STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0865

State of Minnesota,
Respondent,

vs.

Vicki Lynn Jorgenson,
Appellant.

Filed July 7, 2009
Affirmed
Muehlberg, Judge[*]

Clay County District Court
File No. 14-CR-07-2312

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Brian J. Melton, Clay County Attorney, Kyle D. Kemmet, Assistant County Attorney, 807 11th Street North, Moorhead, MN 56560 (for respondent)

Reid Wheeler Brandborg, 315 South Mill Street, Fergus Falls, MN 56537 (for appellant)

Considered and decided by Hudson, Presiding Judge; Worke, Judge; and Muehlberg, 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.

U N P U B L I S H E D O P I N I O N

MUEHLBERG, Judge

Appellant Vicki Lynn Jorgenson challenges her 2008 conviction of driving while impaired (0.08 or more alcohol concentration), arguing that the district court erred by refusing to suppress evidence discovered during an investigatory stop of her vehicle. Because the district court's conclusion that the police officer had a reasonable, articulable, objective basis for stopping the automobile was not clearly erroneous, we affirm.

D E C I S I O N

In an appeal of a pretrial order on a motion to suppress, this court independently reviews the facts and determines as a matter of law whether the district court erred in its decision. *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). This court accepts the district court's factual findings unless the findings are clearly erroneous. *State v. Williams*, 535 N.W.2d 277, 286 (Minn. 1995). "Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made. If there is reasonable evidence to support the trial court's findings of fact, a reviewing court should not disturb those findings." *State v. Gomez*, 721 N.W.2d 871, 883 (Minn. 2006) (quotations omitted).

Appellant contends that the district court erred in concluding that the stop of the vehicle was valid. An officer must have a "specific and articulable suspicion" of a violation before stopping a vehicle. *Marben v. State, Dep't of Pub. Safety*, 294 N.W.2d 697, 699 (Minn. 1980). The stop must be based upon "specific and articulable facts

which, taken together with rational inferences from those facts, reasonably warrant [the] intrusion [of an investigatory stop]." *Id.* (quoting *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880 (1968)).

In the present case, appellant was driving on a rural road and, believing she had a flat tire, she signaled and pulled over to the shoulder of the road. Clay County Sheriff Deputy Carey, who had been following six car lengths behind appellant for about one-half mile, saw her pull over and pulled over as well behind appellant's vehicle. Appellant then signaled and pulled back onto the road and began to drive away. Deputy Carey immediately pulled back onto the road and within 10 seconds, activated his front emergency lights and stopped appellant's vehicle. Appellant was subsequently arrested and convicted of driving while impaired.

The district court concluded that Deputy Carey had specific and articulable reason for the investigatory stop based on his observation of a broken taillight on appellant's vehicle and because of appellant's evasive driving conduct. At the pretrial suppression hearing, Deputy Carey testified that, before pulling over behind appellant, he saw that her driver's side rear taillight lens was cracked, and he observed a white light emanating through the crack in the lens.

The deputy's observation of the broken taillight, in violation of Minn. Stat. § 169.55, subd. 1 (2006), provided an adequate basis for an investigatory stop. An officer has an objective basis for stopping a vehicle if the officer observes a traffic violation, even an insignificant one. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997) (validating investigative stop based on illegal headlight configuration).

Appellant contends that the cracked taillight was not an equipment violation and could not support a reasonable suspicion of criminal activity because she claims that Minn. Stat. § 169.55 (2006), which prohibits vehicles from projecting "a white light to the rear of the vehicle" on a street or highway, pertains only to "implement of husbandry, animal-drawn vehicles, but not to motor vehicles."[1] Appellant's interpretation is inconsistent with the plain language of this statute. Minn. Stat. § 169.55 clearly prohibits a "white light projecting to the rear of the vehicle except when moving in reverse" for all vehicles, stating as follows:

> Lights on all vehicles
>
> Subdivision 1. **Lights or reflectors required.** At the times when lighted lamps on vehicles are required each vehicle including an animal-drawn vehicle . . . shall be equipped with one or more lighted lamps or lanterns projecting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear, . . . *It shall be unlawful except as otherwise provided in this subdivision, to project a white light to the rear of any such vehicle while traveling on any street or highway, unless such vehicle is moving in reverse*.

(Emphasis added.) Violation of this provision is a citable offense. Minn. Stat. § 169.47, subd. 1 (2006) (making it a misdemeanor for any person to drive "any vehicle" which "is not at all times equipped with such lamps and other equipment in proper condition and

[1] Appellant cites to an attorney general opinion as making an exclusive statement—that the provision is only applicable to implements of husbandry, etc. The correct reading of the opinion, when read in conjunction with the plain language of the statute, simply clarifies that the section 169.55 requirement that vehicles be equipped with lights applies to the implements of husbandry, etc., as well as other vehicles (possibly because these types of vehicles are exempted from Minn. Stat. § 169.47 (2006), the enforcement statute).

adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter").

A reviewing court gives "due weight to the inferences drawn from [factual findings made] by the district court," *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998) (quotation omitted), and a district court may make reasonable inferences from the facts. *Groe v. Comm'r of Pub. Safety*, 615 N.W.2d 837, 842 n.2 (Minn. App. 2000), *review denied* (Minn. Sept. 13, 2000). Here, the deputy's observation of a minor traffic violation, alone, provided a specific and articulable basis for a brief investigatory stop. We conclude that testimony at the pretrial suppression hearing that the deputy observed the broken taillight before pulling appellant's vehicle over, even though he did not mention this at the time of the stop, reasonably supports the district's court decision. We are therefore not left with a firm conviction that the district court made a mistake. *State v. Gomez*, 721 N.W.2d at 883 (advising that findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made). And, because of this decision, we need not address whether appellant's driving conduct would provide an independent factual basis to justify the investigative stop.

Affirmed.