

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA25-887

Filed 7 October 2026

Transylvania County, No. 23CR424201-870

STATE OF NORTH CAROLINA

v.

ROBERT CLARK DAVENPORT, Defendant.

Appeal by Defendant from order entered 26 February 2025 by Judge Robert C. Ervin in Transylvania County Superior Court. Heard in the Court of Appeals 21 May 2026.

Attorney General Jeff Jackson, by Assistant Attorney General Guadalupe Howell, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Sterling P. Rozear, for Defendant–Appellant.

MURRY, Judge.

Robert C. Davenport (Defendant) appeals from judgment entered 12 February 2025 upon his *Alford* plea to driving while impaired (DWI). On appeal, Defendant argues that the trial court erred by denying his motion to suppress. For the reasons below, this Court disagrees and instead affirms the trial court’s denial of the motion.

I. Background

STATE V. DAVENPORT

Opinion of the Court

On 29 September 2023, Transylvania County Sheriff's Deputy Jarred Crain participated in a DWI checking station on Greenville Highway. Two patrol vehicles at the station had their blue lights flashing, and several additional vehicles were on scene without lights activated. Deputy Crain and the other officers stopped every passing motorist to check drivers' licenses. Officers displayed no signage indicating that a checking station was in progress, but Deputy Crain himself drove a marked patrol vehicle equipped with a light bar and wore a uniform.

At approximately 11:25 p.m., Deputy Crain observed Defendant's vehicle approach the station from about 400 yards away, turn around, and travel in the opposite direction. He followed the vehicle onto Barclay Road, a side street close enough to the checking station that Deputy Crain could see a direct path back towards it. Less than half a mile down Barclay Road, Defendant turned left "off the road . . . into a big gravel parking lot of a construction business." The vehicle did not park yet remained motionless with the brakes applied. Deputy Crain observed no traffic violations, no failure to maintain lane control, and no other driving irregularities during his pursuit. He pulled into the parking lot behind Defendant's vehicle, activated his solid blue light for officer safety, and turned on his body camera to investigate further. His patrol vehicle did not block the vehicle's ability to exit as he approached the driver's side alone.

On approach, Deputy Crain observed Defendant and a female passenger. Deputy Crain twice asked Defendant to roll down his window. Defendant rolled the

STATE V. DAVENPORT

Opinion of the Court

window down to approximately three inches and no further, declining to open it completely. Deputy Crain asked Defendant for his driver's license and asked how much Defendant had to drink. Defendant ignored the second question and fumbled around for the license. Deputy Crain asked more general questions about his recent driving patterns. At no point did he display a weapon to, raise his voice at, or physically touch Defendant. Based on these observations, Deputy Crain asked Defendant to exit the vehicle. As Defendant complied and exited, Deputy Crain detected the odor of alcohol and observed Defendant's slurred speech. Defendant admitted to drinking mixed drinks at a bar in Brevard earlier that evening, consistent with the venue-entry stamp on his hand.

Throughout this encounter, Defendant remained uncuffed and free to move about. He engaged Deputy Crain and additional officers who had arrived on the scene with detailed questions about the various pre-arrest testing procedures available to him, sought advice on which tests to submit to, and asked to speak with his passenger for advice. This engagement was often difficult and irritable in tone, but no officer restrained his movement or physically directed him during the encounter. Defendant ultimately accompanied Deputy Crain to the station for further processing at Defendant's own request, at which point he registered a 0.09 blood alcohol content (BAC) on an Intox EC/IR-II breath test.

On 30 September 2023, Defendant was charged by citation with DWI. Defendant pleaded guilty and appealed to superior court. The district court denied

Defendant's motion to suppress on 29 August 2024. Defendant pleaded guilty and appealed to superior court. Defendant filed a motion to suppress in superior court on 4 February 2025 and an amended motion on 10 February 2025. The trial court heard and denied the motion on 10 February 2025, and Deputy Crain's body-camera footage was admitted at the hearing as Defendant's Exhibit 6. On 12 February 2025, Defendant entered an *Alford* plea to DWI and reserved his right to appeal the denial of a previous motion to suppress. The trial court sentenced Defendant as a Level Five offender to sixty days in the Misdemeanant Confinement Program, suspended for twelve months' supervised probation.

On 26 February 2025, the trial court entered a written order with findings of fact and conclusions of law regarding Defendant's motion to suppress. The trial court concluded, in relevant part, that Defendant "was not stopped or seized until after [Deputy] Crain approached his vehicle"; that *State v. Griffin*, 366 N.C. 473 (2013), foreclosed the need to resolve the constitutionality of the underlying checking station; and that, in any event, Deputy Crain had a "reasonable and articulable suspicion that [Defendant] was operating his vehicle while impaired" based on the circumstances. Defendant timely appealed.

