

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

No. COA23-921

Filed 16 July 2024

Chatham County, Nos. 19 CRS 051482, 22 CRS 050466

STATE OF NORTH CAROLINA

v.

MARQUETTE ANTONIO COLQUITT, Defendant.

Appeal by defendant from judgment entered 20 February 2023 by Judge R. Allen Baddour, Jr., in Chatham County Superior Court. Heard in the Court of Appeals 30 April 2024.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Colin Justice for the State.*

*Ryan Legal Services, PLLC, by John E. Ryan, III, for Defendant-Appellant.*

PER CURIAM.

Defendant Marquette Colquitt pleaded guilty to trafficking in methamphetamine and to misdemeanor larceny after the trial court denied his motion to suppress stolen evidence found during a traffic stop. He appeals.

I. Background

STATE V. COLQUITT

*Opinion of the Court*

A confidential informant notified law enforcement officers that a vehicle matching Defendant's vehicle would be transporting illegal drugs. Officers spotted Defendant driving the vehicle. They observed Defendant commit a traffic violation and initiated a stop.

During the stop, an officer walked around Defendant's vehicle with a K-9 ("Jake") specially trained to detect illegal drugs by smell. As Jake walked past one of the vehicle doors, his behavior changed. Rather than continue walking, Jake jumped at the vehicle and sniffed harder than normal at the door handle.

Based on Jake's changed behavior, the officers searched Defendant's vehicle and discovered illegal drugs inside the vehicle during that search.

Defendant was charged with several crimes. Defendant moved to suppress the items found in his vehicle, contending the search was illegal. After his motion was denied, he pleaded guilty to one drug charge and to misdemeanor larceny. The trial court sentenced him to an active term of imprisonment. He appeals.

II. Argument

On appeal, Defendant's only argument is that the officers did not have probable cause to search his vehicle. He contends that the reaction of the K-9 was not enough to give the officers probable cause. Defendant points to testimony that Jake was trained to sit when he detected narcotics and that Jake did not sit when he detected the narcotics, but rather he jumped at the vehicle.

STATE V. COLQUITT

*Opinion of the Court*

The United States Supreme Court has instructed that in determining whether probable cause exists based on a dog sniff, the test is “whether all the facts surrounding a dog’s alert, viewed through the lens of common sense, would make a reasonably prudent person think that a search would reveal contraband[.]” *Florida v. Harris*, 568 U.S. 237, 248 (2013).

Here, the officer testified that Jake’s behavior would change when Jake detected narcotics; that Jake would *usually* sit as a “final alert” that he detected narcotics; that Jake, though, would sometimes not sit as a “final alert” in some situations such as when Jake was on the side of the road or where there was insufficient room; and that the dog sniff of Defendant’s vehicle occurred on the side of the road where there was not a lot of room.

Based on our review of the record, which included the informant’s tip, Defendant’s nervous behavior during the stop, and Jake’s changed reaction while walking around Defendant’s vehicle, we conclude that the officers had probable cause to search the vehicle. Accordingly, we affirm the judgment of the trial court.

AFFIRMED.

Panel consisting of Chief Judge DILLON and Judges GRIFFIN and STADING.

Report per Rule 30(e).