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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-628

Filed 6 February 2024

Henderson County, Nos. 20CRS53669–70, 21CRS42

STATE OF NORTH CAROLINA

v.

DEMETRIUS MIGUEL WILLIAMS, Defendant.

Appeal by defendant from judgments entered 19 July 2022 by Judge Peter B. Knight in Henderson County Superior Court. Heard in the Court of Appeals 9 January 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General J. Locke Milholland, IV, for the State.

Shawn R. Evans, for defendant-appellant.

FLOOD, Judge.

Demetrius Miguel Williams (“Defendant”) appeals from the 19 July 2022 judgments, convicting him of possession of firearm by felon, habitual felon status, and driving while license revoked not impaired revocation. Our review of the Record

reveals the trial court correctly concluded the traffic stop resulting in evidence of a firearm was not unnecessarily extended; therefore, we hold the trial court did not err in denying Defendant's motion to suppress, finding no constitutional violation occurred.

I. Facts and Procedural Background

On 5 October 2020 at approximately 10:47 p.m., Deputy James McClure ("Deputy McClure") pulled into the drive-through of a McDonald's off the Spartanburg Highway in Henderson County, North Carolina. While waiting in the drive-through line, Deputy McClure ran the license plate of the 1998 Ford Explorer in front of him. Deputy McClure learned from dispatch that the Ford Explorer's registered owner's license to drive was permanently suspended in North Carolina. Deputy McClure then checked the record of the Ford Explorer's owner, revealing "an extensive criminal history," which included convictions for possession with intent to distribute, driving while license revoked, assault on a female, and failure to appear. Defendant was both the owner and driver of the Ford Explorer.

Upon leaving the McDonald's drive-through, Deputy McClure followed the Ford Explorer while simultaneously requesting information from dispatch on any outstanding warrants for the vehicle's registered owner. Deputy McClure then stopped the Ford Explorer behind the Norm's Minit Mart on Kanuga Road. After approaching the vehicle, Deputy McClure confirmed Defendant was the vehicle's registered owner and asked to see Defendant's driver's license, which Defendant

immediately produced. The driver's license produced by Defendant was a valid, New York state driver's license.

At this point, Deputy Jerad McFalls ("Deputy McFalls"), a canine officer, arrived on the scene as backup. Defendant asked if he could exit his vehicle to smoke, which Deputy McClure allowed; meanwhile, Deputy McFalls requested and received permission from Defendant to pat him down for weapons. Deputy McClure went back to his vehicle with Defendant's New York driver's license and "looked over [Defendant's] criminal history again." After reviewing Defendant's criminal history, Deputy McClure "told Deputy McFalls it would probably be a good idea to utilize his canine due to [Defendant's] criminal history." At this point, approximately five minutes into the stop, Deputy McFalls began his canine air sniff of Defendant's vehicle while Deputy McClure attempted to log in to the e-citation system with the intention of writing Defendant a citation for driving with a suspended license.

While Deputy McClure struggled to remember his password, the canine alerted on Defendant's vehicle. Deputy McClure then stopped what he was doing and informed Defendant they now had probable cause to search his vehicle and asked Defendant if there was anything in the vehicle about which they should know. Defendant admitted to having a small amount of marijuana and "his buddy's firearm[.]" Due to the firearm being present, Deputy McClure asked dispatch to confirm Defendant's previous convictions included felony offenses. Defendant was

then arrested and charged with possession of a firearm by a felon, driving while license revoked, and as being a habitual felon.

On 11 January 2021, Defendant was indicted for possession of a firearm by felon and for driving while license revoked not impaired revocation. On 11 October 2021, through counsel, Defendant made a motion to suppress the evidence obtained as a result of the search of his vehicle. The suppression motion was heard before Judge Mark E. Powell in Henderson County Superior Court on 12 October 2021. During the hearing, Deputy McClure testified regarding the 5 October 2020 traffic stop, stating that, after logging on to the e-citation system, it typically takes ten minutes to issue a citation for driving while license revoked.

