

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2022-NCCOA-475

No. COA21-442

Filed 5 July 2022

Durham County, No. 19 CRS 55571

STATE OF NORTH CAROLINA,

v.

LINWOOD BRUCE CAMERON, Defendant.

Appeal by Defendant from judgments entered 24 February 2021 by Judge Orlando F. Hudson in Durham County Superior Court. Heard in the Court of Appeals 8 February 2021.

Attorney General Joshua H. Stein, by Assistant Attorney General T. Hill Davis, III, for the State.

Daniel M. Blau Attorney at Law, P.C., by Daniel M. Blau, for Defendant-Appellant.

WOOD, Judge.

¶ 1

Defendant Linwood Cameron (“Defendant”) appeals from judgments entered upon his guilty pleas to 1) attempted trafficking in heroin by possession, and 2) attempted trafficking in heroin by transportation on February 24, 2021. On appeal, Defendant argues the trial court erred by entering an order denying his motion to suppress, contending the officers did not have reasonable suspicion to stop the vehicle

and did not have probable cause to search his person. After a careful review of the record and applicable law, we affirm.

I. Facts and Procedural Background

¶ 2 On the evening of August 8, 2019, Sergeant Timothy J. Price (“Sergeant Price”) was patrolling an area in Durham that was known for illegal drug activity. While patrolling, Sergeant Price observed a white BMW sedan backed into the far-right corner of a gas station. Sergeant Price, accompanied by Detective Amanda Andrews (“Detective Andrews”), began surveilling the white BMW sedan from a restaurant across the street.

¶ 3 Sergeant Price observed a Lexus SUV pull into the gas station and park at the gas pump closest to the white BMW sedan. A male, later identified as Defendant, exited the passenger side of the Lexus SUV and got into the passenger side of the white BMW sedan. Defendant exited the white BMW sedan after 30 seconds and returned to the Lexus SUV. Sergeant Price observed that Defendant’s head was “kind of all swivels[]” and he saw “something in . . . [Defendant’s] hand” At no point did anyone from the Lexus SUV pump gas into the vehicle or enter the gas station. The Lexus SUV and white BMW sedan left the gas station, driving in opposite directions.

¶ 4 Sergeant Price and Detective Andrews, along with Detective Victor Buchanan (“Detective Buchanan”) by separate vehicle, began to follow the Lexus SUV. They

followed the Lexus SUV to “look[] for a traffic violation[]” in order to “perform a traffic stop to further investigate the narcotic or possible narcotic activity . . . [they had] noticed.” While following the Lexus SUV, the officers noticed the vehicle was traveling 62 mph in a 55 mph zone and failed to use a left turn signal before turning from a left-turn lane.

¶ 5 Upon observing these traffic violations, Sergeant Price initiated a traffic stop. Sergeant Price approached the driver’s side of the Lexus SUV and Detective Andrews approached the passenger side where Defendant was seated. Neither officer wore a body camera. When Detective Andrews approached Defendant, she noticed he was “leaning over[]” so that she could not “see both hands.” Sergeant Price observed that the driver, later identified as Nikiaha Chavis (“Chavis”), “was agitated and upset over the traffic stop.” Sergeant Price requested Chavis to exit the vehicle, while Detective Andrews requested Defendant to exit the vehicle.

¶ 6 A call was made for other officers and a K-9 officer to respond to the scene. Sergeant Price and Detective Andrews performed a pat-down of Defendant. Sergeant Price discovered about \$3,000.00 in Defendant’s back pocket. Sergeant Price asked Defendant if he had ever been arrested. Defendant replied he had been in federal prison for trafficking cocaine.

¶ 7 Officer Ryan Wale (“Officer Wale”) and his K-9 partner arrived on the scene and proceeded to walk around the Lexus SUV. The K-9 officer alerted to the presence

of drugs while at the passenger side door. An officer searched the passenger side of the vehicle and found two \$100.00 bills underneath the passenger seat. Sergeant Price then searched Defendant's person. Sergeant Price pulled Defendant's pants and undergarments away from his body and noticed a softball-sized bag containing heroin protruding from Defendant's buttocks. Defendant was arrested thereafter.

