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2014 IL App (3d) 130391-U

Order filed July 7, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 21st Judicial Circuit
)	Kankakee County, Illinois
Plaintiff-Appellee,)	
)	Appeal No. 3-13-0391
v.)	Circuit No. 10-CF-194
)	
MICHAEL J. SUCIC,)	Honorable
)	Clark Erickson,
Defendant-Appellant.)	Judge, Presiding.

PRESIDING JUSTICE LYTTON delivered the judgment of the court.
Justices Holdridge and McDade concurred in the judgment.

ORDER

- ¶ 1 *Held:* Trial court did not err in denying defendant's motion to suppress evidence where police officer who stopped defendant for changing lanes without signaling smelled cannabis in the vehicle and searched the vehicle's trunk, finding several stolen guns.
- ¶ 2 Defendant Michael Sucic was arrested and charged with aggravated possession of a stolen firearm (720 ILCS 5/16-16.1(a)(2) (West 2010)) after police found several stolen guns in the trunk of the vehicle he was driving. Defendant filed a motion to suppress the evidence against him. The trial court denied the motion, and the case proceeded to a stipulated bench trial.

The trial court found defendant guilty and sentenced him to six years' imprisonment. Defendant appeals the denial of his motion to suppress. We affirm.

¶ 3 In April 2010, defendant Michael Sucic was charged with aggravated possession of a stolen firearm. 720 ILCS 5/16-16.1(a)(2) (West 2010). He filed a motion to suppress evidence.

¶ 4 At the hearing on defendant's motion to suppress, Jeff Honeycutt, a deputy with the Kankakee County Sheriff's Department, testified that he and his partner were traveling eastbound on Brookmont Boulevard on April 20, 2010, when he "observed a car being driven by [defendant] pass from the north-most eastbound lane to the right or south-most eastbound lane without using a signal indicating that *** he was changing lanes." The vehicle had just passed Brookmont Boulevard's intersection with Schuyler, where Brookmont Boulevard's eastbound lane changed from one lane to two lanes. According to Honeycutt, after defendant passed Schuyler, "defendant continued into the left lane before transitioning into the right lane." Honeycutt stopped defendant's vehicle because defendant changed lanes without signaling.

¶ 5 The State introduced a DVD of defendant's traffic stop. The DVD showed Honeycutt approach defendant's vehicle and tell him: "Back there by Casey's, you didn't use your turn signal. You changed lanes." Defendant responded, "Oh, I did?" Honeycutt then asked for identification from both defendant and the passenger of the vehicle. Defendant told Honeycutt that the car belonged to the passenger, Dusti Matthies.

¶ 6 When Honeycutt returned to his squad car, he told his partner that he detected the "sweet smell" of cannabis from the vehicle, as well as a strong odor of perfume, like someone was trying to cover up the cannabis odor. Honeycutt returned to Matthies' car and asked defendant to step out of the vehicle. Honeycutt asked defendant, "When's the last time somebody smoked weed in your car?" Defendant responded, "I have no idea." Honeycutt stated, "The car smells a

little bit like it." Defendant said that he does not smoke marijuana but that Matthies does. He denied that she recently smoked in the car.

¶ 7 Honeycutt then returned to the vehicle and asked Matthies to step out. He told her: "I detect a slight odor of cannabis coming from the car." She denied having cannabis in her possession or recently smoking cannabis. When Honeycutt asked Matthies when she last smoked cannabis, she responded, "Probably yesterday." Honeycutt then said, "I'm going to check the car." Honeycutt and his partner searched the interior of vehicle and did not find any marijuana or paraphernalia. Honeycutt opened the trunk and found several weapons. Defendant denied having a FOID card, and Honeycutt placed defendant under arrest.

¶ 8 After the evidence was presented, the trial court ruled that Honeycutt lawfully stopped defendant after observing him commit the traffic violation of changing lanes without signaling. The trial court further ruled that Honeycutt's detection of the odor of marijuana "was sufficiently reliable to establish probable cause" to search Matthies' vehicle. In its ruling, the court relied on an affidavit from Honeycutt, which stated that he "had the opportunity to observe and smell cannabis several hundred times" based on his participation in a four-hour training course and his experience as a police officer, where he made "many traffic stops which resulted in a subject's arrest for possession of cannabis or cannabis-related paraphernalia." The court denied defendant's motion to suppress.

¶ 9 Defendant filed a motion to reconsider. After defendant presented his argument on the motion, the court allowed defendant to reopen the evidence regarding the traffic stop. Honeycutt testified that his attention was drawn to defendant's vehicle because defendant committed "a lane violation, failure to signal lane change."

¶ 10 Honeycutt testified that the squad car he was driving was equipped with video recording equipment consisting of two lenses: one facing forward and one facing the rear. Only the rear-

facing camera was turned on at the time of defendant's traffic violation, so defendant could not be seen changing lanes on the DVD.

¶ 11 The trial court denied defendant's motion to reconsider, finding that Honeycutt consistently and credibly testified that defendant moved his vehicle from one lane to another without signaling. The court further ruled that the officers' search of the vehicle's trunk was authorized based on Honeycutt's detection of a cannabis odor.

¶ 12 The case then proceeded to a stipulated bench trial. The parties stipulated that Sandy Smith would testify that on April 9, 2010, she went to her deceased ex-husband's house in Manteno and found a broken window. She also discovered that weapons and coins she had seen in the house just three days earlier were gone. Six of the weapons were found in the trunk of the car defendant was driving on April 20, 2010. The weapons had defendant's fingerprints on them.

