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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-259

Filed 19 September 2023

Craven County, Nos. 19CRS053491-93, 20CRS000794-97, 21CRS000519

STATE OF NORTH CAROLINA

v.

GEMEAN TIYOUNG MOORE

Appeal by Defendant from judgment entered 9 August 2022 by Judge Joshua W. Willey, Jr., in Craven County Superior Court. Heard in the Court of Appeals 29 August 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Charles G. Whitehead, for the State.

Mark Hayes for Defendant.

PER CURIAM.

Defendant Gemean Tiyoung Moore appeals from judgment entered upon his guilty plea to multiple charges of drug-related offenses and for having attained habitual felon status. Defendant argues that the trial court erred by denying his motion to suppress because there was no reasonable suspicion to justify the traffic stop of the vehicle that Defendant was driving. We find no error.

I. Background

On 19 October 2019, Investigator Curtis Toler with the Craven County Sherriff's Department was conducting a routine patrol and decided to check "on one of [his] drug complaint areas[.]" Toler drove past a house on James Arthur Road that was a "known drug residence" and had received multiple complaints about "typical drug activity, cars in and out" and "people walking out . . . standing in the yard." Toler encountered a white Dodge Challenger that was stopped at the house; the Challenger was unoccupied but had its engine running and the driver's door open. Toler ran the Challenger's license plate through the law enforcement database and learned that it was registered to Shemike Windley whose "driver's license status was suspended." Windley had convictions for driving while impaired and trafficking cocaine. Toler continued on his patrol and stayed in the area of the house on James Arthur Road.

A short time later, Toler encountered the Challenger driving in the opposite direction; he turned around, followed the Challenger, and ran the license plate to confirm that it was the same Challenger that he spotted earlier. As Toler followed the vehicle, he saw the Challenger make a right turn and cross over the double yellow center line. Based on this "left of center violation" and the Challenger's registered owner having a suspended license, Toler activated his blue lights and siren and stopped the Challenger. Toler also contacted a K-9 officer who arrived on scene shortly thereafter. As Toler approached the Challenger, he smelled a strong odor of

burnt marijuana. Defendant was sitting in the driver's seat of the Challenger; Windley was sitting in the front passenger seat; and two people were sitting in the back. Toler recognized and knew both individuals in the back seat as "[k]nown offenders . . . [in] drug activity."

Defendant could not provide Toler with a driver's license but did show Toler a medical bracelet with his name on it. Toler ran Defendant's name and information through the law enforcement database; it revealed that Defendant's license was suspended and that he had an order for arrest. Toler and the K-9 officer searched the vehicle and uncovered a "plastic grocery-type bag that contained" significant amounts of cocaine, methamphetamine, heroin, and marijuana.

On 9 August 2022, Defendant was convicted pursuant to his guilty plea and specifically reserved his right to appeal the denial of his motion to suppress. Defendant was sentenced to a term of 127 to 165 months' imprisonment and gave proper notice of appeal in open court.

II. Discussion

Defendant argues that the trial court erred by denying his motion to suppress because Toler lacked reasonable suspicion to stop the Challenger; he specifically argues that "Toler did not observe a traffic violation" by the Challenger, and that Windley's suspended license did not justify a reasonable suspicion vehicle stop. (capitalization altered).

This Court reviews the denial of a motion to suppress to determine (1) whether

the trial court's findings of fact are supported by competent evidence and (2) whether those findings support the trial court's conclusions of law. *State v. Hendrickson*, 124 N.C. App. 150, 153, 476 S.E.2d 389, 391 (1996). A trial court's findings of fact "are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting." *State v. Brewington*, 352 N.C. 489, 498, 532 S.E.2d 496, 501 (2000) (quotation marks and citation omitted).

