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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-634

Filed 16 April 2024

Buncombe County, Nos. 20 CRS 90410, 90411

STATE OF NORTH CAROLINA

v.

NEEANDRE SONAY LEGEN CHANDLER

Appeal by defendant from the judgment entered on 14 September 2022 by Judge R. Gregory Horne in Superior Court, Buncombe County. Heard in the Court of Appeals 6 March 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Jessica Macari, for the State.

Cooley Law Office, by Craig M. Cooley, for defendant-appellant.

ARROWOOD, Judge.

Neeandre Chandler (“defendant”) appeals from judgment entered on 14 September 2022. On appeal, defendant argues the trial court erred by denying his motion to suppress because the State violated his state and federal constitutional and statutory rights against unreasonable searches and seizures. For the following reasons, we find no error.

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I. Background

Asheville police officers arrested defendant on 1 November 2020 and charged him with trafficking in fentanyl by possession and by transportation. Defendant pled not guilty. On 10 May 2022 defendant filed a motion to suppress alleging the traffic stop at which he was arrested occurred without reasonable suspicion and the officer lacked probable cause to search him. A hearing on the motion was held at the 12 September 2022 criminal session of Buncombe County Superior Court, Judge R. Gregory Horne presiding. The evidence presented at the hearing tended to show the following facts.

On 1 November 2020, the Buncombe County Anti-Crime Task Force (“B-CAT”) received a tip alleging defendant possessed illegal drugs. A B-CAT officer located defendant driving in West Asheville and began following his car. Sergeant Evan Flanders (“Sergeant Flanders”) testified that he assumed surveillance of defendant’s vehicle at the intersection of Hanover Street and State Street. Sergeant Flanders explained that there were no cars in between his unmarked car and defendant’s, he maintained a space of two to three cars’ length between their cars, and he paced defendant driving 35 miles per hour (“m.p.h.”) in the 30 m.p.h. zone. Sergeant Flanders testified that he paced defendant for approximately 50 to 100 yards and about 30 seconds, and he radioed Officer Patrick DeStefano (“Officer DeStefano”) to inform him defendant was speeding.

Officer DeStefano testified that Sergeant Flanders informed him via radio that

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defendant was speeding on State Street. Officer DeStefano also testified that once he caught up to defendant's car, he knew the car driving behind defendant on State Street was an Asheville Police Department unmarked car, but he did not know who was driving it. Officer DeStefano explained that he saw defendant's car turn onto Short Michigan Avenue, and he turned onto the same street to initiate a traffic stop. Officer DeStefano bumped his sirens and activated his blue lights behind defendant's car, and defendant pulled over. After defendant was unable to produce any form of identification, Officer DeStefano asked defendant to step out of the vehicle because he believed that defendant was acting in a deceptive manner. Officer DeStefano testified that when defendant exited the vehicle, a scuffle ensued, leaving Officer DeStefano injured and defendant detained after a brief attempt to flee the scene. Officers found a bag containing a white substance near where the scuffle occurred.

The trial court denied defendant's motion to suppress. The relevant findings of fact are as follows:

3. Asheville Police Department (hereinafter "APD") investigators and other agencies were conducting "rolling surveillance" of the Defendant pursuant to an ongoing investigation regarding possible drug possession. As part of the surveillance, unmarked cars operated by APD investigators followed a gray Toyota Prius operated by the Defendant. A marked APD patrol vehicle was also in the area stationed at some distance away;
4. Detective E. Flanders, APD, began following the Defendant's vehicle as part of the "rolling surveillance" at the intersection of Hanover Street and State Street. Detective Flanders was directly behind the defendant's

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vehicle and he began pacing the vehicle to determine its approximate speed[;]

5. Detective Flanders paced the suspect vehicle for a two-block distance and determined that the vehicle was traveling 35 MPH in a marked 30 MPH zone. Detective Flanders did not initiate a traffic stop because he was operating an unmarked vehicle that was not equipped with blue lights or siren. He instead radioed to Officer DeStefano who was driving a marked patrol car and advised him that the vehicle was exceeding the posted speed limit, specifically traveling 35 MPH in a 30 MPH zone;

6. Officer DeStefano, in reliance upon the information radioed to him by Detective Flanders, sped up to initiate a traffic stop of the Defendant's vehicle.

