STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1763

State of Minnesota,
Respondent,

vs.

Darin Michael Curtis Doty,
Appellant.

Filed July 20, 2010
Affirmed
Toussaint, Chief Judge

Clay County District Court
File No. 14-CR-08-6142

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Brian J. Melton, Clay County Attorney, Matthew D. Greenley, Kyle D. Kemmet, Assistant County Attorneys, Moorhead, Minnesota (for respondent)

Kenneth J. Kohler, Jade M. Rosenfeldt, Vogel Law Firm, Moorhead, Minnesota (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Toussaint, Chief Judge; and Connolly, Judge.

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

TOUSSAINT, Chief Judge

Appellant Darin Michael Curtin Doty challenges the stop of his vehicle on December 3, 2008, that led to his arrest and charges of two third-degree violations of

driving while impaired pursuant to Minn. Stat. § 169A.20, subd. 1 (1) (2008) and Minn. Stat. § 169A.20, subd. 1 (5) (2008). Appellant entered into a stipulated facts proceeding under Minn. R. Crim. P. 26.01, subd. 4. Appellant was convicted of the charges and the execution of his sentence was stayed pending this appeal. Because the district court correctly determined that there was probable cause to arrest appellant, we affirm.

D E C I S I O N

When reviewing pretrial rulings on motions to suppress evidence, this court independently considers the facts and determines whether, as a matter of law, suppression is warranted. *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. Willimas*, 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) (quotation omitted).

I.

We first address whether the investigatory stop of appellant's vehicle by Deputy Jeff Lee was based on "reasonable articulable suspicion of criminal activity" necessary for an investigative stop. The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I § 10. Warrantless searches are generally per se unreasonable, with limited exceptions. *State v. Waddell*, 655 N.W.2d 803, 809 (Minn. 2003). A police officer may make a limited

investigative stop of a motorist if the officer has a reasonable, articulable suspicion of criminal activity. *Id.* In order to justify an investigatory stop, "the police must only show that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *State v. Pike*, 551 N.W.2d 919, 921-22 (Minn. 1996) (quotation omitted).

The district court held that the investigatory stop of appellant was lawful. The district court stated that Lee, "who is trained and experienced in observing motor vehicle traffic and violations of traffic laws, observed [appellant] fail to come to a complete stop at two stop signs. Lee's observation of these violations of a traffic law is sufficient to form the basis of a 'reasonable suspicion of criminal activity.'"

The record supports the district court's finding. At the omnibus hearing, Lee testified that on routine patrol in the early morning hours of December 3, 2008, he observed a vehicle "make a quick right-hand turn." As Lee got closer to the vehicle, "the vehicle slowed but did not stop completely for [a] stop sign." Lee testified that the "vehicle quickly accelerated through that intersection again." Lee caught up to the vehicle "as he made a quick left-hand turn" and, as the vehicle approached 14th Street, appellant again "did not stop for that sign completely." Lee further testified that the vehicle made another "quick right hand turn" and, "[a]fter about a block or so, I activated my overhead lights, attempting to stop the vehicle." When the vehicle continued traveling for about a block making another right-hand turn, Lee "activated his sirens." The vehicle went "approximately 50 feet then . . . turned into a driveway."

Based on Lee's testimony, he witnessed appellant's car run two stop signs. Even minor violations of traffic laws can provide a justification for stopping an automobile. *See State v. George*, 557 N.W.2d 575, 578 (Minn. 1997) (stating that insignificant violation of traffic law can suffice to provide basis for legal stop); *Pike*, 551 N.W.2d at 921 (stating that violations of vehicle and traffic laws need not be detectable); and *State v. Kilmer*, 741 N.W.2d 607, 609 (Minn. App. 2007) (explaining that even "insignificant" traffic law violation can provide basis for stop). Based on the evidence, the district court did not err in determining that Lee had a reasonable suspicion to make an investigatory stop of appellant.

II.

Appellant's primary argument is that he was effectively placed under arrest without probable cause when Lee immediately ordered him from his vehicle because he was placed in handcuffs and locked in the rear of the squad vehicle. A person has been "seized" within the meaning of the Fourth Amendment only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. *United States v. Mendenhall*, 446 U.S. 544, 554, 100 S. Ct. 1870, 1877 (1980); *see also Harris*, 590 N.W.2d at 98. "[C]ourts must suppress evidence gathered as a result of [a] seizure only when the seizure was unreasonable." *Harris*, 590 N.W.2d at 99. When there is no factual dispute, "a reviewing court must determine whether a police officer's actions constitute a seizure and if the officer articulated an adequate basis for the seizure." *Id*. at 98.