On 23 November 2021, Judge Powell signed an order (the “Suppression Order”), denying Defendant’s motion to suppress. In the Suppression Order, Judge Powell made the following findings of fact:

7. That Deputy McClure went back to his vehicle in possession of the Defendant’s New York driver’s license and again conducted a record check [sic] of the Defendant. That Deputy McClure needed to have the New York license in his possession to allow dispatch to confirm whether it was valid. Deputy McClure indicated to Deputy McFalls that he should run his dog around the Ford Explorer.
8. That dispatch confirmed that the New York license was valid and also that the Defendant’s North Carolina license was permanently suspended.
9. That the [canine] alerted on the vehicle, and the Defendant was told that this gave the deputies probable cause to search the vehicle, and it is found as a fact that

probable cause to search the vehicle existed at that time. Upon the search of the vehicle a small amount of marijuana was found for which the Defendant was not charged, and also a firearm, which is the basis for one of the charges.

10. That after Deputy McClure told Deputy McFalls to run his dog around the Ford Explorer, Deputy McClure was still involved in dealing with the Defendant's status and record, and he began to attempt to log into e-citation. Deputy McClure was doing the normal and usual things that would be expected during a traffic stop.

11. That when the dog alerted to the vehicle, Deputy McClure was still involved in the paperwork that would be necessary to give the Defendant either a warning ticket or a citation. The traffic stop was not extended in order to allow the [canine] to do a run on the vehicle.

On 19 July 2022, Defendant appeared before Judge Peter B. Knight and entered a guilty plea for the charges of possession of firearm by felon, driving while license revoked, and being a habitual felon. Pursuant to the plea arrangement, Defendant reserved the right to appeal the denial of his motion to suppress. Defendant was then sentenced as a habitual felon to a mitigated range of sixty to ninety-two months' confinement. On 20 July 2022, Defendant appealed.

II. Jurisdiction

This Court has jurisdiction to review an order denying a motion to suppress evidence, including judgment entered upon a plea of guilty pursuant to N.C. Gen. Stat. § 15A-979(b) (2021).

III. Analysis

On appeal, Defendant argues (A) the trial court erred in denying his motion to suppress because its findings of fact are inaccurate, (B) the single conclusion of law in the Suppression Order is inadequate, and (C) his motion to suppress should have been allowed because he was subject to an unlawful search and seizure. On all points, we disagree.

A. Findings of Fact

Defendant begins by contending several of the trial court's findings of fact in the Suppression Order were not supported by competent evidence. Our review of a trial court's denial of a motion to suppress is "strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law." *State v. Cooke*, 306 N.C. 132, 134, 291 S.E.2d 618, 619 (1982). "Competent evidence is evidence that a reasonable mind might accept as adequate to support the finding." *State v. Ashworth*, 248 N.C. App. 649, 651, 790 S.E.2d 173, 176 (2016) (citation omitted).

Here, Defendant raises challenges to Findings of Fact 7, 8, 10, and 11, arguing the findings were chronologically inaccurate and a mischaracterization of what actually occurred. We will take each argument in turn.

Defendant begins by arguing Finding of Fact 7 places "events important for appellate review in an incorrect order[,] without sufficient detail." Finding of Fact 7 states that "Deputy McClure went back to his vehicle in possession of [] Defendant's

New York driver's license and again conducted a record check [sic] of [] Defendant. . . . Deputy McClure indicated to Deputy McFalls that he should run his dog around the Ford Explorer." The testimony of Deputy McClure confirms that once he returned to his patrol vehicle to run Defendant's New York driver's license, he suggested to Deputy McFalls it would "probably be a good idea to utilize his canine." Our review of the Record reveals Finding of Fact 7 is, in fact, not only chronologically correct, but supported by competent evidence in the Record. *See Ashworth*, 248 N.C. App. at 651, 790 S.E.2d at 176.

Defendant continues by arguing the events in Finding of Fact 8 are "chronologically reversed," because Deputy McClure knew Defendant's North Carolina driver's license was suspended before returning to his patrol vehicle. Finding of Fact 8 states "dispatch confirmed that the New York license was valid and also that [] Defendant's North Carolina license was permanently suspended." While it is true that Deputy McClure was already aware Defendant's North Carolina driver's license was permanently suspended, Deputy McClure's testimony reveals he asked dispatch to confirm the validity of Defendant's New York driver's license, which dispatch did. Our review of the Record reveals Finding of Fact 8 is not only supported by competent evidence, but it is also chronologically accurate. *See id.* at 651, 790 S.E.2d at 176.

