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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1222**

State of Minnesota,
Respondent,

vs.

Joshua Alvin Peterson,
Appellant.

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

Otter Tail County District Court
File No. 56-CR-16-439

Keith Ellison, Attorney General, Edwin W. Stockmeyer, Assistant Attorney General,
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Considered and decided by Reilly, Presiding Judge; Bratvold, Judge; and
Kalitowski, Judge.*

UNPUBLISHED OPINION

BRATVOLD, Judge

In this direct appeal from his judgment of conviction for driving while impaired
(DWI), appellant Joshua Peterson argues that the district court erred by denying his motion

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

to suppress evidence obtained after police arrested him. Peterson argues that (1) law enforcement lacked a legal basis to conduct a traffic stop in his driveway; and (2) law enforcement unlawfully arrested Peterson after entering his home. Because we conclude that the investigating officer had reasonable, articulable suspicion to stop Peterson and the officer lawfully arrested Peterson in the doorway of his home, we affirm.

FACTS

On February 10, 2016, around 7:30 p.m., state trooper Jonathan Wenzel was surveilling traffic in a marked vehicle while parked along Highway 59 in Otter Tail County. Wenzel saw Peterson get into the driver's side of his truck, which was parked outside a gas station and bar. Peterson's truck moved forward before he even closed his door. Based on the quick sequence of events, Wenzel believed that Peterson had not fastened his seatbelt. So Wenzel followed Peterson, who crossed the highway, travelling east on a city street.

Wenzel testified that Peterson "sped up highly." Wenzel visually estimated that Peterson was driving around ten miles above the 30-mile-per-hour speed limit. Peterson then turned northbound onto Railroad Avenue. Wenzel saw two of Peterson's brake lights go on when the truck slowed down to turn, but the third brake light was not working.

Peterson parked his truck in his home driveway, immediately exited, and walked quickly toward his front door. Wenzel pulled into the driveway and parked. Wenzel saw Peterson look directly at him and keep walking. Wenzel stepped out of his car, identified himself as a state trooper, and loudly told Peterson to stop because "I need to talk to you." Wenzel testified that Peterson's wife, M.P., also saw him as Peterson climbed the steps to his porch. The couple went inside and locked the door.

Wenzel had not activated his emergency lights, in part because he intended to “advise [Peterson] of the equipment violation.” Based on Peterson’s behavior in the driveway, Wenzel testified that he believed that “there might be something other than speed[ing] or an equipment violation that would cause [Peterson] to try to evade” police.

Wenzel opened the storm door, knocked on the front door, “announced himself,” and said he needed to speak with Peterson. No one answered. Wenzel looked through a window and saw Peterson, M.P., and children in the living room. Wenzel kept “pounding on the door.” M.P. opened the door and told Wenzel that she would see if Peterson would come to the door. M.P. then closed and locked the door.

Wenzel saw Peterson open a beer can as he walked toward and opened the front door. While they stood in the doorway, Wenzel observed that Peterson had an “unsteady gait,” “sort of sway[ed],” had “very slurred” speech, and his eyes were bloodshot and watery. Wenzel testified he smelled an “overwhelming odor of alcohol” coming from Peterson.

Wenzel asked Peterson to come outside and speak with him, and told Peterson that he would be arrested for obstruction of legal process if he did not cooperate. Peterson refused and Wenzel grabbed Peterson’s arm. Peterson resisted and began backing away from the doorway and toward the living room. Wenzel testified that his foot may have been on the threshold as he grabbed Peterson. Peterson, with M.P.’s assistance, forcefully pulled away from Wenzel, who called for an on-scene deputy to back him up. Together, Wenzel and the other deputy moved Peterson outside the home. There was a “scuffle,” Wenzel told

Peterson he was under arrest for obstruction of legal process, and the deputy handcuffed Peterson and placed him in the squad car.

About 15 minutes later, Wenzel asked Peterson to do field sobriety tests, and Peterson agreed. During the field sobriety tests, Peterson was asked how much he had to drink and Peterson responded that he “could’ve had seventeen beers, but inside my house.” Wenzel testified that Peterson’s performance indicated impairment. Peterson agreed to take a preliminary breath test, which showed a blood alcohol concentration of 0.198. Wenzel then arrested Peterson for DWI. At about this time, Wenzel learned that Peterson had a restricted license. Wenzel took Peterson to the station and offered him a breath test, which he refused.