¶ 8 On November 18, 2019, Defendant was indicted for 1) trafficking heroin by possession, 2) trafficking heroin by transportation, and 3) possession of heroin with an intent to manufacture, sell or deliver heroin. On September 9, 2020, Defendant filed a motion to suppress, arguing the police lacked reasonable suspicion to search the Lexus SUV and lacked probable cause to search both the Lexus SUV and his person. The trial court subsequently entered an order denying Defendant's motion.

¶ 9 After the trial court denied his motion to suppress, pursuant to the terms of a plea agreement, Defendant pleaded guilty on February 24, 2021, to all charges except possession of heroin with an intent to manufacture, sell or deliver heroin. Under the terms of the plea agreement, the State dismissed the charge of possession of heroin with intent to manufacture, sell or deliver heroin and preserved Defendant's right to appeal the denial of his motion to suppress. The trial court imposed an active sentence of 27 to 45 months in confinement for each of the remaining two charges and ordered the sentences to run consecutively. Defendant subsequently appealed to this Court.

II. Discussion

¶ 10 Defendant argues on appeal 1) the trial court erred by concluding reasonable suspicion existed to stop the Lexus SUV, and 2) the trial court erred by concluding probable cause existed to search his body without a warrant. We disagree.

¶ 11 We evaluate a trial court’s denial of a motion to suppress to determine “whether competent evidence supports the trial court’s findings of fact and whether the findings of fact support the conclusions of law.” *State v. Biber*, 365 N.C. 162, 167-68, 712 S.E.2d 874, 878 (2011) (citing *State v. Brooks*, 337 N.C. 132, 140-41, 446 S.E.2d 579, 585 (1994)); *see also* *State v. Burris*, 253 N.C. App. 525, 530, 799 S.E.2d 452, 456 (2017). “Conclusions of law are reviewed *de novo* and are subject to full review.” *Biber*, 365 N.C. at 168, 712 S.E.2d at 878 (emphasis added) (citing *State v. McCollum*, 334 N.C. 208, 237, 433 S.E.2d 144, 160 (1993)). Under the *de novo* standard of review, the reviewing court “considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *State v. Williams*, 362 N.C. 628, 632-33, 669 S.E.2d 290, 294 (2008) (internal quotation marks omitted).

A. Reasonable Suspicion for the Traffic Stop

¶ 12 Defendant first argues the trial court erred by concluding in its order denying Defendant’s motion to suppress that the officers had reasonable suspicion to stop the Lexus SUV. We disagree.

¶ 13 Defendant contends the order’s finding of fact number 16 is not supported by

competent evidence. This finding states, “Det[ective] Buchanan was directly behind the Lexus and was able to observe the vehicle’s speed. Maintaining a constant distance behind the Lexus, he paced the Lexus at 62 mph in a 55 mph zone.” At trial, Detective Buchanan testified he was following behind the Lexus SUV and “noticed and continued to notice” it was “traveling approximately 62 mile[s] an hour in a 55 mile[s] an hour speed limit zone.” Both Sergeant Price and Detective Andrews testified that while following Detective Buchanan and the Lexus SUV, Detective Buchanan relayed to them the Lexus SUV was traveling at a speed of 62 miles per hour. Based on these testimonies, the trial court had ample competent evidence to support finding fact number 16.

¶ 14 Since Defendant does not challenge any other findings of fact, “they are deemed to be supported by competent evidence and are binding on appeal.” *State v. Horton*, 264 N.C. App. 711, 715, 826 S.E.2d 770, 774 (2019) (internal quotation marks omitted) (quoting *State v. Roberson*, 163 N.C. App. 129, 132, 592 S.E.2d 733, 735-736 (2004)); see *State v. Baker*, 312 N.C. 34, 37, 320 S.E.2d 670, 673 (1984). Thus, the primary question before this Court is whether the trial court’s findings of fact support its conclusion of law number 1 that the “deputies had reasonable suspicion to stop the vehicle.” We review a determination of reasonable suspicion *de novo*. *State v. Castillo*, 247 N.C. App. 327, 338, 787 S.E.2d 48, 55 (2016).

