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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-0970  
A18-1103**

Adam Lindsay Williams, petitioner,  
Appellant,

vs.

Commissioner of Public Safety,  
Respondent (A18-0970),  
State of Minnesota,  
Respondent (A18-1103),

vs.

Adam Lindsay Williams,  
Appellant.

**Filed May 6, 2019  
Affirmed  
Florey, Judge**

Cottonwood County District Court  
File Nos. 17-CV-18-12; A17-CR-17-507

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Considered and decided by Bjorkman, Presiding Judge; Connolly, Judge; and  
Florey, Judge.

## **UNPUBLISHED OPINION**

**FLOREY, Judge**

In this consolidated appeal, appellant Adam Lindsay Williams argues that the district court erred when it determined law enforcement had reasonable, articulable suspicion to expand the scope of the initial traffic stop and pursue a driving-while-impaired (DWI) investigation. We affirm.

### **FACTS**

In November 2017, Windom Police Officer Jonathon Beck was on duty in his marked and fully equipped squad car when appellant's vehicle caught his attention. It was just after bar close on a Saturday night. Appellant, driving a pickup truck, had signaled a right turn at an intersection, but then proceeded to travel through the intersection instead. In Officer Beck's experience as an officer, he typically came across impaired drivers between the hours of about midnight to three in the morning on weekend nights. Officer Beck pursued the truck.

As Officer Beck followed appellant's truck, he observed multiple traffic violations. He observed appellant drive on the center line several times, cross into the left lane without signaling, and travel at 48 miles per hour (mph) in a 40-mph zone. After following appellant's truck for approximately two minutes, Officer Beck activated his squad car's emergency lights and initiated a traffic stop. Appellant's truck pulled over immediately. Officer Beck radioed dispatch, notifying them of the situation and stating, "[I'm] [t]hinking this will probably turn into field sobriety."

Officer Beck approached appellant's vehicle and made contact with him. He identified appellant and explained the reason for the traffic stop, stating, that appellant was "kind of all over the road" and "driving on lines." Officer Beck observed that appellant had bloodshot eyes, which he knew could "potentially indicate . . . either drugs or alcohol impairment." Officer Beck also believed that appellant's speech was "slightly slurred," but without knowing appellant and the sound of his voice, he could not be certain. Officer Beck asked appellant whether he had been drinking, and appellant stated he had not.

Officer Beck returned to his squad car to verify appellant's license and registration. Another officer, Officer Kopperud, arrived at the scene. Officer Beck informed the officer that he did not smell any alcohol, but described appellant's driving as "very jerky." Before returning to appellant's truck, Officer Beck stated to Officer Kopperud: "I'm going to talk to him and see if he will admit to phone use or something like that and if he's not going to admit to that than I'll run fields to make sure that he is fine and not under the influence of something."

Officer Beck returned to appellant's vehicle and inquired whether appellant had been using his phone while driving. Appellant denied any phone use and stated that he had his phone on the center console for navigation purposes. Officer Beck replied that he was concerned about appellant's driving conduct, especially in light of the time of night, and instructed appellant to step out of the truck to perform field sobriety tests.

Officer Beck administered field sobriety tests. The tests included the Horizontal Gaze Nystagmus (HGN) test, the Walk-And-Turn test, and the One-Leg Stand test. Appellant failed all three. Thereafter, the officer administered a preliminary breath test

(PBT), which registered a preliminary result of 0.128. Officer Beck placed appellant under arrest. After securing appellant in the squad car, Officer Beck stated to Officer Kopperud, “I didn’t smell anything until I got him out, and then I smelled a light odor.” Officer Kopperud replied that he also got a “tiny whiff of it.”

Officer Beck transported appellant to the police station. At the station, Officer Beck read appellant the breath-test advisory, and appellant agreed to submit to a breath test. Appellant’s breath test registered a result of 0.13 at 2:48 a.m. Appellant was charged by citation with two counts of driving while impaired and one count of failure to drive in a single lane. *See* Minn. Stat. §§ 169A.20, subd. 1(1), (5) (2016), 169.18, subd. 7(a) (Supp. 2017). As a result of the failed breath test, appellant’s driver’s license was revoked. *See* Minn. Stat. § 169A.52, subd. 4 (2016).

Appellant moved the district court to suppress the evidence and dismiss the charges. He also petitioned the district court to review and rescind the revocation of his driver’s license. Appellant argued that Officer Beck’s expansion of the traffic stop was not based on a reasonable suspicion that he was under the influence. Appellant described his driving misconduct as “minor,” disputed having any slurred speech, and challenged whether having bloodshot eyes was indicative of impairment.

A combined implied-consent and omnibus hearing was held in district court. The sole issue was whether Officer Beck’s expansion of the initial traffic stop was supported by reasonable, articulable suspicion. Officer Beck was the only witness to testify. A full audio-video recording from Officer Beck’s squad car dash-camera was admitted into

evidence. The video showed Officer Beck's initial contact with appellant, the traffic stop, the officer's administration of the field sobriety tests and the PBT, and appellant's arrest.