The state charged Peterson with first-degree driving while impaired, under Minn. Stat. § 169A.20, subd. 1(1) (2014); refusal to submit to a chemical test, under Minn. Stat. § 169A.20, subd. 2 (2014); obstructing legal processes, under Minn. Stat. § 609.50, subd. 1(2) (2014); violating a restricted driver’s license, under Minn. Stat. § 171.09, subd. 1(f)(1) (2014); and fleeing a police officer by means other than a motor vehicle, under Minn. Stat. § 609.487, subd. 6 (2014). The criminal proceedings were delayed until early 2018, in part because Peterson challenged his license revocation.

In February 2018, the district court held a contested omnibus hearing, where Peterson moved to suppress the state’s evidence against him. Wenzel testified to the events described above. M.P. testified that Wenzel spoke with Peterson in the doorway and then entered about four feet into the home and pulled Peterson outside.

In a written order, entered in March 2018, the district court denied Peterson's motion. The district court found Wenzel's testimony to be credible and supported by M.P.'s testimony. The district court determined that based on "the totality of the circumstances, Trooper Wenzel had reasonable and articulable suspicion to stop [Peterson] based on his seatbelt violation, speed, and equipment violation." Next, the district court concluded that Wenzel had probable cause to arrest Peterson for fleeing a police officer because "[i]t is clear, through the testimony that the 'hot pursuit' began after [Wenzel] announced himself and asked [Peterson] to stop, and [Peterson] did not comply. Wenzel was then in 'hot pursuit' of [Peterson]."

The district court also found that "[w]hile at the doorway, [Peterson] resisted coming outside to talk with [Wenzel], leading to a scuffle," during which Wenzel "put his foot in the threshold of the doorway and attempted to remove [Peterson] from the home." The district court stated it was not "relevant" whether Wenzel's foot crossed the threshold during Peterson's arrest. Because "[t]here was reasonable articulable suspicion to stop [Peterson] and probable cause to arrest [Peterson] for fleeing a peace officer, obstructing legal process and driving while impaired," the district court denied Peterson's motion to suppress.

Following the district court's denial of his motion, Peterson agreed to submit the case on stipulated evidence, pursuant to Minn. R. Crim. P. 26.01, subd. 4, to obtain review of the denial of his motion. In April 2018, the district court found Peterson not guilty on count four (violating a restricted driver's license), but guilty on counts one (first-degree driving while impaired), two (refusal to submit to a chemical test), three (obstructing legal

processes), and five (fleeing a police offer by means other than a motor vehicle). The district court sentenced Peterson to 42 months imprisonment on count one, which was stayed for one year pending appeal; the district court then dismissed counts two, three, and five. This appeal follows.

DECISION

The events underlying Peterson’s criminal conviction were previously the subject of an implied-consent hearing and appeal. *See Peterson v. Comm’r of Pub. Safety*, A16-1673, 2017 WL 2625707, at *1-2 (Minn. App. June 19, 2017), *review denied* (Minn. Sept. 19, 2017). In that case, this court addressed the same issues that Peterson raises in this appeal and affirmed Peterson’s license revocation. *Id.* at *2-4. But “[c]riminal DWI proceedings and civil implied-consent proceedings are separate proceedings in separate cases.” *State v. Miller*, 849 N.W.2d 94, 98 (Minn. App. 2014). Consequently, “[l]aw-of-the-case doctrine and Minnesota law do not permit the district court to apply the implied-consent decision to [a separate] criminal case,” and we decline to do so here. *Id.*

I. There was reasonable, articulable suspicion for law enforcement to stop Peterson.

Peterson argues that Wenzel lacked reasonable, articulable suspicion to conduct an investigative stop because (1) Wenzel’s observation that Peterson did not have enough time to put on a seatbelt before driving was arbitrary and capricious; (2) Wenzel testified that he saw Peterson speeding, but did not use his radar equipment or include it in his report; and (3) a third brake light is not required by law and, contrary to the district court’s findings, Peterson’s third brake light was functioning that night.

