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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-9

Filed 3 September 2024

Duplin County, Nos. 20 CRS 51229–30

STATE OF NORTH CAROLINA

v.

LAURA ETELKA SALDANA

Appeal by defendant by writ of certiorari from judgments entered 17 January 2023 by Judge Joshua W. Willey, Jr., in Duplin County Superior Court. Heard in the Court of Appeals 11 June 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Matthew Baptiste Holloway, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katherine Jane Allen, for defendant-appellant.

ZACHARY, Judge.

Defendant Laura Etelka Saldana appeals from the trial court's judgments entered upon her *Alford* pleas to felony possession of a schedule II controlled substance and misdemeanor driving while impaired following the court's denial of

her motions to suppress.¹ After careful review, we affirm the lower tribunal's denial of her motions to suppress.

I. BACKGROUND

On 1 December 2020, a Duplin County grand jury returned true bills of indictment charging Defendant with driving while impaired, felony possession of a schedule II controlled substance, felony maintaining a vehicle to keep controlled substances, and possession of marijuana paraphernalia.² Those charges arose from a traffic stop, and on 8 and 13 June 2022, Defendant filed motions to suppress the evidence seized during a search of the vehicle. In the first motion, Defendant argued that the officer lacked probable cause to stop her vehicle. The second motion focused on whether the officer permissibly searched Defendant's purse upon the officer's detection of an odor that he believed to be marijuana, given that marijuana—an illegal controlled substance in North Carolina—and legal hemp are derived from the same species of plant and differ only in their relative chemical compositions. *See* N.C. Gen. Stat. §§ 90-87(16); 90-94(b)(1) (2019).

On 15 and 16 June 2022, Defendant's motions to suppress came on for hearing. Duplin County Sheriff's Detective William J. Smith, who conducted the stop and the

¹ An *Alford* plea is a guilty plea in which the defendant does not admit her guilt of the criminal act, but admits that there is sufficient evidence to convince a trier of fact that she is guilty of the offense charged. *See North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171 (1970).

² On 19 July 2021, a grand jury returned an ancillary true bill of indictment charging Defendant as a habitual felon.

search, was the sole witness. The trial court also admitted Detective Smith's dashcam footage, which showed a portion of the interaction between Defendant and Detective Smith.

The evidence offered at the hearing tended to show as follows. On 27 August 2020, Detective Smith observed Defendant driving on Highway 24 in Beulaville. Defendant was following "less than one and one-half car lengths behind" the vehicle in front of her, although she and the other vehicle were "traveling at least 55 mph in a posted 55 mph zone." She "abruptly merge[d] from the left lane to the right lane without signaling," passed the vehicle, "and quickly merge[d] back into the left lane[.]" Defendant then "travel[ed] in the left lane with her turn signal activated parallel to [a] truck without slowing to merge behind the . . . truck or increasing her speed to merge in front of the . . . truck." Then she "abruptly merged into the right lane in front of the . . . truck with only a car length or less in between them[.]" The merger "affected the [truck's] operation" in that the truck had to brake due to the insufficient distance between the vehicles.

Detective Smith "activated [his] blue lights and siren" and pulled behind Defendant's vehicle. Defendant pulled over after about 17 seconds, which Detective Smith opined was "longer to stop than usual"—"a red flag" to Detective Smith, who explained that such a delay can be due to a "panicking" driver "try[ing] to hide evidence." As Detective Smith approached the vehicle, he noticed that Defendant

“was moving a lot” and as he addressed Defendant and the passenger, he “smelled marijuana” emanating from the vehicle.

During her interaction with Detective Smith, Defendant conceded that “she did not have a valid license[.]” The passenger—the owner of the vehicle—explained that Defendant was driving because the passenger felt ill. Detective Smith asked Defendant and the passenger to exit the vehicle. When Defendant exited the vehicle, she carelessly stepped into a lane of traffic, exhibited an erratic demeanor, and was “constantly moving.” Based on her movements and demeanor, combined with her poor driving and the odor of marijuana, Detective Smith formed the opinion, based on his training and experience, that Defendant could be driving while impaired.

Detective Smith mentioned that the registration sticker on the vehicle’s license plate was expired. The passenger had her renewed registration sticker in the vehicle, and she exited the vehicle and applied the sticker to the plate with Detective Smith’s assistance. When Detective Smith informed the women that he was going to search the vehicle on the basis of the odor of marijuana that he detected, the passenger stated: “It’s hemp.” He requested a backup unit to ensure that the search of the vehicle could be performed “safely” and also “call[ed] in . . . the Highway Patrol to investigate [Defendant] for driving while impaired[.]”