The trial court's relevant conclusions of law are as follows:

3. At the time of the traffic stop, Officer DeStefano had, through collective knowledge obtained via radio communication from Detective Flanders, a reasonable, articulable suspicion that the Defendant had committed a Chapter 20 motor vehicle violation. Accordingly the traffic stop was lawful[.]

5. No violation of the Defendant's constitutional or statutory rights occurred.

On 14 September 2022, the jury found defendant guilty of trafficking fentanyl by possession and by transportation. Defendant gave oral notice of appeal in open court.

II. Discussion

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On appeal, defendant argues that the trial court erred in denying his motion to suppress because there was not competent evidence in the record to support the trial court's findings. We disagree.

Our Court reviews a trial court's denial of a motion to suppress to determine whether competent evidence supports the trial court's findings and whether the findings support the conclusions. *State v. Biber*, 365 N.C. 162, 167–68 (2011). “Competent evidence is evidence that a reasonable mind might accept as adequate to support the finding.” *State v. Chukwu*, 230 N.C. App. 553, 561 (2013) (citation and quotation marks omitted). Legal conclusions are reviewed de novo and are subject to full review. *Biber*, 365 N.C. at 168 (citations omitted). Where “the trial court's findings of fact are not challenged on appeal, they are deemed to be supported by competent evidence and are binding on appeal.” *State v. Roberson*, 163 N.C. App. 129, 132 (2004) (citation omitted). This Court reviews a determination of reasonable suspicion de novo. *State v. Castillo*, 247 N.C. App. 327, 334 (2016) (citation omitted).

Under the Fourth Amendment of the United States Constitution, a traffic stop is a seizure; however, that seizure is generally constitutional if an officer has “reasonable, articulable suspicion that criminal activity is afoot.” *State v. Murray*, 192 N.C. App. 684, 687 (2008) (citations omitted); *see* U.S. CONST. amend. IV. Additionally, whether an officer had reasonable suspicion to conduct a stop is determined by analyzing the totality of the circumstances. *State v. Watkins*, 337 N.C. 437, 441 (1994). An officer's observation of a traffic violation can constitute

reasonable suspicion to conduct a traffic stop. *See State v. Styles*, 362 N.C. 412, 415–16 (2008).

Here, defendant challenges finding of fact #5. In finding of fact #5, the trial court stated that “Detective Flanders paced the suspect vehicle for a two-block distance and determined that the vehicle was traveling 35 MPH in a marked 30 MPH zone.” The unchallenged findings of fact are binding on appeal, and defendant does not challenge the trial court’s finding that Sergeant Flanders was driving directly behind defendant and began pacing his car to approximate his speed. Sergeant Flanders testified regarding the method he used to pace defendant’s speed and that he paced him for approximately thirty seconds to determine he was traveling at 35 m.p.h. in a 30 m.p.h. zone.

Defendant argues the impossibility of truth in this testimony based upon physics; however, this evidence is competent because a *reasonable* mind could conclude based on Sergeant Flanders’s testimony that he had observed defendant speeding, and this evidence supports the trial court’s finding #5. This finding, in addition to the court’s other unchallenged findings, including that Officer DeStefano conducted a traffic stop based on Sergeant Flanders’s information, supports the trial court’s conclusion that Officer DeStefano had reasonable suspicion to conduct the stop. Therefore, the trial court did not err in denying defendant’s motion to suppress.

III. Conclusion

For all the foregoing reasons, we hold the trial court committed no error.

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NO ERROR.

Judges TYSON and COLLINS concur.

Report per Rule 30(e).