¶ 15 The United States and North Carolina Constitutions protect a person against

unreasonable searches and seizures. U.S. Const. amend. IV; N.C. Const. art. I, § 20; *see also State v. Romano*, 369 N.C. 678, 685, 800 S.E.2d 644, 649 (2017); *State v. Watkins*, 337 N.C. 437, 441, 446 S.E.2d 67, 69 (1994) (stating the Fourth Amendment is “applicable to the states through the Due Process Clause of the Fourteenth Amendment”). “Traffic stops are considered seizures even though the purpose of the stop is limited and the resulting detention quite brief.” *State v. Horton*, 264 N.C. App. 711, 715, 826 S.E.2d 770, 774 (2019) (internal quotation marks omitted) (quoting *State v. Murray*, 192 N.C. App. 684, 687, 666 S.E.2d 205, 207 (2008)). Nonetheless, “a traffic stop is generally constitutional if the police officer has a ‘reasonable, articulable suspicion that criminal activity is afoot.’” *Murray*, 192 N.C. App. at 687, 666 S.E.2d at 207 (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675, 145 L. Ed. 2d 570, 576 (2000)); *see Brown v. Tex.*, 443 U.S. 47, 51, 99 S. Ct. 2637, 2641, 61 L. Ed. 2d 357, 362 (1979); *see also Watkins*, 337 N.C. at 441, 446 S.E.2d at 70 (“Only unreasonable investigatory stops are unconstitutional.”).

¶ 16 When determining whether reasonable suspicion exists so that a traffic stop passes constitutional muster, a court “must consider ‘the totality of the circumstances--the whole picture.’” *Watkins*, 337 N.C. at 441, 446 S.E.2d at 70 (quoting *United States v. Cortez*, 449 U.S. 411, 417, 101 S. Ct. 690, 695, 66 L. Ed. 2d 621, 629 (1981)). For a traffic stop to comply with the Fourth Amendment, it “must 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.” *Watkins*, 337 N.C. at 441, 446 S.E.2d at 70 (first citing *Terry v. Ohio*, 392 U.S. 1, 21-22, 88 S. Ct. 1868, 1880, 20 L. Ed. 2d 889, 906 (1968); then citing *State v. Thompson*, 296 N.C. 703, 706, 252 S.E.2d 776, 779 (1979)). There must exist “some minimal level of objective justification” that is more than an “inchoate and unparticularized suspicion or hunch” in order to conduct a traffic stop. *United States v. Sokolow*, 490 U.S. 1, 7, 109 S. Ct. 1581, 1585, 104 L. Ed. 2d 1, 10 (1989) (cleaned up) (citations omitted); accord *Watkins*, 337 N.C. at 442, 446 S.E.2d at 70.

¶ 17 Because the trial court’s finding of fact that Defendant was speeding is supported by competent evidence, this is sufficient to support its conclusion reasonable suspicion existed to stop Defendant. See *State v. Castillo*, 247 N.C. App. 327, 331, 787 S.E.2d 48, 51 (2016) (“[T]he trial court properly found that Officer Roy Green . . . stopped a vehicle driven by defendant with reasonable suspicion that defendant was speeding”); *State v. Royster*, 224 N.C. App. 374, 382, 737 S.E.2d 400, 406 (2012) (holding the officer had reasonable suspicion to stop defendant when defendant was speeding); *State v. Burton*, 108 N.C. App. 219, 226, 423 S.E.2d 484, 488 (1992) (explaining “[t]he State presented evidence that Sergeant Tiffin observed defendant traveling at a speed estimated to be twenty m.p.h. greater than the posted speed limit. Based on his observation and training, Sergeant Tiffin had at least

reasonable suspicion to stop defendant's vehicle."). Accordingly, we conclude reasonable suspicion existed to warrant a stop of Defendant's vehicle.

¶ 18 Notwithstanding, Defendant specifically argues the trial court did not have reasonable suspicion because Detective Buchanan's vehicle speedometer was too unreliable and the non-signalized left turn from a left-turn lane was a legal maneuver. However, "[e]xcessive speed of a vehicle may be established by a law enforcement officer's opinion as to the vehicle's speed after observing it." *State v. Barnhill*, 166 N.C. App. 228, 233, 601 S.E.2d 215, 218 (2004). As explained above, Detective Buchanan's observation of Defendant's vehicle, along with him following closely behind Defendant's vehicle and his personal observation of its speed "furnished him with a sufficient blend of circumstances to establish there was a fair probability that" Defendant was speeding. *Id.* at 233, 601 S.E.2d at 218. To the extent Defendant argues his non-signalized left turn from a left-turn lane was a legal maneuver and thus did not establish reasonable suspicion, we need not address his argument here as Detective Buchanan's observation of Defendant traveling above the speed limit constituted reasonable suspicion.