While awaiting the arrival of additional law enforcement officers, Detective Smith retrieved Defendant’s and the passenger’s purses from the vehicle and searched them. In Defendant’s purse, he discovered multiple glass pipes together

with what Defendant confirmed was crack cocaine. In the passenger's purse, Detective Smith found a green, vegetal material and seeds (which the passenger claimed was legal hemp); rolling papers; and a grinder.

By order entered 30 June 2022, the trial court denied Defendant's motions to suppress. The court concluded that "[u]pon consideration of the totality of [the] circumstances, including but not limited to, [Defendant]'s manner of driving, evasive lane change, failure to timely stop upon activation of blue lights, and suspicious movements[.]" Detective Smith had "a reasonable and articulable suspicion to believe that criminal activity may be afoot including the possibility that [Defendant] may be driving while impaired." The court also concluded that the facts presented "more than the mere odor of marijuana to warrant the [detective's] belief that illegal narcotics may be present in the vehicle[.]" including Defendant's "suspected impairment[.]" Accordingly, the court determined that "[u]pon consideration of the totality of the circumstances, probable cause existed for a warrantless search of [Defendant]'s vehicle and containers therein[.]"

At the close of the hearing and upon the court's denial of Defendant's motions to suppress, Defendant stated that she would engage in plea discussions with the State. Defendant's plea transcript makes clear that she "expressly retain[ed] the right to [appeal] the [c]ourt's previous denial of her motions to suppress in this cause and her plea of guilty [wa]s conditioned upon her right to appeal that decision pursuant to [N.C. Gen. Stat. §] 15A-979(b)." On 17 January 2023, Defendant entered *Alford*

pleas to felony possession of a schedule II controlled substance and misdemeanor driving while impaired, expressly retaining the right to appeal the court's denial of her motions to suppress.

The same day, the court entered judgment against Defendant for felony possession of a schedule II controlled substance and sentenced her to 26 to 44 months in the custody of the North Carolina Department of Adult Correction. The court also entered judgment against Defendant for driving while impaired, sentencing her to 120 days in the misdemeanor confinement program.

Defendant gave oral notice of appeal at the close of the plea hearing.

II. APPELLATE JURISDICTION

As an initial matter, Defendant “seeks the writ of certiorari should this Court find that [her] trial counsel failed to give proper notice of appeal following entry of judgment and commitment as required by” Rule 4 of the North Carolina Rules of Appellate Procedure.

“An order finally denying a motion to suppress evidence may be reviewed upon an appeal from a judgment of conviction, including a judgment entered upon a plea of guilty.” N.C. Gen. Stat. § 15A-979(b) (2023). However, “[i]f the defendant merely appeals the denial of [her] motion, rather than the final judgment, this Court lacks jurisdiction over the appeal.” *State v. Horton*, 264 N.C. App. 711, 714, 826 S.E.2d 770, 773 (2019).

Defendant recognizes that her “oral notice of appeal did not comply with Rule 4 [of our Rules of Appellate Procedure] because defense counsel stated in open court that he was entering notice of appeal from the denial of the motions to suppress[.]” Recognizing the deficiency in her notice of appeal, Defendant requests that this Court allow her petition for writ of certiorari and address the merits of her arguments.

Here, Defendant’s plea transcript clearly reveals that she “expressly retain[ed] the right to [appeal] the [c]ourt’s previous denial of her motions to suppress in this cause and her plea of guilty [wa]s conditioned upon her right to appeal that decision pursuant to [N.C. Gen. Stat. §] 15A-979(b).” Moreover, the State does not contend in its response to Defendant’s petition for writ of certiorari that it was prejudiced by Defendant’s defective oral notice of appeal. *See State v. Williams*, 235 N.C. App. 201, 204, 761 S.E.2d 662, 664 (2014), *disc. review denied*, 368 N.C. 241, 768 S.E.2d 857 (2015).

Where “it is apparent that the State was aware of [the] defendant’s intent to appeal the denial of the motion to suppress prior to the entry of [the] defendant’s guilty pleas[.]” and where the “defendant has lost [her] appeal through no fault of [her] own,” we have “exercise[d] our discretion to grant [a] petition for writ of certiorari and address[ed] the merits of [the] defendant’s appeal.” *State v. Cottrell*, 234 N.C. App. 736, 740, 760 S.E.2d 274, 277 (2014). Accordingly, we exercise our discretion, allow Defendant’s petition for writ of certiorari, and turn to the merits of her arguments. *See N.C.R. App. P. 21(a)(1)*.

