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2012 IL App (3d) 100672-U

Order filed January 17, 2012

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IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 13th Judicial Circuit, La Salle County, Illinois
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-10-0672
	)	Circuit No. 09-CF-592
DONALD P. NOEL,	)	Honorable
Defendant-Appellant.	)	Cynthia M. Raccuglia, Judge, Presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices Lytton and McDade concurred in the judgment.

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**ORDER**

¶ 1 *Held:* In prosecution for felony driving while license revoked, the trial court properly denied defendant's motion to quash arrest and suppress evidence. The appellate court, therefore, affirmed defendant's conviction and sentence.

¶ 2 After a jury trial, defendant, Donald P. Noel, was convicted of felony driving while license revoked (625 ILCS 5/6-303(d) (West 2008)) and sentenced to five years' imprisonment. Defendant appeals, arguing that the trial court erred in denying his pretrial motion to quash arrest and suppress evidence (motion to suppress). We affirm the trial court's judgment.

¶ 3

FACTS

¶ 4 At the hearing on the motion to suppress, the only witness to testify was Marseilles police officer Michael Byrd. Byrd stated that on January 10, 2010, he was parked in his marked squad car on Gray Street in Marseilles about 30 to 40 feet from the intersection of Gray Street and Filebrowne Street. There was a video camera mounted in Byrd's squad car on the front windshield near the rearview mirror. Byrd had been told about two or three hours earlier in the evening that defendant might be driving his vehicle on Main Street. Byrd knew defendant, was familiar with the truck that defendant drove, and knew that other people also drove defendant's truck occasionally. The back window and the rear side windows of the truck were tinted but the front and front side windows were not tinted. According to Byrd, defendant's truck failed to come to a complete stop at the stop sign and then proceeded through the intersection. Byrd stated that when the truck was in the intersection, he could see through the front passenger's window that defendant was driving the truck and that the individuals in the truck were not wearing seat belts.

¶ 5 Byrd made a traffic stop on the vehicle. As he was executing the traffic stop, Byrd confirmed through dispatch that defendant's driver's license was revoked. Byrd subsequently arrested defendant for driving while license revoked.

¶ 6 At the hearing, the video tape from Byrd's squad car was admitted into evidence by defendant. Byrd testified that although he had a video of the stop, the camera view was off to the left. From the angle in the video, the stop sign was behind a tree and could not be seen. Byrd testified at the hearing that he could see the intersection and that the defendant's truck never came to a complete stop at the intersection. Byrd's testimony was unclear, however, as to whether Byrd could actually see the stop sign from where he was parked. At the conclusion of the hearing, the trial court denied defendant's motion to suppress.

¶ 7 After a jury trial, defendant was convicted of felony driving while license revoked and was sentenced to five years' imprisonment. This appeal followed.

¶ 8 ANALYSIS

¶ 9 On appeal, defendant argues that the trial court erred in denying the motion to suppress. Defendant asserts that officer Byrd lacked reasonable suspicion to make a traffic stop on defendant's vehicle and that the motion to suppress, therefore, should have been granted. The State argues that the trial court's ruling was proper and should be affirmed.

¶ 10 A reviewing court applies a two-part standard of review to a trial court's ruling on a motion to suppress evidence. *Ornelas v. United States*, 517 U.S. 690, 699 (1996); *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). The trial court's findings of fact are given great deference and will not be reversed on appeal unless they are against the manifest weight of the evidence. *Luedemann*, 222 Ill. 2d at 542. A deferential standard of review applies to the trial court's findings of fact because the trial court has the opportunity to observe the demeanor and testimony of the witnesses firsthand and, thus, is in a better position than the reviewing court to judge the witnesses' credibility, to determine the weight to be given to testimony, to decide the inferences to be drawn from the evidence, and to resolve any conflicts in the evidence. See *People v. Jones*, 215 Ill. 2d 261, 268 (2005); *People v. Frazier*, 248 Ill. App. 3d 6, 13 (1993). However, as to the trial court's ultimate legal ruling of whether reasonable suspicion or probable cause exists and whether suppression is warranted, *de novo* review applies. *Luedemann*, 222 Ill. 2d at 542-43; *People v. Sorenson*, 196 Ill. 2d 425, 431 (2001). The reviewing court is free to make its own assessment of those legal issues, based upon the findings of fact, and to draw its own conclusions. See *Luedemann*, 222 Ill. 2d at 542.

¶ 11 Because of the brevity involved, a traffic stop is more analogous to a *Terry* investigative stop

(see *Terry v. Ohio*, 392 U.S. 1 (1968)) than to a formal arrest and is, therefore, analyzed under the principles of *Terry*. *People v. Moss*, 217 Ill. 2d 511, 526-27 (2005). Under *Terry*, the reasonableness of police action taken during an investigative stop involves a two-pronged inquiry: (1) was the officer's action justified at its inception; and (2) was the officer's action reasonably related in scope to the circumstances which justified the interference in the first place. *People v. Baldwin*, 388 Ill. App. 3d 1028, 1031-32 (2009). A police officer's observation of a traffic violation constitutes probable cause and, thus, a traffic stop based upon such an observation is justified at its inception and satisfies the first prong of *Terry*. *Moss*, 217 Ill. 2d at 527; *Baldwin*, 388 Ill. App. 3d at 1032; *People v. Matous*, 381 Ill. App. 3d 918, 922 (2008).

¶ 12 In the present case, officer Byrd testified that he observed defendant's vehicle commit a traffic violation—disobeying a stop sign at the intersection of Gray Street and Filebrowne Street in Marseilles. That observation, if believed by the trial court, was sufficient to justify the traffic stop in question. See *Moss*, 217 Ill. 2d at 527; *Baldwin*, 388 Ill. App. 3d at 1032; *Matous*, 381 Ill. App. 3d at 922. The videotape neither corroborates or rebuts the officer's testimony as initially from the angle of the video camera, the view of the stop sign is partially blocked by a house and a tree. It was the trial court's role to weigh the evidence and to resolve any conflicts in the evidence, and we will not substitute our judgment for that of the trial court on those determinations. See *Jones*, 215 Ill. 2d at 268; *Frazier*, 248 Ill. App. 3d at 13. At the hearing, defendant had the burden to establish that suppression was warranted. *People v. Gipson*, 203 Ill. 2d 298, 306-07 (2003). Defendant failed in that burden here. Therefore, we uphold the trial court's ruling denying defendant's motion to suppress.

¶ 13 For the foregoing reasons, we affirm the judgment of the circuit court of La Salle County.

¶ 14 Affirmed.