Next, Defendant argues Finding of Fact 10 "is factually inaccurate and not supported by competent evidence" because Deputy McClure was "no longer dealing

with [Defendant's] status and record" but rather, was attempting to find the password to his e-citation system account when he requested the canine search. Finding of Fact 10 reads:

That after Deputy McClure told Deputy McFalls to run his dog around the Ford Explorer, Deputy McClure was still involved in dealing with [] Defendant's status and record, and he began to attempt to log into e-citation. Deputy McClure was doing the normal and usual things that would be expected during a traffic stop.

Our review of the Record reveals Finding of Fact 10 to be both accurate and supported by competent evidence. The evidence shows that Deputy McClure was reviewing Defendant's criminal history when he suggested that Deputy McFalls conduct a canine air sniff. While Deputy McFalls was running the canine around the vehicle, Deputy McClure concluded his review of Defendant's criminal history and then began attempting to log into the e-citation system with the intention of writing Defendant a citation for driving with a suspended license. While Deputy McClure was attempting to find his password, the canine alerted on Defendant's vehicle. For those reasons, our review of the evidence leads us to the conclusion that Finding of Fact 10 was accurate and supported by competent evidence. *See id.* at 651, 790 S.E.2d at 176.

Further, Defendant argues Finding of Fact 11 is inaccurate and unsupported by competent evidence because "Deputy McClure never did any paperwork which would have advanced the mission of the traffic stop for a suspended driver's license."

Finding of Fact 11 states that, when the canine alerted on the vehicle, “Deputy McClure was still involved in the paperwork that would be necessary to give the Defendant either a warning ticket or a citation. The traffic stop was not extended in order to allow the [canine] to do a run on the vehicle.”

Of course, Deputy McClure did not do “any paperwork which would have advanced the mission of the traffic stop”—he was interrupted from doing so by the canine alerting on Defendant’s vehicle. The uncontroverted facts in the Record show that Deputy McClure was attempting to log into the e-citation system to write Defendant a citation when the canine alerted on Defendant’s vehicle. The fact that a citation was never generated does not render Finding of Fact 11 unsupported by competent evidence. *See id.* at 651, 790 S.E.2d at 176.

B. Conclusion of Law

Next, Defendant argues the conclusion of law reached in the Suppression Order is inadequate due to lack of analysis. A trial court’s conclusions of law are reviewed *de novo* on appeal. *State v. Johnson*, 378 N.C. 236, 241, 861 S.E.2d 474, 481 (2021). “Under a *de novo* review, the 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) (citation omitted).

In an order ruling on a motion to suppress, a trial court “must set forth in the record [its] findings of fact and conclusions of law.” N.C. Gen. Stat. § 15A-977(f) (2021). In ruling on a motion to suppress, when the trial court’s order contains a

single conclusion of law finding no constitutional violation occurred, the court implicitly concludes probable cause for the search did in fact exist. *See State v. Biber*, 365 N.C. 162, 168, 712 S.E.2d 874, 879 (2011) (concluding that, despite an absence of explicit findings of fact as to whether probable cause existed, the trial court’s single conclusion stating that the defendant’s constitutional rights were not violated implied that officers had probable cause to arrest the defendant).

Here, Defendant argues the trial court erred by providing “no basis for its conclusion of law and failed to apply the facts to the conclusion of law.” The trial court made one single conclusion in its Suppression Order, stating, “[b]ased on the foregoing findings of fact, it is found as a matter of law that there was no violation of the North Carolina Constitution or the United States Constitution.” Under our statutory law, a trial judge must set forth both findings of fact and conclusions of law—both of which are present in the Suppression Order. *See* N.C. Gen. Stat. § 15A-977(f). Further, it is proper to infer from a conclusion of law stating that a defendant’s constitutional rights were not violated, that probable cause existed. *See Biber*, 365 N.C. at 168, 712 S.E.2d at 879. Given our conclusion above—that the Suppression Order’s findings of fact were supported by Record evidence—our *de novo* review reveals that the trial court’s single conclusion of law comports with the requirements under both N.C. Gen. Stat. §15A-977(f) and our case law; therefore, the conclusion of law in the Suppression Order is both adequate and supported by the Record evidence.

C. Unlawful Search and Seizure

Defendant's final argument is that, because Deputy McClure did not have reasonable suspicion to extend the investigatory stop, any evidence seized as a result of the stop is an unlawful seizure under both the North Carolina Constitution and United States Constitution.