III. MOTION TO SUPPRESS

Defendant contends that the trial court erroneously denied her motions to suppress the evidence recovered in the warrantless search of the vehicle that she was driving because: 1) findings of fact 13, 17, 18, 22, and 26 are unsupported by the evidence; 2) findings of fact 11 and 12 “are simply recitations of [Detective Smith’s] testimony[,]” and therefore are not proper findings upon which the court could base its probable cause determination; and 3) conclusions of law 8, 9, and 10 “are erroneous in law.” Thus, Defendant maintains that Detective Smith lacked probable cause to search the vehicle and its contents.

A. Standard of Review

Review of a ruling on 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. Fizovic*, 240 N.C. App. 448, 451, 770 S.E.2d 717, 720 (2015) (cleaned up). “[T]he trial court’s findings of fact are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.” *State v. Goodman*, 165 N.C. App. 865, 867, 600 S.E.2d 28, 30, *disc. review denied*, 359 N.C. 193, 607 S.E.2d 655 (2004). “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, 749 S.E.2d 910, 916 (2013) (citation omitted).

“The trial court’s conclusions of law are, however, fully reviewable and must be legally correct, reflecting a correct application of applicable legal principles to the facts found.” *Fizovic*, 240 N.C. App. at 451, 770 S.E.2d at 720 (cleaned up). “If the trial court’s conclusions of law are supported by its factual findings, we will not disturb those conclusions.” *Goodman*, 165 N.C. App. at 867, 600 S.E.2d at 30.

B. Discussion

1. Challenged Findings of Fact

a. Findings of Fact 18 and 26

Defendant first contends that findings of fact 18 and 26 are not supported by competent evidence because Detective Smith’s “dashboard camera recording of the traffic stop does not corroborate [his] testimony that constitutes the basis of” findings 18 and 26, to the effect that Defendant “was oblivious to roadway hazards and stumbled about” after exiting the vehicle.

Findings of fact 18 and 26 read:

18. Detective Smith asked [Defendant] to exit the vehicle. [Defendant] got out of [the] vehicle and stumbled into the roadway walking towards the front of the vehicle.

. . . .

26. [Defendant] then began to walk toward her vehicle apparently oblivious to the roadway or traffic hazards. Detective Smith asked the driver to stop and to come to the front of his vehicle because she was wandering onto the roadway. Detective Smith pointed at the front of his patrol vehicle and told her to stay there because there was traffic on the highway and he did not want her to get hurt.

In essence, Defendant contends that Detective Smith's testimony conflicts with the dashboard camera recording. As an initial point, upon careful review of the video recording in the record before us, we are not persuaded that this recording contradicts Detective Smith's testimony. Indeed, in our view, the recording *supports* Detective Smith's characterization of Defendant's demeanor upon exiting the vehicle. Moreover, to the extent the recording and the testimony are conflicting on any details, making credibility determinations and resolving conflicts in the evidence are "precisely the role of the superior court in ruling on a motion to suppress." *State v. Veazey*, 201 N.C. App. 398, 402, 689 S.E.2d 530, 533 (2009), *disc. review denied*, 363 N.C. 811, 692 S.E.2d 876 (2010). Accordingly, if there were a conflict between Detective Smith's testimony and the recording, the trial court was tasked with resolving it, and as reflected by its findings, did so.

Findings of fact 18 and 26 are supported by competent evidence. *See Goodman*, 165 N.C. App. at 867, 600 S.E.2d at 30 ("The standard of review in evaluating a trial court's ruling on a motion to suppress is that the trial court's findings of fact are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting."). Defendant's challenge to these findings is overruled.

b. Findings of Fact 11 and 12

Defendant further contends that findings of fact 11 and 12 "are simply recitations of [Detective Smith's] testimony[,] and are therefore "insufficient to resolve conflicts in the evidence and find facts" necessary to support the trial court's

probable cause determination.

Findings of fact 11 and 12 state:

11. Detective Smith initiated a stop of [Defendant]’s vehicle by activating his patrol vehicle’s blue lights directly behind [Defendant]’s vehicle. [Defendant] was slow to stop, taking an estimated and approximate seventeen (17) seconds to pull to the right shoulder and come to a complete stop. [The dashcam footage] reflects the stopping time to be twelve (12) seconds. Detective Smith, based upon his training and experience, regarded this delay as a “red flag” or indicator that the driver or occupants may be hiding contraband.