II. Jurisdiction

This Court has jurisdiction over Defendant's appeal from the trial court's final judgment under N.C.G.S. §§ 7A-27(b), 15A-979(b), and 15A-1444. *See* N.C.G.S. § 15A-979(b) (2025) (right to appeal denial of motion to suppress preserved by plea

agreement); *id.* § 15A-1444(a) (right of appeal from judgment on plea).

III. Analysis

On appeal, Defendant argues that the trial court erred by denying his motion to suppress because Deputy Crain (1) seized Defendant when he parked his patrol car behind Defendant and (2) Deputy Crain lacked reasonable articulable suspicion to justify this seizure. For the following reasons, we disagree with Defendant and affirm the trial court’s order denying Defendant’s motion to suppress evidence stemming from their encounter.

We review an order on a motion to suppress only for “whether the trial [court]’s underlying findings of fact are supported by competent evidence . . . and whether those factual findings in turn support . . . [it]s ultimate conclusions of law.” *State v. Cooke*, 306 N.C. 132, 134 (1982). Even if “evidence is conflicting,” the trial court is in the best position to “resolve the conflict.” *State v. Smith*, 278 N.C. 36, 41 (1971). The trial court’s conclusions of law are reviewed de novo. *State v. Hughes*, 353 N.C. 200, 208 (2000). Defendant challenges only the order’s conclusions of law before us here.

A. Seizure

First, Defendant argues that Deputy Crain seized him “at the moment [Deputy] Crain parked behind him, activated his blue lights, and began to approach his car.” For the following reasons, we disagree.

Both the State and Federal Constitutions protect against unreasonable searches and seizures. N.C. Const. art I, § 20; *see* U.S. Const. amend. IV (Search and

STATE V. DAVENPORT

Opinion of the Court

Seizure Clause). But an officer effects a seizure only through “physical force or show of authority [that] has in some way restrained the liberty of a citizen.” *Terry v. Ohio*, 392 U.S. 1, 19 n.16 (1968); accord *State v. Arrington*, 311 N.C. 633, 643 (1984) (same). Where, as here, an individual has already stopped his vehicle and thus has “no desire to leave[] and would not feel free to leave even if there were no police presence,” the proper inquiry is “whether a reasonable person would feel free to decline the officers’ requests or otherwise terminate the encounter.” *Florida v. Bostick*, 501 U.S. 429, 436 (1991). A show of authority alone does not amount to a seizure unless the individual submits to it. See *California v. Hodari D.*, 499 U.S. 621, 626 (1991); accord *State v. Cuevas*, 121 N.C. App. 553, 563 (1996) (same). This Court has held that “[t]he mere activation of an officer’s blue lights does not constitute a seizure under the Fourth Amendment.” *State v. Nunez*, 274 N.C. App. 89, 92 (2020). An officer’s approach of an already-parked vehicle thus constitutes a consensual encounter that ripens into a seizure only when the individual submits to the officer’s subsequent show of authority. See *State v. Icard*, 363 N.C. 303, 309–310 (2009). The reviewing court must examine the totality of the circumstances to assess “the coercive effect of police conduct, taken as a whole, rather than . . . focus on particular details of that conduct in isolation. See *Icard*, 363 N.C. at 309 (quotation omitted). Relevant factors include the presence of multiple officers, the display of a weapon, physical touching, and the use of language or tone indicating compulsory compliance. See *id.*; *United States v. Mendenhall*, 446 U.S. 544, 554 (1980).

STATE V. DAVENPORT

Opinion of the Court

Applying that framework here, Deputy Crain’s initial approach of Defendant’s already-parked vehicle was not a seizure. Deputy Crain arrived at the parking lot only after Defendant had turned off Barclay Road and stopped on his own initiative in a gravel lot outside a closed business. Deputy Crain parked behind Defendant’s vehicle without blocking its ability to exit. He activated a solid blue light for officer safety and approached alone, while a second officer arrived only after the initial approach and did not block Defendant. Neither officer displayed a weapon, touched Defendant, or used language or tone-of-voice suggesting that compliance was compelled.

Defendant’s own conduct during the encounter confirms its consensual nature. Defendant declined Deputy Crain’s initial request to lower his window fully, ignored a question about how much he had to drink, asked “Is there a problem?” in response to the Deputy’s inquiry, and later sought to consult his passenger and to ask officers about the pre-arrest testing procedures available to him. These actions all imply a willingness to challenge the encounter’s premise and to shape its terms. *See Bostick*, 501 U.S. at 436. The encounter ripened into a seizure only when Deputy Crain asked Defendant to exit his vehicle and Defendant submitted to that request by complying. *See Icard*, 363 N.C. at 310; *Hodari D.*, 499 U.S. at 626.