"The standard of review for alleged violations of constitutional rights is *de novo*." *State v. Graham*, 200 N.C. App. 204, 214, 683 S.E.2d 437, 444 (2009). "[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'["] *Rodriguez v. United States*, 575 U.S. 348, 354, 135 S. Ct. 1609, 1614, 191 L.E.2d 492, 498 (2015). To justify a search and seizure, an officer must have reasonable suspicion based on "specific and articulable facts" and the "rational inferences from those facts." *State v. Bullock*, 370 N.C. 256, 258, 805 S.E.2d 671, 674 (2017) (quoting *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)). Absent a reasonable suspicion, "[a]uthority for the seizure . . . ends when tasks tied to the traffic infraction are—or reasonably should have been—completed." *Rodriguez*, 575 U.S. at 354, 135 S. Ct. at 1614.

Defendant argues that, rather than advancing the mission of the traffic investigation, Deputy McClure chose instead to "re-check information he already had about [Defendant's] suspended North Carolina driver's license, investigate a valid out-of-state license, and re-check [Defendant's] criminal history which he had previously checked prior to initiating a traffic stop." Upon our *de novo* review,

however, it appears to this Court that the length of the traffic stop, including the canine air sniff, was in keeping with precedent set by case law.

In *State v. Bullock*, an officer initiated a traffic stop of a speeding vehicle. 370 N.C. at 259, 805 S.E.2d at 675. The officer frisked the defendant, and then spent a few minutes running the defendant's information through various law enforcement databases. Meanwhile, the defendant sat in the backseat of the patrol car and chatted with the officer. During the conversation, the defendant made contradictory statements about his girlfriend and refused to make eye contact when asked where he was traveling. *Id.* at 259, 805 S.E.2d at 675. The officer's review of the defendant's record revealed a lengthy criminal history, which prompted the officer to request permission to search the defendant's vehicle. *Id.* at 260, 805 S.E.2d at 675. A few minutes later, a second officer arrived, and a canine air sniff was conducted, resulting in the canine alerting on the bag and officer's subsequently discovering a large amount of heroin. *Id.* at 260, 805 S.E.2d at 675.

The *Bullock* Court stated that the reasonable duration of a traffic stop "includes more than just the time needed to write a ticket." *Id.* at 257, 805 S.E.2d at 673. Additionally, "an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely," including but not limited to checking criminal history, determining whether there are outstanding warrants, and inspecting the driver's license and vehicle registration." *Id.* at 257, 805 S.E.2d at 673 (quoting *Rodriguez*, 575 U.S. at 356, 135 S.Ct. at 1616). Ultimately, our Supreme

Court concluded that the officer did not unlawfully extend the traffic stop because the defendant's criminal history and behavior during the stop enabled the officer to constitutionally extend the stop long enough to have a canine air sniff performed. *Id.* at 263, 805 S.E.2d at 677.

While in *Bullock*, the officer had to wait a few minutes for a canine officer to arrive before performing an air sniff, here Deputy McFalls conducted the canine air sniff while Deputy McClure *simultaneously* reviewed Defendant's extensive criminal history. Similar to the officer in *Bullock*, Deputy McClure's initial review of Defendant's criminal history in conjunction with his permanently suspended license gave him a reasonable suspicion to request the canine air sniff. Further, Deputy McClure testified that it normally takes him "probably ten minutes" to issue a citation for driving while license revoked, and the air sniff occurred approximately five minutes into the traffic stop.

We conclude that the canine air sniff performed here, approximately five minutes into the traffic stop, advanced the mission of the stop and cannot be considered an event that caused an extension of the traffic stop. *See id.* at 263, 805 S.E.2d at 677. For those reasons, Defendant's argument that Deputy McClure purposefully delayed the traffic stop, hoping to develop probable cause to search the vehicle, is overruled.

IV. Conclusion

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Opinion of the Court

Our *de novo* review reveals the trial court relied on competent, uncontroverted testimonial evidence and therefore, the Suppression Order's findings of fact support its ultimate conclusion of law. Further, because the traffic stop was not extended or unnecessarily delayed, the trial court correctly denied Defendant's motion to suppress, concluding no violation of Defendant's constitutional rights occurred.

NO ERROR.

Judge WOOD and STADING concur.

Report per Rule 30(e).