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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0643**

State of Minnesota,
Respondent,

vs.

Leanda Rae Muhonen,
Appellant.

**Filed May 29, 2018
Affirmed
Reyes, Judge**

Carver County District Court
File No. 10-CR-15-207

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

Roger Knutson, Chanhassen City Attorney, Campbell Knutson, Eagan, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Schellhas, Judge; and Reyes, Judge.

UNPUBLISHED OPINION

REYES, Judge

On appeal from her conviction of second-degree refusal to submit to chemical testing, appellant contends that the district court erred in denying her motion to suppress

evidence obtained as a result of a traffic stop, arguing that the arresting officer lacked reasonable, articulable suspicion justifying the stop of appellant's vehicle. We affirm.

FACTS

On March 2, 2015, while following a vehicle traveling northbound in the left lane of a four-lane divided highway, a state trooper observed the vehicle move to the right toward the right lane, and then make a "jerking motion." The trooper testified that the motion was out of the ordinary, and she thought the vehicle was going to hit a car in the right lane. The vehicle moved back to the left and then weaved back and forth a number of times, appearing to cross over both the center line and the dotted lane-divider line. The trooper initiated a traffic stop and identified appellant Leanda Rae Muhonen as the driver of the vehicle. After detecting the odor of alcohol and observing appellant slur her speech, the trooper performed field sobriety testing of appellant and then ordered her to sit in the backseat of the trooper's squad car to take a preliminary breath test. Appellant initially refused to sit. She eventually sat in the backseat but refused to place her feet inside the squad car as the trooper instructed. After repeated warnings, the trooper used her taser on appellant's leg. Appellant kicked the taser out of the trooper's hand and then kicked and hit the trooper in the chest and shoulder as the trooper retrieved it. The trooper used the taser on appellant again, secured appellant in the backseat of the squad car, and arrested her.

Respondent State of Minnesota charged appellant with: (1) refusal to submit to a chemical test in violation of Minn. Stat. § 169A.20, subd. 2 (2014); (2) driving while impaired in violation of Minn. Stat. § 169A.20, subd. 1(1) (2014); (3) fourth-degree assault

of a peace officer in violation of Minn. Stat. § 609.2231, subd. 1 (2014); (4) obstructing legal process in violation of Minn. Stat. § 609.50, subd. 1(1) (2014); and (5) failure to drive in a single lane in violation of Minn. Stat. § 169.18, subd. 7(a) (2014). Appellant filed a pretrial motion to suppress evidence, challenging the legality of the traffic stop, which the district court denied. Appellant later discharged her public defender, waived her right to counsel, and proceeded to trial pro se. The jury found appellant guilty of all charges.

Following the verdict, the district court granted appellant's motion to acquit for failure to drive in a single lane. The district court convicted appellant of refusal to submit to a chemical test, entered no convictions on the remaining three charges, and sentenced appellant to 365 days in jail, with 305 days stayed, and ordered her to serve 30 days in jail followed by 30 days of electronic home monitoring.

This appeal follows.

D E C I S I O N

Appellant argues that the district court erred in denying her motion to suppress evidence because the trooper lacked a reasonable, articulable suspicion of criminal activity to justify the traffic stop. We disagree.

In reviewing a district court's pretrial suppression ruling, "we may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999). We will not set aside the district court's factual findings unless they are clearly erroneous. *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016).

The United States and Minnesota Constitutions guarantee the right to be secure against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may conduct a limited, investigatory stop of a motor vehicle “if the officer has an objectively reasonable and articulable basis for suspecting the motorist of criminal activity.” *State v. Kilmer*, 741 N.W.2d 607, 609 (Minn. App. 2007). “The reasonable-suspicion standard is not high.” *Morse*, 878 N.W.2d at 502 (quotation omitted). In determining whether reasonable suspicion exists, we consider the totality of the circumstances in light of any inferences and deductions drawn from the officer’s training and experience. *Kruse v. Comm’r of Pub. Safety*, 906 N.W.2d 554, 556 (Minn. App. 2018).

A traffic stop is supported by reasonable, articulable suspicion “if an officer observes a violation of a traffic law, no matter how insignificant the traffic law.” *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004). However, “it is not necessary that the police detect an actual violation of the law.” *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001). “Even observing a motor vehicle weaving within its own lane in an erratic manner can justify an officer stopping a driver.” *Id.* at 826 (citing *State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983)). But a single swerve by a vehicle within its own lane of traffic does not establish an adequate basis to stop the vehicle. *State v. Dalos*, 635 N.W.2d 94, 96 (Minn. App. 2001) (citing *State v. Brechler*, 412 N.W.2d 367, 369 (Minn. App. 1987)).

Appellant admits that the squad-car video shows her weaving within her own lane, but contends that the video does not clearly show that she committed a traffic violation by crossing over the center line or the dotted lane-divider line or that she drove in an erratic

manner.¹ Appellant argues that *Warrick v. Comm’r of Pub. Safety* is controlling, in which we concluded that the police officer’s observation of a vehicle’s “subtle weaving,” involving inches, within its own lane during windy and impaired-visibility conditions failed to establish reasonable suspicion sufficient to justify a traffic stop absent another violation. 374 N.W.2d 585, 586 (Minn. App. 1985). We are not persuaded.

Here, the trooper’s testimony indicates that she observed appellant’s vehicle weaving in an erratic manner rather than engaging in “subtle weaving.” First, while driving behind appellant’s vehicle, the trooper saw the vehicle move to the right and make a jerky movement, nearly hitting a car in the adjacent lane. Second, appellant’s vehicle weaved left and right multiple times. The trooper testified that the vehicle appeared to cross over the center line and then appeared to cross over the dotted lane-divider line for approximately 30 feet while navigating a sharp curve in the road. The squad-car video supports the trooper’s testimony. The vehicle’s movements were so extreme that the trooper shouted an expletive, as captured by the squad-car video, in reaction to the weaving. Neither the trooper’s testimony nor the video suggest that the weaving to which appellant admits was either a mere matter of inches or “subtle.”

¹ Although a lane violation provides an officer a sole basis to conduct an investigatory stop, because the district court acquitted for failure to drive in a single lane, we address whether the officer’s observations provided a basis for the stop regardless of whether an actual traffic violation occurred. We also note that *Kruse* clarified that the markings that delineate traffic lanes do not comprise part of the lane and that driving on the markings constitutes movement from a lane and a potential violation of Minn. Stat. § 169.18, subd. 7(a). 906 N.W.2d at 558.

The trooper testified that, as the vehicle navigated a sharp curve and appeared to cross the lane-divider line, she was “worried [it would] go straight over the center median and hit people head on.” The trooper was also concerned about what was going on inside the vehicle to cause the driving conduct, including that the driver may be texting. The record supports the trooper’s observations, which, based on the totality of the circumstances, form an objectively reasonable and articulable basis for the traffic stop. Therefore, the trooper lawfully stopped appellant, and the district court did not err in denying appellant’s motion to suppress.

Affirmed.