12. As he stopped the vehicle and as he approached the vehicle, Detective Smith observed [Defendant] moving sideways in the driver’s seat. Based upon his training and experience, Detective Smith considered these movements coupled with the totality of his observations to be indicators of potential criminality including impairment.

“A trial court must make sufficient findings of fact and conclusions of law to allow the reviewing court to determine whether a judgment, and the legal conclusions that underlie it, represent a correct application of the law.” *State v. Dorman*, 225 N.C. App. 599, 625, 737 S.E.2d 452, 469 (citation omitted), *appeal dismissed and disc. review denied*, 366 N.C. 594, 743 S.E.2d 205 (2013). “[A]lthough recitations of testimony may properly be included in an order denying suppression, they cannot substitute for findings of fact resolving material conflicts.” *State v. Travis*, 245 N.C. App. 120, 128, 781 S.E.2d 674, 679 (2016) (cleaned up).

By contrast, it is well settled that a trial court may properly use testimony as a basis for drafting a finding of fact, so long as the court makes an affirmative

statement of fact rather than simply stating that a witness testified to certain information. *See In re C.L.C.*, 171 N.C. App. 438, 446, 615 S.E.2d 704, 708 (2005), *aff'd in part and disc. review improvidently allowed in part*, 360 N.C. 475, 628 S.E.2d 760 (2006); *see also State v. Jordan*, 385 N.C. 753, 757, 898 S.E.2d 279, 282–83 (2024). Here, the court did not simply find that *Detective Smith testified* to the facts stated in these findings. The trial court weighed the credibility of Detective Smith's testimony and then found the facts of which Defendant complains. The court's findings of fact 11 and 12 are not mere recitations of testimony. Defendant's arguments to the contrary are overruled.

Defendant further contends that these findings fail to resolve “whether the trial court believed [Defendant's] actions gave rise to probable cause for the officer to search her and the automobile she was driving.” “[F]indings of fact resolv[e] disputed issues of fact and conclusions of law apply[] the legal principles to the facts found” *State v. Aguilar*, 287 N.C. App. 248, 258, 882 S.E.2d 411, 419 (2022) (citation omitted). The probable cause determination is a legal question, appropriately resolved in a conclusion of law. The court did so in conclusions of law 11 and 12, which state that “a reasonably prudent person would think that a search of [D]efendant's vehicle would reveal contraband or evidence of a crime[.]” and that “[u]pon consideration of the totality of [the] circumstances, probable cause existed for a warrantless search of [Defendant]'s vehicle[.]”

c. Finding of Fact 22

Defendant maintains that when Detective Smith asked whether “there was anything illegal in the vehicle” Defendant and the passenger answered, “no,” and that thus finding of fact 22 is not supported by competent evidence.

Finding of fact 22 reads:

Neither [Defendant] nor [the passenger]:

A) Refuted [Detective Smith]’s averment that he smelled marijuana;

B) Denied the allegation of criminal conduct; or

C) Averred that the substance [to which Detective Smith] was referencing was [legal] hemp.

The only evidence offered at the suppression hearing on these factual issues was Detective Smith’s testimony, and as Defendant notes, Detective Smith explicitly stated that 1) both women denied that there was anything illegal in the vehicle, and 2) the passenger claimed that the smell that the officer identified as marijuana was actually that of hemp. Because this finding of fact is not supported by competent evidence, it will not be considered in our determination of whether “the trial court’s conclusions of law are supported by its factual findings.” *See Goodman*, 165 N.C. App. at 867, 600 S.E.2d at 30.

d. Findings of Fact 13 and 17

Defendant further contends that “[t]here was no evidence to support findings” of fact 13 and 17 in that Detective Smith testified at the suppression hearing “that

he knew a person could not tell the difference between hemp and marijuana based on . . . smell.”

Findings of fact 13 and 17 state:

13. Detective Smith made a passenger side approach to [Defendant]’s vehicle and at a distance of approximately two (2) feet detected a strong odor of marijuana coming from the interior of [the] vehicle.

. . . .

17. Detective Smith continued to detect the odor of marijuana coming from [Defendant]’s vehicle the entire time he was around [the] vehicle.

