holding that "an initial traffic stop concludes . . . only after an officer returns the detainee's driver's license and registration."); *see also State v. Velasquez-Perez*, 233 N.C. App. 585, 595, 756 S.E.2d 869, 876 (2014) (discussing *Jackson*, and holding traffic stop did not conclude when officer handed defendant written warning citation, because officer "had not completed his checks related to the licenses, registration, insurance, travel logs, and invoices of [the defendant's] commercial vehicle."). Reasonable suspicion of other criminal activity was not necessary at that point to justify further detention of Defendant, because the traffic stop itself was not yet complete. Nothing in the trial court's findings suggests Sergeant Bryant questioned Cox about possible criminal activity during their initial conversation, and Defendant has not challenged Sergeant Bryson's subsequent questioning of Cox.

Even assuming *arguendo* that Sergeant Bryson's initial questioning of Cox was unrelated to the mission of the traffic stop, we also note the trial court's findings of fact show that approximately fifteen minutes elapsed between the initiation of the traffic stop and the issuance of the printed warning citation to Defendant. Considering the other events that occurred within that time frame, including

Sergeant Bryson's multiple conversations with Defendant, the lengthier-than-usual process of running out-of-state license and background checks on Defendant, and the manual entry of data for Defendant's warning citation, it appears Sergeant Bryson's initial conversation with Cox could not have lasted more than a few minutes. Defendant concedes Sergeant Bryson's "detour" to speak with Cox was "brief." Our Supreme Court recognized in *Bullock* that "traffic stops remain[] lawful . . . [as] long as [unrelated] inquiries do not *measurably* extend the duration of the stop." ___ N.C. at ___, 805 S.E.2d at 676 (citation and internal quotation marks omitted) (emphasis in original). As in *Bullock*, we conclude Sergeant Bryson's initial questioning of Cox "did not extend the traffic stop's duration in a way that would require reasonable suspicion." *Id.* at ___, 805 S.E.2d at 677.

IV. Conclusion

Sergeant Bryson's initial conversation with Cox was within the scope of the traffic stop's mission and occurred before the conclusion of the stop. Sergeant Bryson's questioning of Cox at that point in the traffic stop did not constitute a general investigation of unrelated criminal conduct. Although Sergeant Bryson identified multiple "red flags" *as a result* of his initial conversation with Cox, the *purpose* of the questioning stemmed from Defendant's traffic violations. Because we conclude Sergeant Bryson's initial conversation with Cox did not unlawfully extend

the duration of the traffic stop, we affirm the trial court's order denying Defendant's motion to suppress.

AFFIRMED.

Judges BRYANT and INMAN concur.

Report per Rule 30(e).