"[I]f an officer has probable cause to believe that an individual has committed even a minor criminal offense, he may, without violating the Fourth Amendment, arrest the offender." *State v. Askerooth*, 681 N.W.2d 353, 360 (Minn. 2004). "The test for probable cause is objective, viewed from the perspective of a prudent and cautious police officer." *State v. Schauer*, 501 N.W.2d 673, 674 (Minn. App. 1993) (quotation omitted). Depending on the circumstances, it is possible for a single objective indication of intoxication to constitute probable cause for an arrest. *Musgjerd v. Comm'r of Pub. Safety*, 384 N.W.2d 571, 573-74 (Minn. App. 1986). Appellate courts "review the district court's findings of historical fact relating to the probable cause determination for clear error under the clearly erroneous standard but we independently review de novo the issue of probable cause." *State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998).

Lee testified that he had not formally placed appellant under arrest when he handcuffed him, frisked him for weapons, and placed him in the squad car. But the fact of an arrest is not determined by the officer's subjective intent or formal declarations. *See State v. Hince*, 540 N.W.2d 820, 823 (Minn. 1995) (stating "The test for whether the defendant is in custody is an objective one: it is whether a reasonable person in the detainee's situation would have understood that he was in custody.").

Here, the district court found that appellant "was ordered out of his vehicle, patted down, handcuffed and placed in the locked rear of the squad car." The court stated that "these actions, specifically handcuffing [appellant] and placing him in the squad car, amounted to an arrest because a reasonable person would not believe that he was free to leave the situation." Lee's testimony regarding appellant's erratic driving, his failure to

respond to Lee's commands to exit the vehicle, his stumbling out of the vehicle, and his difficulty standing on his own provided Lee with probable cause to arrest appellant for driving while intoxicated at that point. "Many telltale signs of intoxication exist independently or in combination with others." *Holtz v. Comm'r of Pub. Safety*, 340 N.W.2d 363, 365 (Minn. App. 1983). All signs need not be exhibited in every case. *State v. Hicks*, 301 Minn. 350, 354, 222 N.W.2d 345, 348 (1974).

Appellant cites *State v. Carver*, 577 N.W.2d 245 (Minn. App. 1998), to support his contention that Lee did not have sufficient probable cause to arrest him for DWI. In *Carver*, the officer activated his siren to stop defendant for speeding and the defendant parked his car diagonally, pointing it into a ditch along the roadway. 577 N.W.2d at 247. After ordering the defendant out of his car, the officer ordered the defendant to lie prone, after which the officer handcuffed him and escorted him to the squad car. *Id.* at 247. The officer only formally arrested the defendant once in the squad car after smelling an odor of alcohol, observing defendant's bloodshot and watery eyes, and administering a PBT test. *Id.* The district court held that the officer was justified in stopping the defendant for speeding but did not have probable cause for his arrest. *Id.* This court affirmed the district court's holding that in the circumstance of that case there was no probable cause to arrest the defendant, which thus precluded admission of any evidence obtained as a result of that arrest. *Id*. at 251.

In its May 18, 2009 order, the district court distinguished *Carver* stating "that prior to handcuffing [appellant], Deputy Lee observed [appellant] stumble when he exited his vehicle." In *Carver*, this court held that the defendant's parking "his car so that it was

pointing at an angle towards the ditch," was insufficient probable cause to arrest the defendant for driving while intoxicated. *Id*. at 249. The case at hand is distinguishable from *Carver* in that appellant's stumbling out of his vehicle is an indicia of intoxication sufficient to constitute probable cause to arrest appellant.

The district court summarized its order by stating that "given the circumstances of the arrest, there is sufficient evidence from which a rational trier of fact could find that the elements of the crime were proven beyond a reasonable doubt." The district court's findings are supported by the record. Lee testified that appellant ran through two stop signs; failed to respond to Lee's commands to exit his car until the third request; stumbled out of his vehicle; and had difficulty holding himself up once out of the vehicle. Based on the record, the district court correctly determined that Lee had probable cause to arrest appellant for driving while impaired.

Affirmed.