B. Probable Cause to Search Defendant's Body

¶ 19 Defendant next contends the trial court erred by reaching conclusion of law number 2, which states "based on the totality of the circumstances, the deputies had probable cause to search Mr. Cameron's person." We disagree.

¶ 20 A warrantless search of a vehicle is permissible when there is “probable cause to search and exigent circumstances make it impracticable to secure a search warrant.” *State v. Jones*, 295 N.C. 345, 351, 245 S.E.2d 711, 714 (1978) (cleaned up) (first citing *State v. Legette*, 292 N.C. 44, 231 S.E.2d 896 (1977); then citing *State v. Allen*, 282 N.C. 503, 512, 194 S.E.2d 9, 16 (1973)). Probable cause exists when “a reasonable person acting in good faith could reasonably believe that a search of the defendant would reveal the controlled substances sought which would aid in his conviction.” *State v. Mills*, 104 N.C. App. 724, 730, 411 S.E.2d 193, 196 (1991); *see State v. Campbell*, 282 N.C. 125, 129, 191 S.E.2d 752, 755 (1972); *see also State v. Smith*, 222 N.C. App. 253, 261, 729 S.E.2d 120, 126 (2012) (“Probable cause. . . [must be] sufficiently particularized to . . . [the defendant] . . .”).

¶ 21 We find the following findings of fact to be material to the trial court’s conclusion that the officers had probable cause to search Defendant’s person. Sergeant Price observed Defendant exit the Lexus SUV, approach the white BMW sedan parked at the far end of the gas station, and engage in what Sergeant Price believed to be a drug transaction. This gas station was in a neighborhood where high drug activity occurred. Sergeant Price testified Defendant’s head was “on a swivel” as he returned to the Lexus SUV and he appeared to be holding something in his hand. Defendant returned to the Lexus SUV and promptly left. The officers followed the Lexus SUV, “believing that they had witnessed a narcotics transaction and that

the occupants of the Lexus would more likely be the selling party rather than the buying party.”

¶ 22 Detective Andrews observed traffic infractions, initiated the traffic stop, approached the vehicle, and observed Defendant “lean forward in his seat in an unusual manner, pressing his right arm between his chest and right thigh and reaching his left arm down toward the floorboard.” A subsequent pat-down of Defendant’s person revealed a large wad of cash in his pocket. Defendant told the officers he had served ten years in a federal prison for a previous drug trafficking conviction. The K-9 officer alerted to the presence of narcotics at the area of the vehicle where Defendant had been sitting. A search of the passenger side of the vehicle revealed cash underneath the front seat. Sergeant Price then performed a search on Defendant’s person and first found cash in his pocket, and then, after pulling the top of his underwear away from his back side, observed a bag of heroin protruding from between Defendant’s buttocks.

¶ 23 Thus, considering Sergeant Price’s observation of Defendant engaging in what appeared, in his professional training and experience, to be a drug deal, the location where the drug deal occurred, the presence of large amounts of cash on Defendant’s person and at the passenger side of the vehicle, his criminal history, and the K-9 officer’s alert to the presence of drugs at the passenger seat where Defendant had been sitting, we hold the trial court had ample evidence to conclude “a reasonable

person acting in good faith” would have believed that a search of Defendant’s person “would reveal the controlled substances sought which would aid in his conviction.” *Mills*, 104 N.C. App. at 730, 411 S.E.2d at 196. Therefore, based upon the totality of the circumstances, the officers had probable cause to search Defendant’s person, and the trial court did not err in denying Defendant’ motion.

III. Conclusion

¶ 24 For the foregoing reasons, we hold the trial court properly denied Defendant’s motion to suppress because the officers had reasonable suspicion to stop Defendant’s vehicle and probable cause to conduct a warrantless search of his person. Accordingly, we affirm the trial court’s order denying Defendant’s motion to suppress.

AFFIRMED.

Judges HAMPSON and GORE concur.

Report per Rule 30(e).