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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-178

Filed 3 December 2024

Lincoln County, No. 22CRS349089

STATE OF NORTH CAROLINA

v.

TIMOTHY WAYNE COOPER, Defendant.

Appeal by defendant from judgment entered 13 June 2023 entered by Judge W. Todd Pomeroy in Lincoln County Superior Court. Heard in the Court of Appeals 6 November 2024.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Katherine M. McCraw, for the State-appellee.*

*Appellate Defender Glenn Gerding, by Assistant Appellant Defender Michele Ann Goldman, for defendant-appellant.*

GORE, Judge.

Defendant pled guilty to one count of possession of methamphetamine. He reserved the right to appeal the trial court's denial of his motion to suppress evidence heard prior to entry of the plea. Defendant timely filed written notice of appeal from the trial court's judgment and commitment. This Court has jurisdiction pursuant to

N.C.G.S. §§ 7A-27(b)(4) and 15A-979(b).

Deputy Ginther was on patrol when she spotted a white SUV with an obstructed registration plate—she initiated a traffic stop. Defendant was driving the SUV, and he had one male passenger in the front passenger seat. Ginther explained that she was stopping them for an expired registration. Neither defendant nor the passenger had their driver's license. Defendant stated he was unaware of the expired tag, and that he was test driving the vehicle. Upon calling dispatch, Ginther learned that defendant's license was suspended. Ginther also noted that defendant's tag was a dealer tag, which expired in 2004.

While at the vehicle, Ginther learned through radio communication that defendant was on probation. Defendant told her it was related to drug charges three or four years back. Ginther attempted to get the VIN number from the vehicle to determine if it was stolen. Ginther had difficulty viewing the VIN number from the outside of the vehicle, so she asked defendant and his passenger to step out of the vehicle so that she could take a closer look.

After checking the VIN and learning that the vehicle had never been registered in North Carolina, Ginther handed defendant a warning ticket for driving while license revoked and expired tag. Ginther then told defendant that his passenger appeared to be under the influence of narcotics given his demeanor, "body language," and "pupils."

After a brief conversation, Ginther asked defendant if she could search the

vehicle. Defendant consented, stating, “I don’t mind you looking. Like I said, there is absolutely nothing” in the vehicle. The trial court noted in its findings of fact that Deputy Ginther conducted herself in a professional and courteous manner, and the court made specific notation that Ginther was very polite and non-confrontational throughout the entire stop. The court concluded that the traffic stop was not extended beyond its mission, but that it became a consensual encounter after Deputy Ginther handed defendant the warning citation.

The only issue presented on appeal is whether the trial court erred by denying defendant’s motion to suppress evidence found in the vehicle. Defendant alleges Deputy Ginther extended the traffic stop beyond its completed mission, without reasonable suspicion, thereby making defendant’s consent to a search of the vehicle invalid. We disagree.

“[T]he trial court’s ruling on a motion to suppress is afforded great deference upon appellate review as it has the duty to hear testimony and weigh the evidence.” *State v. McClendon*, 130 N.C. App. 368, 377 (1998) (citation omitted). “Our standard of review of the denial of a motion to suppress is whether the trial court’s findings of fact are supported by the evidence and whether the findings of fact support the conclusions of law.” *State v. Cockerham*, 155 N.C. App. 729, 736 (2003) (citation omitted). “The court’s findings are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.” *Id.* (cleaned up). “Our review of a trial court’s conclusions of law on a motion to suppress is *de novo*.” *State v. Chadwick*, 149

N.C. App. 200, 202 (2002) (citation omitted).

Here, Deputy Ginther wrote defendant a warning ticket for the expired tag and the revoked license. Ginther handed the citation to defendant, and within one minute, had a brief conversation with him.

Generally, the return of the driver's license or other documents to those who have been detained indicates the investigatory detention has ended. The fact that the documents have been returned does not mean that the officer loses all right to communicate with the motorist. Thus, non-coercive conversation is still permitted. An officer may ask questions or request consent to search so long as the individual freely and voluntarily consents to answer questions or to allow his or her property to be searched.

*State v. Heien*, 226 N.C. App. 280, 287, *aff'd per curiam*, 367 N.C. 163 (2013).

"Therefore, to determine whether the encounter was unlawfully extended . . . or a voluntary encounter, . . . we consider whether, based upon the totality of the circumstances, a reasonable person would have felt free to leave prior to the request to search." *State v. Moua*, 289 N.C. App. 678, 689 (2023), *writ denied, rev. denied*, 900 S.E.2d 671 (N.C. 2024). "[T]he test is objective in nature." *State v. Freeman*, 307 N.C. 357, 360 (1983).

[S]ome factors that might lead a reasonable person to believe that he was not free to leave include the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled.

*State v. Isenhour*, 194 N.C. App. 539, 543 (2008) (cleaned up).

The trial court found that the interaction between defendant and Ginther was respectful. It found that defendant was cooperative with Ginther, and that Ginther was courteous, professional, and non-confrontational throughout the entire stop duration. It found that defendant was never detained, handcuffed, or in any way threatened or coerced throughout the stop. These findings were supported by the evidence provided by Officer Ginther's taped recording of the traffic stop encounter.

"While it is true the initial reasonable suspicion evaporated," Officer Ginther "was neither prohibited from simply asking if defendant would consent to additional questioning, nor was the officer prohibited from questioning defendant after receiving his consent." *State v. Kincaid*, 147 N.C. App. 94, 100 (2001). Once defendant received the citation, "the initial stop was over, and defendant did not have to agree to additional questioning. From the time when defendant consented to additional questioning until [Officer Ginther] began searching the car, there was no seizure for Fourth Amendment purposes, only a consensual encounter." *Id.*

Under the totality of the circumstances, defendant's consent to search was valid as a matter of law.

NO ERROR.

Judges FLOOD and THOMPSON concur.

Report per Rule 30(e).