The Fourth Amendment of the U.S. Constitution protects individuals "against unreasonable searches and seizures." *State v. Barnard*, 362 N.C. 244, 246, 658 S.E.2d 643, 645 (2008) (quotation marks and citation omitted). A traffic stop is constitutional if the officer has a "reasonable, articulable suspicion that criminal activity is afoot." *Id.* (quotation marks and citation omitted). A stop based on reasonable suspicion 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[.]" *State v. Styles*, 362 N.C. 412, 414, 665 S.E.2d 438, 439 (2008) (citation omitted). The "overarching inquiry when assessing reasonable suspicion is always based on the *totality* of the circumstances." *State v. Fields*, 219 N.C. App. 385, 387, 723 S.E.2d 777, 779 (2012) (quotation marks and citation omitted).

Here, the trial court made the following relevant findings of fact:

3. Officer Toler noticed a white Dodge Challenger that was parked in the driveway. The door was open. The vehicle was running. There was no occupant in the vehicle at that time.

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4. Officer Toler ran the tags on the [Challenger] and determined that the registered owner of the vehicle had a suspended license.
5. Officer Toler was also able to determine from the law enforcement database that the registered owner had a record of prior drug related convictions.
6. Officer Toler later encountered that same vehicle at an intersection He observed the vehicle, as it turned onto Saints Delight Church Road, made a wide right turn.
7. Officer Toler observed the front tire of the vehicle cross the centerline which was a solid yellow line.
8. Officer Toler turned to follow the vehicle. He ran the tags again for this vehicle and determined that it was the same vehicle he had observed earlier, that the registered owner of the vehicle, [Windley], did, in fact, have a suspended license.
9. He was not able to observe at that time the identity of the driver of the vehicle to determine if it was a male or female or the respective age of the driver.
10. Based on the information that was available and the observation of a violation of the motor vehicle code, Officer Toler conducted a stop of the vehicle.

Based on these facts, the trial court made the following relevant conclusions of law:

1. That there was reasonable suspicion based on the registered owner of the vehicle having a suspended license.
2. Officer Toler's observation of a violation of the motor vehicle code provided sufficient probable cause for the stop of the vehicle.
3. Those facts combined with the other circumstances in which the vehicle had been observed earlier all relate to the totality of the circumstances and support the reasonableness of the stop.

Here, the evidence shows that Toler witnessed the Challenger commit a traffic

violation by making a wide right turn and crossing the double yellow line. Our Courts have routinely held that this type of traffic violation provides law enforcement with objective, reasonable suspicion to conduct a traffic stop. *See State v. Osterhoudt*, 222 N.C. App. 620, 632, 731 S.E.2d 454, 462 (2012) (determining that a vehicle that made a “wide right turn” and crossed over a double yellow line violated three provisions of the N.C. Motor Vehicle Code and holding that the officer’s traffic stop of that vehicle was reasonable); *State v. Sutton*, 259 N.C. App. 891, 893, 817 S.E.2d 211, 213 (2018) (“Where a vehicle actually crosses over the double yellow lines . . . even once . . . the driver has committed a traffic violation This is a ‘readily observable’ traffic violation and the officer may stop the driver without violating his constitutional rights.” (citation omitted)).

Additionally, Toler knew that the Challenger’s registered owner had a suspended license. Our Courts have held that a suspended license provides law enforcement with reasonable suspicion to conduct an investigatory traffic stop. *See State v. Hess*, 185 N.C. App. 530, 534, 648 S.E.2d 913, 917 (2007) (holding that when an officer knows a vehicle is being driven by someone with a suspended license, “and there is no evidence appearing to the officer that the owner is not the individual driving the [vehicle],” reasonable suspicion exists to conduct an investigatory stop).

The evidence supports the trial court’s findings, which support the conclusion that “specific and articulable facts” provided Toler with reasonable suspicion to stop the Challenger. *Styles*, 362 N.C. at 414, 665 S.E.2d at 439.

III. Conclusion

Because the evidence supports the trial court's findings of fact, and the findings of fact support the conclusions of law, the trial court did not err by denying Defendant's motion to suppress.

NO ERROR.

Panel consisting of:

Chief Judge STROUD and Judges ARROWOOD and COLLINS.

Report per Rule 30(e).