¶ 13 Matthies would testify that she, Sucic and another individual entered a house in Manteno through a back window and stole firearms and money. They took the firearms to defendant's mother's house. After a few days, they loaded the weapons into her car and were on their way to sell them when they were stopped by Honeycutt.

¶ 14 The trial court found defendant guilty of aggravated possession of a stolen firearm, 720 ILCS 5/16-16.1(a)(2) (West 2010). Defendant filed a motion for a new trial, which the trial court denied. The trial court sentenced defendant to six years in prison.

¶ 15 ANALYSIS

¶ 16 In reviewing a court's ruling on a motion to suppress, the trial court's factual findings will be reversed only if they are against the manifest weight of the evidence. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). The court's ultimate ruling as to whether suppression was warranted is reviewed *de novo*. *Id.*

¶ 17 I

¶ 18 Defendant first argues that the trial court should have granted his motion to suppress because Deputy Honeycutt did not have a reasonable suspicion to stop him for a traffic violation.

¶ 19 A traffic stop requires reasonable suspicion that the driver has committed a violation of law. *People v. Leyendecker*, 337 Ill. App. 3d 678, 681 (2003). In reviewing a trial court's ruling on a motion to suppress evidence, we defer to the trial judge who saw the witnesses and, thus, could better assess their credibility. *People v. \$280,020 in U.S. Currency*, 2013 IL App (1st) 111820, ¶ 25.

¶ 20 Section 11-804 of the Illinois Vehicle Code (Code) provides in pertinent part:

(a) "No person may *** turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person may so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(d) An electric turn signal device *** must be used to indicate an intention to turn, change lanes or start from a parallel parked position ***. 625 ILCS 5/11-804(a), (d) (West 2010).

This section "requires an appropriate signal be used when a vehicle makes a turn, changes lanes, encroaches onto the other side of the street or road, and leaves the roadway." *People v. Tramble*, 2012 IL App (3d) 110867, ¶ 14.

¶ 21 Defendant contends that he did not violate section 11-804 of the Code because he "merely followed the course of the road when the lane split from one lane into two lanes." Defendant's assertion is not supported by the record. Honeycutt consistently testified that after the eastbound portion of Brookmont Boulevard split from one lane into two lanes, defendant moved his vehicle from the left lane to the right lane on Brookmont without activating his turn signal. Based on Honeycutt's testimony that defendant did not activate his turn signal before changing lanes, Honeycutt possessed reasonable suspicion that defendant violated section 11-804

of the Code. See 625 ILCS 5/11-804(a), (d) (West 2010); *Tramble*, 2012 IL App (3d) 110867, ¶ 14.

¶ 22 In ruling that Honeycutt had reasonable suspicion to stop defendant's vehicle, the trial court found Honeycutt's testimony both consistent and credible. The trial judge, who observed Honeycutt and heard his testimony firsthand, was in the best position to make that determination. See *\$280,020 in U.S. Currency*, 2013 IL App (1st) 111820, ¶ 25. Because Honeycutt testified that he observed defendant change lanes without signaling, Honeycutt's traffic stop was proper, and the trial court properly denied defendant's motion to suppress on that basis.

¶ 23 II

¶ 24 Alternatively, defendant argues that the trial court should have granted his motion to suppress because Honeycutt lacked probable cause to search the trunk of the vehicle.

¶ 25 Police officers must obtain a search warrant prior to searching a motor vehicle unless the circumstances fall within an exception to the warrant requirement. *People v. Lewis*, 211 Ill. App. 3d 276, 279 (1991). One such exception is probable cause. *Id.* When police have probable cause to believe a motor vehicle contains contraband, they may, without a warrant, search any area of the vehicle, including the trunk, if they reasonably believe the contraband might be found there. *Id.* Probable cause to search exists when, considering the totality of the circumstances known to the officer at the time of the search, a reasonable person would believe contraband was present in the automobile. *Id.*

¶ 26 Probable cause exists to search the trunk a vehicle when a police officer testifies that he smells cannabis in the vehicle and has training and experience in detecting such odors. *People v. Weaver*, 2013 IL App (3d) 130054, ¶¶ 27-32. "[A]dditional corroboration is not required where a trained and experienced police officer detects the odor of cannabis emanating from a defendant's vehicle." *Stout*, 106 Ill. 2d at 88. Even the "faint" or "slight" odor of cannabis

detected by a police officer with experience and training in cannabis detection provides probable cause to search a defendant's vehicle, including its trunk. See *Weaver*, 2013 IL App (3d) 130054 ¶¶ 27-32; *People v. Smith*, 2012 IL App (2d) 120307, ¶ 18. An officer need not specify if the odor is from raw or burnt marijuana. *Smith*, 2012 IL App (2d) 120307, ¶ 16.

¶ 27 Here, an officer with several years of experience, who has smelled marijuana "hundreds of times," stated that he detected a "slight odor of cannabis" coming from defendant's vehicle. It does not matter that Honeycutt detected only a "slight" odor of cannabis or that he failed to identify the smell as burnt or raw marijuana. See *Weaver*, 2013 IL App (3d) 130054, ¶¶ 14-17, 31; *Smith*, 2012 IL App (2d) 120307, ¶¶ 18, 30-31. Honeycutt's testimony was sufficient to establish probable cause to search the entire vehicle defendant was driving, including the trunk. See *Weaver*, 2013 IL App (3d) 130054, ¶ 32. Because Honeycutt had probable cause to search defendant's vehicle, the trial court properly denied defendant's motion to suppress.

¶ 28 The judgment of the circuit court of Kankakee County is affirmed.

¶ 29 Affirmed.