

DUI.

¶ 5 On December 21, 2011, defendant filed a motion to suppress, claiming the police officers conducting the roadblock violated his constitutional rights when the officers used their discretion in determining which vehicles to stop. He claimed the video recording of the roadblock (admitted as defendant's exhibit No. 2) clearly showed police were not stopping *all* vehicles as directed, and contrary to the Illinois Supreme Court's decision in *People v. Bartley*, 109 Ill. 2d 273, 289 (1985). Defendant argued the trial court should quash his arrest and suppress all evidence resulting from the stop.

¶ 6 On February 6, 2012, the trial court conducted a hearing on defendant's motion to suppress. The record on appeal does not include a transcript of the proceedings, but the court's docket entry indicates defendant called Sergeant John Dittmer (the "detail supervisor") and Trooper Patrick Sorrells as witnesses. Defendant introduced the written guidelines for the roadblock and the supervisor's checklist (both admitted as defendant's exhibit No. 1) and the video recording (defendant's exhibit No. 2). According to the guidelines, as well as the checklist, which was signed by Sergeant Dittmer on June 18, 2011, *all* vehicles were to be stopped unless traffic volume necessitated the use of sequence checking.

¶ 7 At the conclusion of the hearing, the trial court requested defendant file a document listing the times, as appearing on the video, when a vehicle was allowed to proceed without stopping. Indeed, defendant filed a "video timeline" identifying the specific times, according to the counter on the video recording, that he claimed a vehicle was allowed to proceed without stopping. On May 3, 2012, the trial court denied defendant's motion to suppress without findings of fact or conclusions of law.

¶ 8 On October 26, 2012, the parties proceeded to a stipulated bench trial. According to the stipulation, the Illinois State Police conducted a roadblock at Main Street and Orlando Avenue in Normal, beginning at 11 p.m. on June 17, 2011, and continuing through 4 a.m. on June 18, 2011. Before setting up the roadblock, Sergeant Dittmer conducted a meeting for all assigned officers where he advised that all vehicles traveling through the designated area would be stopped. Sergeant Dittmer testified he gave officers discretion to periodically wave vehicles through the roadblock to avoid traffic backup. Trooper Sorrells testified he was not given specific discretion to wave vehicles through the roadblock, but he was advised vehicles would be waved through to avoid a backup as decided by Sergeant Dittmer. Sergeant Dittmer further testified there were areas outside of the video camera's view, but within the roadblock area, where vehicles were stopped. Defendant's vehicle was stopped at approximately 1 a.m. on June 18, 2011. Based on the evidence, defendant was convicted of DUI and sentenced to 24 months' conditional discharge. This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 Defendant contends the trial court erred in denying his motion to suppress evidence. He claims that, since the field officers exercised "unbridled discretion" in determining which vehicles to stop, they conducted an unconstitutional roadblock, and, as a result all evidence related to his DUI arrest should be suppressed. We disagree.

¶ 11 The permissibility of a vehicle stop is to be judged "by balancing its intrusion on the individual's [f]ourth [a]mendment interests against its promotion of legitimate governmental interests." *Delaware v. Prouse*, 440 U.S. 648, 654 (1979). The court has distinguished checkpoint or roadblock-type stops, which are generally permissible, from roving patrols or spot checks which are generally unreasonable and too intrusive upon privacy interests. *United States v.*

Martinez-Fuerte, 428 U.S. 543 (1976). A fourth amendment "seizure" occurs when a vehicle is stopped at a roadblock or checkpoint. *Michigan Department of State Police v. Sitz*, 496 U.S. 444, 450 (1990). The question of whether such a seizure violates the fourth amendment is essentially one of reasonableness. *Sitz*, 496 U.S. at 450. The reasonableness is determined by balancing the public interest involved in the roadblock against the objective and subjective intrusion resulting from the roadblock. *Bartley*, 109 Ill.2d at 285.

¶ 12 Defendant relies on the supreme court's decision in *Bartley* to support his claim. *Bartley*, 109 Ill. 2d at 289. There, the officers established a roadblock for the purposes of checking driver's licenses and detecting DUI motorists. *Bartley*, 109 Ill. 2d at 278. The commanding officer determined the location of the stop and ordered that every westbound vehicle be stopped unless traffic dictated otherwise. The officers were to work in groups of two, with one officer on the driver's side and the other on the passenger's side. They each were assigned specific duties. The defendant was stopped at the roadblock and arrested for DUI. The trial court granted the defendant's motion to suppress after determining the defendant's DUI arrest was not based on probable cause. The appellate court affirmed. *Bartley*, 109 Ill. 2d at 276.