This Court has recognized that despite the legalization of hemp, an officer’s “subjective belief that [a] substance he smelled was marijuana [is] additional evidence supporting probable cause—even if his belief might ultimately have been mistaken.” *State v. Parker*, 277 N.C. App. 531, 542, 860 S.E.2d 21, 30, *appeal dismissed and disc. review denied*, 378 N.C. 366, 860 S.E.2d 917 (2021); *see also, e.g., State v. Dobson*, ___ N.C. App. ___, ___, 900 S.E.2d 231, 233 (2024); *State v. Springs*, 292 N.C. App. 207, 215, 897 S.E.2d 30, 37 (2024); *State v. Tabb*, 286 N.C. App. 353, 363, 881 S.E.2d 331, 337 (2022); *State v. Teague*, 286 N.C. App. 160, 178–79, 879 S.E.2d 881, 896 (2022), *disc. review denied*, 385 N.C. 311, 891 S.E.2d 281 (2023). As this Court noted in *Parker*, the United States Supreme Court has opined: “To be reasonable is not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of government officials, giving them fair leeway for enforcing the law in the community’s

protection[.]’ ” *Parker*, 277 N.C. App. at 543, 860 S.E.2d at 30 (quoting *Heien v. North Carolina*, 574 U.S. 54, 60–61, 190 L. Ed. 2d 475, 482 (2014)).

In the instant case, Detective Smith testified at the suppression hearing that he detected the odor of what he believed to be marijuana during the traffic stop. Nothing in the record before us indicates whether the odor Detective Smith detected was, in fact, from marijuana or whether, as Defendant’s passenger claimed, from legal hemp. Likewise, nothing in the record indicates whether the substance—the green, vegetal material and seeds—discovered in the passenger’s purse was marijuana or hemp. For that reason, we cannot say whether Detective Smith’s belief was correct; fortunately, that is not the question before us. Rather, we need only determine whether there was “competent evidence, even if . . . conflicting” to support findings of fact 13 and 17. *Goodman*, 165 N.C. App. at 867, 600 S.E.2d at 30. On that issue, Detective Smith acknowledged the passenger’s claim but also explained why he did not credit it. The resolution of the matter was for the trial court. *See Veazey*, 201 N.C. App. at 402, 689 S.E.2d at 533. In that light, Detective Smith’s testimony supports the trial court’s findings of fact 13 and 17.

Moreover, Detective Smith’s testimony as to his “subjective belief that the substance he smelled was marijuana” was competent “evidence supporting probable cause—even if his belief *might* ultimately have been mistaken.” *Id.* (emphasis added). Defendant’s argument is overruled.

2. Challenges to Conclusions of Law

a. Conclusions of Law 8 and 9

Defendant also contends that the trial court erred as a matter of law by concluding as follows:

8. The odor of marijuana standing alone is sufficient to support probable cause to search a vehicle

9. Police officers are entitled to identify marijuana based on a simple visual inspection

In view of the remaining conclusions of law, neither of these conclusions is necessary to sustain the trial court's determination that Detective Smith had probable cause to search the vehicle and its contents. Accordingly, we will treat these conclusions as harmless surplusage and will not address Defendant's arguments regarding these conclusions. *See State v. Fonville*, 72 N.C. App. 527, 530, 325 S.E.2d 258, 260 (1985); *see also State v. San*, 289 N.C. App. 693, 704, 891 S.E.2d 314, 322 ("A correct decision of a lower court will not be disturbed on review simply because an insufficient or superfluous reason is assigned." (cleaned up)), *disc. review denied*, 385 N.C. 397, 892 S.E.2d 600 (2023).

b. Conclusion of Law 10

Finally, Defendant argues that Detective Smith did not have probable cause to search the vehicle that Defendant was driving or its contents, and that the trial court erred in concluding to the contrary.

Conclusion of Law 10 reads:

10. Defendant invites this Court to determine whether the

odor of marijuana standing alone is sufficient probable cause to perform a search of a vehicle. However, the facts herein include more than the mere odor of marijuana to warrant the belief that illegal narcotics may be present in the vehicle including but not limited to, manner of driving, delayed stopping response, [Defendant]’s movements within the vehicle, [Defendant]’s suspected impairment, [Defendant]’s inability to understand or follow verbal commands, [Defendant]’s apparent inability to appreciate the hazards posed by her proximity to the roadway, [the vehicle’s owner’s] attempt to return to the passenger area of the vehicle, and [Defendant] and/or [the vehicle’s owner]’s lack of protestation when accused of criminal conduct.

