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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0135**

State of Minnesota,
Appellant,

vs.

Randy Earl Gedicke,
Respondent.

**Filed July 29, 2008
Reversed and remanded
Connolly, Judge**

Steele County District Court
File No. CR-07-1429

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respondent)

Considered and decided by Connolly, Presiding Judge; Ross, Judge; and Collins,
Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

CONNOLLY, Judge

The State of Minnesota challenges the district court's dismissal of the charge of felony fleeing a peace officer in a motor vehicle against respondent based on its ruling that there was no reasonable basis for a traffic stop of respondent's all-terrain vehicle (ATV). Because a loud, popping muffler on the ATV created a reasonable, articulable suspicion of an equipment violation and appellant's subsequent reckless driving provided grounds for a stop, we reverse and remand.

FACTS

On May 12, 2007, Sergeant William Youngquist of the Steele County Sheriff's Office¹ was on routine patrol. After filling his squad car with gas at a gas station, Youngquist noticed that he had left his fuel cap door open. Youngquist pulled off on Kilworth Drive and got out of his car to reattach the fuel cap and close the fuel cap door. At that time, Youngquist heard a loud exhaust noise approaching him from the north. While still standing outside of his vehicle, Youngquist saw an ATV come around the bend. The ATV proceeded south for a moment and stopped, and respondent, the driver of the ATV, saw Youngquist watching him. Youngquist immediately got back into his squad car. Respondent made a u-turn in the road and, according to Youngquist, accelerated north at an "extremely high rate" of speed in excess of the speed limit.

¹ Sergeant Youngquist has been an officer with the Steele County Sheriff's Office for ten years.

Youngquist described the acceleration as “erratic” and said the ATV “was fishtailing [and] throwing up rocks.”

In response, Youngquist activated the emergency lights on his squad car and pursued respondent, who did not stop his ATV. Youngquist eventually lost sight of the ATV. Approximately 30 minutes later, Youngquist stopped a vehicle in which respondent was riding because he recognized respondent as the driver of the ATV. Respondent later confessed to fleeing from Youngquist. Youngquist also located the vehicle, which was a racing-type ATV with a non-stock exhaust system. Respondent was subsequently charged with one count of felony fleeing a peace officer in a motor vehicle in violation of Minn. Stat. § 609.487, subd. 3 (2006).

Respondent brought a suppression motion, arguing that the traffic stop was illegal. At the subsequent omnibus hearing, Youngquist testified that “[t]he initial reason for the stop would have been the loud exhaust and for – and then the subsequent erratic driving.” In the complaint, Youngquist wrote that he “heard a vehicle with loud exhaust consistent with an ATV” He testified, however, that the ATV exhaust made a “loud popping” sound, indicating a statutory violation for which he was justified in stopping the vehicle.

The district court determined that no reasonable basis existed to justify the traffic stop. It stated:

Here, Sgt. Youngquist testified that he decided to stop the ATV based upon the loud exhaust of the ATV. At the time he decided to initiate the traffic stop, the information he had was that he heard an exhaust consistent with an ATV. He further acknowledges that not all ATV’s have excessively or illegally loud exhausts.

... The court finds that Sgt. Youngquist believed that the ATV exhaust system was consistent with an ATV at the time he decided to attempt to stop the ATV. The state has not presented credible evidence that Sgt. Youngquist had a particularized belief that this ATV was in violation of the ordinance but rather consistent with the sound of an ATV. Sgt. Youngquist conceded that he did not write in his report that the loud exhaust was consistent with an illegal exhaust.

... The state has not shown that at the time Sgt. Youngquist activated his emergency lights to initiate the traffic stop a reasonable basis existed to support the intrusion.

The district court then dismissed the complaint because it held that there was no reasonable basis for the stop. This appeal follows.

DECISION

“An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.” *U.S. v. Cortez*, 449 U.S. 411, 417 (1981). “Our cases, however, do not require much of a showing in order to justify a traffic stop. Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle.” *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). When an appellate court reviews a stop based on given facts, the test is not whether the district-court decision is clearly erroneous, but whether, as a matter of law, the basis for the stop was adequate. *In re Welfare of G.M.*, 560 N.W.2d 687, 690-91 (Minn. 1997).

Minnesota law requires that every motor vehicle “be equipped with a muffler in good working order.” Minn. Stat. § 169.69 (2006). This court has upheld the validity of

a traffic stop based on a noisy muffler. *State v. Pierce*, 347 N.W.2d 829, 833 (Minn. App. 1984).

In the complaint, Youngquist stated that he merely “heard a vehicle with loud exhaust consistent with an ATV.” But at the suppression hearing, the following exchange occurred on cross examination:

YOUNGQUIST: An ATV, it was that style, a racing type. I need to elaborate on that statement in my report because it was a loud exhaust coming, and that’s what I would be stopping the ATV for. *It was not stock.*

DEFENSE ATTORNEY: Well, what’s—what is the measure of a loud exhaust?

YOUNGQUIST: State statute indicates anything that makes a loud popping or the natural engine—it does not blend in the natural—with the natural noise of the engine.

DEFENSE ATTORNEY: So it had an unblended sound?

YOUNGQUIST: *Loud popping.*

(Emphasis added.)

As an experienced police officer, Youngquist knew what type of muffler noise constitutes a violation of state statute. Minn. Stat. § 169.69 prohibits a muffler from emitting a sharp popping sound. Therefore, because Youngquist testified that he heard a loud popping noise, he had an objective, reasonable basis for stopping the ATV.

The district court apparently focused on the fact that Youngquist did not write in the complaint that the loud exhaust was consistent with an illegal exhaust. But under oath, Youngquist testified that he believed the popping exhaust to be illegal, and therefore he initiated the traffic stop. The district court further stated that Youngquist “believed the exhaust to violate the Owatonna Noise Control Ordinance” but “[t]here is

no evidence that a non-stock ATV exhaust necessarily violates the City Ordinance.”² Contrary to the district court’s ruling, it is not necessary that the exhaust *actually* violated the city ordinance or state statute. It is enough that Youngquist reasonably *believed* the muffler to be illegal. *See State v. Johnson*, 257 N.W.2d 308, 309 (Minn. 1977) (“An actual violation of the Vehicle and Traffic Law need not be detectable. . . . All that is required is that the stop be not the product of mere whim, caprice, or idle curiosity.”); *but see George*, 557 N.W.2d at 579 (holding that there must be an objective legal basis for the stop).

Furthermore, Sergeant Youngquist testified that when respondent saw him, respondent turned and accelerated erratically, fishtailing away from the area before Youngquist turned on his emergency lights and siren. This reckless driving was a second independent basis for the stop. Minn. Stat. § 169.13, subd. 1(a) (2006).

Based on the record in its entirety, there is no question that Youngquist would have had a reasonable, articulable basis for stopping respondent’s ATV had he caught up with it.

Reversed and remanded.

² In its brief to the district court at the suppression hearing, appellant argued that the Owatonna Noise Control Ordinance, which describes an illegal muffler as emitting loud popping noises, provided Youngquist with a reasonable basis for the stop. Youngquist also testified that he believed the exhaust violated a state statute.