2015 IL App (4th) 140958-U

NO. 4-14-0958

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 7, 2015
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
CHRISTOPHER D. SUMMITT,	)	No. 13DT630
Defendant-Appellant.	)	
	)	Honorable
	)	Richard P. Klaus,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Pope and Justice Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court did not err in denying defendant's motion to quash his arrest and suppress evidence.

¶ 2 Following an August 2014 stipulated bench trial, defendant, Christopher D. Summitt, was convicted of driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(2) (West 2012)) and sentenced to 18 months of court supervision and 100 hours of community service. Defendant appeals *pro se*, arguing (1) the trial court erred in denying his motion to quash his arrest and suppress evidence, and (2) he is entitled to a new trial. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On December 2, 2013, following a traffic stop in Champaign, Illinois, defendant was arrested and charged with one count of DUI (625 ILCS 5/11-501(a)(2) (West 2012)).

Defendant also received a traffic citation for improper use of a turn signal (625 ILCS 5/11-804(b) (West 2012)), which is not directly at issue in this appeal. Defendant hired private counsel to represent him on the DUI charge, and on December 6, 2013, he pleaded not guilty.

¶ 5 On February 14, 2014, defendant, through his attorney, filed a motion to quash his arrest and suppress evidence. In the motion, defendant argued the arresting officer had no objective, articulable basis to stop or detain him for DUI or any other crime.

¶ 6 On April 16, 2014, the trial court held a hearing on defendant's motion to quash his arrest and suppress evidence. At the hearing, arresting officer John Maloney testified, at approximately 11:50 p.m. on December 1, 2013, he was on patrol for the Champaign police department. Maloney was driving west on Springfield Avenue when he observed defendant's vehicle exit the parking lot of Pia's, a known drinking establishment, and head east on Springfield Avenue (toward him). Maloney testified he thought, but was not 100% certain, defendant made a wide left turn out of the parking lot, crossing into the curbside lane. As Maloney passed defendant's vehicle on Springfield Avenue, he observed defendant staring straight ahead and gripping the steering wheel with both hands. Maloney explained his training and experience as a DUI investigator taught him this position was indicative of someone who could be impaired. Maloney decided to turn around and follow defendant to further investigate.

¶ 7 Defendant continued east on Springfield Avenue (crossing Mattis Avenue) before turning left into a parking lot at the Original Pancake House. Defendant drove through the parking lot, turned left on Round Barn Road, and then, at what Maloney approximated was 30 to 40 feet from the stop sign at the intersection of Round Barn Road and Mattis Avenue, signaled to turn right onto Mattis Avenue. Maloney explained he knew this to be a violation of the Illinois

Vehicle Code (Vehicle Code), which requires the use of a turn signal at least 100 feet in advance of a turn. 625 ILCS 5/11-804(b) (West 2012).

¶ 8 Once defendant made the turn onto Mattis Avenue, Maloney began wondering whether defendant "was trying to avoid [him] and saw [him] turn around," since he could have turned left on Mattis Avenue from Springfield Avenue instead of driving further east and turning into the parking lot at the Original Pancake House. Maloney continued to follow defendant, who turned left on John Street. Maloney explained the John Street turn placed defendant heading back in the direction of Pia's, so he decided to conduct a traffic stop at the Circle K gas station.

¶ 9 Defendant hired a private investigator, Steve Bone, who testified on his behalf. Bone explained he reviewed the video camera footage from Maloney's squad car to determine whether defendant had engaged his turn signal within 100 feet of the stop sign at the intersection of Round Barn Road and Mattis Avenue. Bone testified he compared the video to measurements he had taken on Round Barn Road and determined defendant had engaged his turn signal somewhere between 127 and 254 feet in advance of the stop sign.

¶ 10 Following Bone's testimony, defense counsel asked the trial court to quash defendant's arrest and suppress all evidence obtained from the traffic stop because defendant had not committed any traffic violations prior to the stop.

¶ 11 The trial court agreed with defense counsel that defendant had not violated section 804(b) of the Vehicle Code, but it denied defendant's motion to quash his arrest and suppress evidence. The court stated, "If this were a bench trial and I was ruling, I would acquit your client of the [section 804(b)] violation that has been written but that isn't of itself going to cause me to suppress the evidence." It continued:

"Ultimately the officer can pull your client over based upon probable cause for [a Vehicle Code] violation and then proceed based upon what he saw to conduct a DUI investigation on a road stop or [the] officer can[,] through a variety of factors[,] make a reasonable and articulable suspicion for a [*Terry*] stop. *** In my opinion, the officer articulated facts which would cause a reasonably objective police officer to have a reasonable articulable suspicion not to conduct [a Vehicle Code] stop for this traffic ticket for the turn signal but to conduct a DUI investigation. He did not know whether he took a wide turn or not, but he had the suspicion that he did. He left Pia's. He drove west on Springfield. There is no *** way he left Pia's—your client left Pia's to go to the Circle K. You wouldn't drive that way in a million years. And, you know, his physical observation of the way your client is in the car. It's not of great weight, but it's certainly a part of the panopoly [*sic*] of the information that he had available which would cause me to believe that there was a reasonable articulable suspicion for an objective officer to at least investigate the possibility of a DUI, not a simple turning signal violation.