“Both the Fourth Amendment to the Constitution of the United States and article I, section 20 of the North Carolina Constitution protect private citizens against unreasonable searches and seizures.” *State v. Johnson*, 378 N.C. 236, 244, 861 S.E.2d 474, 483 (2021). “Searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.” *State v. Scott*, 287 N.C. App. 600, 604, 883 S.E.2d 505, 509–10 (cleaned up), *appeal dismissed and disc. review denied*, 384 N.C. 672, 887 S.E.2d 725 (2023).

“[A]n officer may search an automobile without a warrant if he has probable cause to believe the vehicle contains contraband.” *Springs*, 292 N.C. App. at 214, 897 S.E.2d at 37 (citation omitted). “A court determines whether probable cause exists . . . with a totality-of-the-circumstances test.” *Id.* (citation omitted). “If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part

of the vehicle and its contents that may conceal the object of the search.” *Id.* (citation omitted).

“This Court and our state Supreme Court have repeatedly held that the odor of marijuana alone provides probable cause to search the object or area that is the source of that odor.” *Id.* at 215, 897 S.E.2d at 37; *see, e.g., State v. Greenwood*, 301 N.C. 705, 708, 273 S.E.2d 438, 441 (1981).

However, Defendant maintains that the legalization of hemp has “changed the totality of the circumstances that must be evaluated in determining whether probable cause exists” because the odor of marijuana is no longer distinct to contraband. Yet this Court has repeatedly held that where an officer has “several reasons in addition to the odor of marijuana to support probable cause to search the vehicle[,]” our courts “need not determine whether the scent or visual identification of marijuana alone [is] sufficient to grant [the] officer probable cause to search [the] vehicle” despite the legalization of hemp. *Springs*, 292 N.C. App. at 215, 897 S.E.2d at 37; *see, e.g., Dobson*, ___ N.C. App. at ___, 900 S.E.2d at 233 (“[I]n this case, law enforcement officers detected the odor of marijuana *plus* a cover scent.”).

Moreover, an officer’s “own subjective belief that [a] substance he smelled was marijuana [is] additional evidence supporting probable cause—even if his belief might ultimately have been mistaken”; “the Fourth Amendment allows for some mistakes on the part of government officials, giving them fair leeway for enforcing

the law in the community's protection[.]” *Parker*, 277 N.C. App. at 542–43, 860 S.E.2d at 30 (citation omitted).

Here, when Detective Smith initiated the stop, Defendant admitted that “she did not have a valid license to operate the motor vehicle.” The trial court also found that Defendant exhibited odd behavior, “moving sideways in the driver’s seat” and “moving back and forth in the vehicle”; after exiting the vehicle Defendant was “moving seemingly uncontrollably with her shoulders moving up and down and arms swaying.” The court further found that “Detective Smith suspected that [Defendant] was impaired” based upon his “observations of [Defendant] and the manner of her driving,” although Defendant had not exhibited the classic indicia of alcohol intoxication—“red eyes, slurred speech[,] or the odor of an alcoholic beverage about her person.” These unchallenged findings are binding on appeal. *See State v. Amator*, 283 N.C. App. 232, 233, 872 S.E.2d 589, 590 (2022).

As the trial court concluded, under the totality of the circumstances, Detective Smith had several reasons to believe that “there [wa]s a fair probability that contraband . . . w[ould] be found” in the vehicle. *Springs*, 292 N.C. App. at 214, 897 S.E.2d at 37 (cleaned up). The unchallenged findings, coupled with the findings that Detective Smith detected what he identified to be the strong odor of marijuana, support the trial court’s conclusion that Detective Smith had probable cause to search the vehicle and Defendant’s purse. *See State v. Johnson*, 288 N.C. App. 441, 458, 886 S.E.2d 620, 632 (2023) (“Here, as in *Teague*, the smell of marijuana was not the only

basis to provide the officers with probable cause.” (citing *Teague*, 286 N.C. App. at 179 n.6, 879 S.E.2d at 896 n.6)), *disc. review denied*, 385 N.C. 886, 898 S.E.2d 301 (2024).

Accordingly, the trial court’s findings of fact are supported by competent evidence, and the court’s findings support its conclusion that Detective Smith had probable cause to search the vehicle that Defendant was driving and its contents. The trial court did not err in denying Defendant’s motions to suppress.

IV. CONCLUSION

For the reasons stated herein, we affirm.

AFFIRMED.

Judges TYSON and GRIFFIN concur.

Report per Rule 30(e).