Defendant’s reliance on *State v. Eagle*, 286 N.C. App. 152 (2022), does not alter this analysis. Defendant identifies two factors—an officer parking behind a motorist and activating blue lights—that, in isolation, could suggest a show of authority

sufficient to establish a seizure. But the totality-of-the-circumstances test “assess[es] the coercive effect of police conduct, taken as a whole, rather than . . . focus[es on] the particular details of that conduct in isolation.” *Icard*, 363 N.C. at 309 (quotation omitted). Absent more, the mere activation of blue lights does not equate a seizure. *Nunez*, 274 N.C. App. at 92. The trial court accordingly did not err in concluding that Defendant “was not stopped or seized until after [Deputy] Crain approached,” engaged him in conversation, and asked him to step out of the vehicle.

B. Reasonable Suspicion

Next, Defendant argues that Deputy Crain lacked reasonable articulable suspicion to justify his seizure regardless of its timing amidst their encounter. We disagree here as well.

Reasonable suspicion is assessed under the totality of the circumstances—the “whole picture.” *United States v. Cortez*, 449 U.S. 411, 417 (1981); accord *State v. Barnard*, 362 N.C. 244, 247 (2008). The officer’s decision to seize must rest “on specific and articulable facts, as well as the rational inferences from those facts, as viewed through the eyes of a reasonable, cautious officer, guided by his experience and training.” *State v. Styles*, 362 N.C. 412, 414 (2008) (quotation omitted). This standard is “less demanding than a standard of probable cause” and “requires a showing considerably less than preponderance of the evidence.” *Id.* The reviewing court assesses reasonable suspicion from the officer’s perspective, not the driver’s, see *State v. Jones*, 96 N.C. App. 389, 395 (1989), which is an issue independent of the

constitutionality of the checking station, *see Griffin*, 366 N.C. at 477. “When an officer observes conduct which leads him reasonably to believe that the criminal conduct may be afoot, he may stop the suspicious person to make reasonable inquiries.” *State v. Alvarez*, 385 N.C. 431, 433 (2023) (quotation omitted).

A driver’s lawful avoidance of a visible checking station does not create reasonable suspicion on its own terms, true enough; but such avoidance “coupled with other circumstances” may give rise to reasonable suspicion sufficient to justify a stop. *State v. Foreman*, 351 N.C. 627, 632–33 (2000). Our Supreme Court reaffirmed that framework in *State v. Griffin*, which controls the outcome here. Relevant totality factors include whether the driver was on notice that a checking station was ahead, the proximity of the turn towards it, the time of day, and the nature and layout of the roadway. *See Foreman*, 351 N.C. at 632–33.

By the time Deputy Crain asked Defendant to exit the vehicle, he had observed multiple circumstances that, in the aggregate, supported reasonable suspicion of criminal activity. Defendant’s vehicle had turned to avoid a visible checking station marked by flashing blue lights and multiple patrol vehicles at approximately 11:25 p.m in a rural county area. After turning away, Defendant traveled onto a side street that led directly back to the checking station and stopped in the gravel parking lot of a closed business at night. A reasonable officer could interpret these actions as a collective attempt to avoid law-enforcement contact. During the consensual encounter that followed, Deputy Crain observed additional indicators—Defendant declined to

lower his window fully, ignored the question about how much he had to drink, fumbled with a notebook for approximately eighteen seconds while attempting to locate his license and displayed a venue-entry stamp on his left hand. Under *Foreman* and *Griffin*, those facts provided Deputy Crain with specific and articulable facts sufficient to support a reasonable suspicion that Defendant was engaged in criminal activity. *See Griffin*, 366 N.C. at 477–78; *see also Foreman*, 351 N.C. at 632–33.

Defendant’s contrary arguments do not disturb the reasonable-suspicion analysis. Defendant contends that the checkpoint was unmarked, that his U-turn occurred 400 yards from the station rather than closer, that his driving was not otherwise erratic, and that neither his stop in the parking lot nor the location were inherently suspicious. None of these arguments alter the outcome, even when viewed from his perspective. *See Jones*, 96 N.C. App. at 395. Neither *Foreman* nor *Griffin* impose a minimum-distance threshold or require additional erratic driving before checking station avoidance can contribute to reasonable suspicion. *See Griffin*, 366 N.C. at 477–78. Competent evidence supports the trial court’s findings that Defendant’s stop in a closed business parking lot at night and turned onto a side street that led back to the station; those findings bind us on appeal. *Cooke*, 306 N.C. at 134.

IV. Conclusion

For the reasons discussed above, this Court affirms the trial court’s 26 February 2025 order denying Defendant’s motion to suppress.

STATE V. DAVENPORT

Opinion of the Court

AFFIRMED.

Judges ZACHARY and CARPENTER concur.

Report per Rule 30(e).