The district court denied appellant's motion to suppress evidence, his motion to dismiss the charges, and his motion to rescind the revocation of his driver's license. The district court found that "[appellant's] driving conduct, including weaving, driving on the center line, driving in a jerking manner, and driving on the fog line indicated he might [be] driving while impaired by drugs or alcohol." It found Officer Beck to be a credible witness, and that the officer's "purpose for the stop was to investigate the basis of [appellant's] poor driving conduct." The district court found that Officer Beck had a reasonable, articulable suspicion to expand the traffic stop based on appellant's "weaving and driving on lines, the time of night, [appellant's] blood shot eyes and possibly slurred speech, and lack of an explanation for his poor driving."

Appellant stipulated to the state's evidence under Minnesota Rule of Criminal Procedure, 26.01, subdivision 4, to preserve the pretrial suppression ruling for appellate review. The district court found appellant guilty of all three offenses as charged, and sentenced appellant to 90 days in jail, stayed for one year. This appeal followed.<sup>1</sup>

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<sup>1</sup> Appellant filed two separate appeals (one for the criminal conviction and the other from the order denying his motion to rescind the license revocation). Appellant moved this court to consolidate the appeals, and we granted his motion.

## DECISION

Appellant argues that the district court erred when it determined Officer Beck had reasonable, articulable suspicion to expand the scope of the initial traffic stop and order appellant to submit to field-sobriety and preliminary-breath tests.

When reviewing a pretrial suppression order, this court reviews a district court's factual findings for clear error and the legal determinations de novo. *State v. Onyelobi*, 879 N.W.2d 334, 342-43 n.4 (Minn. 2016); *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). A factual finding "is not clearly erroneous if it is reasonably supported by the evidence as a whole." *State v. Barshaw*, 879 N.W.2d 356, 366 (Minn. 2016). We must give deference to the district court's credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012).

Both the United States and Minnesota Constitutions protect individuals from "unreasonable searches and seizures" by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "The touchstone of the Fourth Amendment is reasonableness." *State v. Johnson*, 813 N.W.2d 1, 5 (Minn. 2012) (quotation omitted). "Generally, warrantless searches are per se unreasonable." *Gauster*, 752 N.W.2d at 502. However, a law-enforcement officer may, without a warrant, initiate a limited, investigatory stop, if the officer has a reasonable, articulable suspicion of criminal activity. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (citing *Terry v. Ohio*, 392 U.S. 1, 22, 88 S. Ct. 1868, 1880 (1968)); see also *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

"Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate that he or she had a particularized and objective basis for

suspecting the seized person of criminal activity.” *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quotations omitted). Indeed, the officer’s suspicion must be more than the product of “mere whim, caprice, or idle curiosity.” *State v. Harris*, 572 N.W.2d 333, 337 (Minn. App. 1997) (quotation omitted), *aff’d on other grounds*, 590 N.W.2d 90 (Minn. 1999).

In determining whether reasonable suspicion exists to justify a stop, Minnesota courts “consider the totality of the circumstances and acknowledge that trained law-enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person.” *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001); *see also Klamar*, 823 N.W.2d at 691 (“The court may consider the officer’s experience, general knowledge, and observations; background information, including the nature of the offense suspected and the time and location of the seizure; and anything else that is relevant.”). “The factual basis required to justify an investigative seizure is minimal.” *Klamar*, 823 N.W.2d at 691.

The analysis of a traffic stop involves a dual inquiry. *Id.* In the first step, this court inquires whether the stop was justified at its inception. *Id.* Traffic violations, “however insignificant,” can provide an objective basis for stopping the vehicle. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). In the second step, we must inquire whether the officer’s actions during the stop “were reasonably related to and justified by the circumstances that gave rise to the [stop] in the first place.” *Klamar*, 823 N.W.2d at 691-92 (quotation omitted); *see also State v. Askerooth*, 681 N.W.2d 353, 364 (Minn. 2004)

(quotations omitted) (“[E]ach incremental intrusion during a stop must be strictly tied to and justified by the circumstances which rendered the initiation of the stop permissible.”).

It is undisputed that Officer Beck had reasonable, articulable suspicion to initiate a traffic stop based on multiple traffic violations: failure to signal a lane change, in violation of Minn. Stat. § 169.19, subd. 4 (2016); failure to stay entirely within a single lane, in violation of Minn. Stat. § 169.18, subd. 7(a); and failure to maintain the legal speed limit, in violation of Minn. Stat. § 169.14 (2016). *See George*, 557 N.W.2d at 578 (“Ordinarily, if an officer observes a violation of a traffic law, however insignificant, the officer has an objective basis for stopping the vehicle.”). Appellant does not challenge the initial traffic stop.