For those reasons, the Motion to Suppress is denied."

¶ 12 On August 15, 2014, defendant's case proceeded to a stipulated bench trial, where defendant was found guilty of DUI. On September 12, 2014, defendant, through his attorney, filed a motion for a new trial, arguing the trial court erred in denying his earlier motion to quash

his arrest and suppress evidence, which the court denied. On October 2, 2014, the court sentenced defendant to 18 months of court supervision and 100 hours of community service.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, defendant argues the trial court erred in denying his motion to quash his arrest and suppress evidence. Specifically, he argues Maloney did not have a reasonable suspicion he was driving under the influence of alcohol because his actions were not "so far from the ordinary" that they required Maloney to act quickly. See *People v. Thomas*, 198 Ill. 2d 103, 110, 759 N.E.2d 899, 903 (2001). We disagree.

¶ 16 Traffic stops are subject to the fourth amendment's reasonableness requirement. *People v. Hackett*, 2012 IL 111781, ¶ 20, 971 N.E.2d 1058. "As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred." (Internal quotation marks omitted.) *Id.* However, reasonableness does not always require a warrant supported by probable cause. *People v. Leighty*, 362 Ill. App. 3d 258, 261, 838 N.E.2d 1014, 1017 (2005). "[A] police officer may stop and temporarily detain an individual to conduct a limited investigation if the officer is able to point to specific and articulable facts that, when taken together with reasonable inferences drawn therefrom, would reasonably justify the investigative intrusion." *People v. Gray*, 305 Ill. App. 3d 835, 838, 713 N.E.2d 781, 783 (1999) (citing *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968)). Thus, to effect a valid traffic stop under the fourth amendment, a police officer "need only have 'reasonable suspicion' that a driver has violated the Vehicle Code." *Hackett*, 2012 IL 111781, ¶ 19, 971 N.E.2d 1058.

¶ 17 In determining whether reasonable suspicion exists, "a law enforcement officer may rely on training and experience to draw inferences and make deductions that may well elude

the untrained person." *Leighty*, 362 Ill. App. 3d at 261, 838 N.E.2d at 1017 (citing *United States v. Arvizu*, 534 U.S. 266, 273 (2002)). "In judging a police officer's conduct, we apply an objective standard, considering whether the facts available to the officer at the moment of the seizure justify the action taken." *Hackett*, 2012 IL 111781, ¶ 29, 971 N.E.2d 1058.

¶ 18 In reviewing a trial court's ruling on a motion to quash arrest and suppress evidence, "[w]e review *de novo* the ultimate questions of whether reasonable suspicion existed and whether the evidence should have been suppressed." *Leighty*, 362 Ill. App. 3d at 260-61, 838 N.E.2d at 1017.

¶ 19 Defendant argues there is nothing "suspicious" about driving with both hands on the wheel and making three turns to go to a gas station. We find defendant's argument to be a mischaracterization of Maloney's testimony as it relates to the circumstances leading up to the traffic stop. At the hearing on defendant's motion to quash his arrest and suppress evidence, Maloney testified he observed defendant leave the parking lot of Pia's, a known drinking establishment, near midnight, making what Maloney believed to be a wide left turn into the curbside lane. When Maloney passed defendant's vehicle, he observed defendant gripping the steering wheel with both hands and looking straight ahead in a manner he believed, based on his training an experience as a DUI investigator, was indicative of someone who could be impaired. Maloney decided to follow defendant to further investigate, at which point defendant immediately turned into an empty parking lot and drove in a giant circle back toward Pia's. It was at this point that Maloney made the decision to conduct a traffic stop at the Circle K gas station.

¶ 20 Taking into account the totality of the circumstances and drawing all reasonable inferences therefrom, we conclude a reasonable officer in Maloney's position would have had a

reasonable suspicion that defendant was committing a DUI. In so holding, we recognize there is nothing inherently against the law about driving in a circle. However, reasonable suspicion need not rule out innocent conduct. See *Arvizu*, 534 U.S. at 273. Maloney was able to point to specific and articulable facts to support his suspicion, and an investigative intrusion was warranted. We conclude the trial court did not err in denying defendant's motion to quash his arrest and suppress evidence. Because the entirety of defendant's new-trial argument is based on his assertion the court erred in denying his pretrial motion, we affirm his conviction.

¶ 21 III. CONCLUSION

¶ 22 We affirm the trial court's judgment. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002(a) (West 2014).

¶ 23 Affirmed.