¶ 13 However, the supreme court noted that the "crucial inquiry" in determining the constitutionality of a roadblock is "whether the field officers are acting with unbridled discretion." *Bartley*, 109 Ill. 2d at 289. Because the officers in *Bartley* worked from established parameters, which served to minimize the subjective intrusion of the motorists, the court found the "roadblock was established and operated in accordance with constitutionally acceptable procedures." *Bartley*, 109 Ill. 2d at 292. The officers did not have unbridled discretion or the characteristics of "a roving patrol." *Bartley*, 109 Ill. 2d at 292. The court reversed the appellate court, vacated the suppression

order and remanded for further proceedings, holding that "no probable cause and no individualized suspicion is required to establish a roadblock designed to deter and detect DUI violators, and that this roadblock was established and operated in accordance with constitutionally acceptable procedures." *Bartley*, 109 Ill. 2d at 292.

¶ 14 Defendant claims the circumstances surrounding his arrest differ from those set forth in *Bartley*, as the officers here had "unbridled discretion in how they handled this roadside safety check." He contends the supervisor's checklist for the roadblock, which detailed Sergeant Dittmer's decision as to which vehicles to stop, was not recorded until after the roadblock began. This suggests to defendant that the officers believed the prior order from Sergeant Dittmer to stop every vehicle was verbal only and afforded them the discretion to determine which vehicles to stop and which vehicles to wave through. He claims the "unbridled discretion allowed the officers to discriminate in the manner in which the roadblock was conducted." Further, defendant noted he is Hispanic, which, he claims, may have led the officers to stop his vehicle, while "possibly other races [were] allowed to pass through the roadblock without being stopped."

¶ 15 We disagree with defendant's assessment that the officers here had "unbridled discretion." The officers were directed to stop every vehicle unless, for safety or traffic concerns, they were told otherwise. The evidence does not suggest Sergeant Dittmer directed the officers, for example, to stop only suspicious vehicles, to stop drivers based on race, or to stop only those drivers suspected of drinking based on age or gender. Sergeant Dittmer's directive was clear: the officers were to stop *all* vehicles. In fact, the written guidelines of the detail set forth as follows: "Checks will be made on every car and truck to assure uniformity. If traffic flow dictates a change, it is to be kept on a uniform basis. The *supervisor* will make the decision." (Emphasis in original.)

¶ 16 The video recording of the roadblock is not dispositive of defendant's claim. Not only is it difficult to see, due to the camera placement, specific police interaction with the driver of each vehicle, but Sergeant Dittmer testified (according to the stipulation of evidence) that some vehicles were stopped within the roadblock, but outside of the camera's view. Additionally, Trooper Sorrells testified (again, according to the stipulation) he was not specifically directed to use discretion in determining which vehicles to stop and which to wave through. However, he was advised that some vehicles would be waved through to control traffic flow. Thus, we find the evidence before us does not support defendant's constitutional challenge that would support a reversal of the trial court's order denying defendant's motion to suppress. We conclude the roadblock was "established and operated in accordance with constitutionally acceptable procedures." *Bartley*, 109 Ill. 2d at 292.

¶ 17 We find support, not only in *Bartley*, but in other appellate opinions as well. See *People v. Lust*, 119 Ill. App. 3d 509, 512-13 (1983) (Fourth District) (officers intended to stop every vehicle but when volume of traffic became too great, minimal discretion was employed but was not the type of discretion to violate the fourth amendment); *People v. Conway*, 135 Ill. App. 3d 887, 891 (1985) (Fourth District) (roadblock guidelines of stopping every vehicle, though some may proceed without stopping in the interest of traffic control, did not violate the fourth amendment and was minimally intrusive); *People v. Little*, 162 Ill. App. 3d 6, 11 (1987) (First District) (roadblock guidelines of stopping every vehicle circumscribed the practice of waving some motorists through in a sufficiently nonrandom pattern, making the objective and subjective intrusion minimal and the roadblock reasonable). The evidence presented to the trial court regarding the roadblock guidelines, parameters, and implementation thereof, was sufficient to support the court's order denying defendant's motion to suppress.

¶ 18

III. CONCLUSION

¶ 19 For the foregoing reasons, we affirm the trial court's judgment. As part of our judgment, we award the State its \$75 statutory assessment against defendant as costs of this appeal.

¶ 20 Affirmed.