Appellant focuses on Officer Beck’s expansion of the stop to investigate impaired driving. He argues that the district court erred when it determined there was reasonable, articulable suspicion to expand the scope of the stop. Appellant contends that Officer Beck “was operating entirely on a hunch,” expanding the stop based on “the driving conduct itself, and non-descript blood shot eyes.” Appellant asserts that, absent any odor of alcohol, admission of drinking, observation of empty alcoholic beverages, or behavior, such as extreme nervousness or evasiveness, the district court’s finding that, under the aggregate of the circumstances, there was a reasonable, articulable suspicion to justify expansion of the stop, is erroneous under state law. We do not agree.

In considering the totality of the circumstances, we conclude there were multiple indications of intoxication to support the district court’s finding that Officer Beck had a reasonable, articulable suspicion of impairment to warrant an expansion of the stop. *See*

*Holtz v. Comm’r of Pub. Safety*, 340 N.W.2d 363, 365 (Minn. App. 1983) (stating that “an officer need only have one objective indication of intoxication to constitute reasonable and probable grounds to believe a person is under the influence”).

First, as shown in the audio-video recording admitted as evidence, appellant violated at least three different traffic laws before he was pulled over by Officer Beck. *See, e.g., State v. Driscoll*, 427 N.W.2d 263, 265 (Minn. App. 1988) (failing to observe traffic laws is indicia of intoxication). Further, appellant’s traffic violations occurred just after 2:00 a.m., late Saturday night, at a time when, as Officer Beck testified, patrol officers generally encounter drivers who are impaired by alcohol. *See, e.g., State v. Lee*, 585 N.W.2d 378, 383 (Minn. 1998); *Giddings v. Comm’r of Pub. Safety*, 354 N.W.2d 579, 581 (Minn. App. 1984); *see also State v. Engholm*, 290 N.W.2d 780, 784 (Minn. 1980).

Second, when Officer Beck approached appellant’s truck, he observed that appellant had bloodshot eyes and believed that appellant’s speech may have been slightly slurred. *See, e.g., Klamar*, 823 N.W.2d at 696 (concluding that bloodshot and watery eyes are indicia of intoxication); *State v. Kier*, 678 N.W.2d 672, 678 (Minn. App. 2004) (articulating that “bloodshot and watery eyes” and “slurred speech” are included in the common indicia of intoxication). Officer Beck, who testified that he has specialized training in enforcing DWI laws, understood that bloodshot eyes could “potentially indicate . . . either drugs or alcohol impairment.” *See Richardson*, 622 N.W.2d at 825 (“[T]rained law enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person.”).

Appellant disputes having slurred speech at the time he was pulled over. For support, he argues that Officer Beck testified that he was not certain whether appellant's speech was, in fact, slurred. However, in evaluating reasonableness, we look not to an individual officer's subjective state of mind. See *State v. Jackson*, 742 N.W.2d 163, 179 (Minn. 2007). Rather, "reasonableness is measured in objective terms by examining the totality of the circumstances." *Id.* (quotation omitted). Officer Beck testified that he believed appellant's speech may have been slightly slurred, and the district court found Officer Beck to be credible. See *Klamar*, 823 N.W.2d at 691 ("Deference must be given to the district court's credibility determinations."). Under the totality of the circumstances—including the time and day of appellant's traffic violations, his bloodshot eyes, and lack of any explanation for the driving misconduct—Officer Beck's observation that appellant's speech may have been slurred was reasonable.

Lastly, although the above indicia of intoxication were sufficient to permit Officer Beck to expand the stop and administer field sobriety testing, we note that, once Officer Beck directed appellant out of his vehicle, Officer Beck smelled the odor of alcohol. Appellant argues that Officer Beck's detection of alcohol came after the expansion *and during* the field sobriety testing itself. However, as seen in the audio-video footage, Officer Beck stated to Officer Kopperud, "I didn't smell anything until I got him out, and then I smelled a light odor." Officer Beck's comment suggests that he detected the smell of alcohol once appellant stepped out of his vehicle. And, because Officer Beck made an initial legal traffic stop, he was permitted, without any additional articulable suspicion of illegal activity, to order appellant out of the truck. See *Askerooth*, 681 N.W.2d at 367 ("It

is correct that a police officer may order a driver out of a lawfully stopped vehicle without an articulated reason.”).

But even if Officer Beck had not detected the odor of alcohol until the stop had already expanded into a DWI investigation, Officer Beck’s other observations provided more than “one objective indication of intoxication” warranting an expansion. Appellant engaged in multiple traffic violations at 2:00 a.m. on a weekend night; he appeared to have bloodshot eyes and slightly slurred speech; and appellant was unable to provide any explanation for his poor driving conduct. Under the totality of the circumstances, Officer Beck had reasonable, articulable suspicion to believe appellant was driving under the influence, and thus, his expansion of the stop was lawful.

**Affirmed.**