Both the United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. “A limited investigative stop of a motor vehicle is a seizure, but it is permissible if the law-enforcement officer making the stop has a particularized and objective basis for suspecting that the person stopped is engaged in criminal activity.” *State v. Cox*, 807 N.W.2d 447, 450 (Minn. App. 2011) (quotation omitted); *see also State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (noting that an officer must be able to articulate the particular and objective basis to suspect a stopped person of criminal activity). When this court reviews a district court’s pretrial order on a motion to suppress evidence, it reviews the district court’s factual findings for clear error and its legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

A suspected traffic law violation, “however insignificant,” can provide an officer with a legal basis for stopping a vehicle. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). A traffic stop occurs “when a reasonable person in the defendant’s shoes would not feel free to leave.” *State v. Askerooth*, 681 N.W.2d 353, 362 (Minn. 2004).

Here, the district court determined that Wenzel lawfully stopped Peterson in his driveway based on three suspected traffic violations—failing to fasten his seat belt, speeding, and a non-functioning brake light. We consider each suspected violation in turn and address Peterson’s arguments on appeal.

First, Minnesota law requires a driver to wear a seat belt. Minn. Stat. § 169.686, subd. 1(a), (b) (2014) (requiring that motorists “shall” wear “a properly adjusted and fastened seat beat” and imposing a \$25 fine for violations). The district court found credible

Wenzel’s description of Peterson’s quick take-off from the parking lot and his belief that Peterson “did not have enough time to put on his seatbelt.” The district court determined that it “is not relevant whether [Wenzel] ever determined whether [Peterson] was wearing his seatbelt, and [Peterson] was not cited for that suspected offense.” We agree. The suspected violation is sufficient to establish a constitutional basis for a traffic stop. *See State v. Wendorf*, 814 N.W.2d 359, 363 (Minn. App. 2012) (affirming district court’s decision to deny suppression motion and noting that the revised seatbelt statute “permitted law enforcement to cite motorists for failing to wear a seat belt independent of any other moving violation”).

Our analysis of the suspected speeding violation is similar. Driving in excess of the posted speed limit is unlawful. *See* Minn. Stat. § 169.14, subd. 2(a) (2014). The district court found Wenzel’s testimony credible when he stated that, “through his training as an officer, [he] visually estimated that [Peterson] was driving in excess of the speed limit.” We agree with the district court that Wenzel’s reasonable suspicion that Peterson was speeding provided an objective basis for a traffic stop, regardless of whether he used radar equipment or included the suspicion in his written report. *See, e.g., State v. Fort*, 660 N.W.2d 415, 418 (Minn. 2003) (noting that the car appellant was in “was stopped for speeding and a cracked windshield, both of which are violations of traffic laws” and that, therefore, the officers had “a basis for stopping the car for further investigation” of the traffic law violations); *State v. Ali*, 679 N.W.2d 359, 367-68 (Minn. App. 2004) (concluding that, in light of the officer’s training and experience, the officer’s “visual estimate of appellant’s speed was alone sufficient to support his conviction for speeding”).

And finally, although Peterson is correct that vehicles are only required to have two stop lamps, “[w]hen a vehicle is equipped with stop lamps or signal lamps, such lamps shall at all times be maintained in good working condition.” Minn. Stat. § 169.57, subds. 1(a), 3(a) (2014). As with the other two suspected traffic offenses, the district court found Wenzel’s testimony about Peterson’s third brake light to be credible. To the extent that Peterson is making a mistake-of-fact argument, Wenzel reasonably believed that the third brake light was not working. Even if Wenzel was wrong, his mistake was reasonable and provided a legal basis to stop Peterson because “searches based on honest, reasonable mistakes of fact are unobjectionable under the Fourth Amendment.” *State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003); *see State v. Sanders*, 339 N.W.2d 557, 560 (Minn. 1983) (affirming a vehicle stop because the officers made a reasonable mistake of fact regarding appellant’s identity); *City of St. Paul v. Vaughn*, 237 N.W.2d 365, 368-70 (Minn. 1975) (upholding a traffic stop initially based on mistaken identity). Thus, we agree with the district court that this equipment violation provided reasonable articulable suspicion to stop Peterson. *See State v. Beall*, 771 N.W.2d 41, 45 (Minn. App. 2009) (concluding that “[a] vehicle with an inoperable center brake light is operated unlawfully” and that “such a violation gives rise to objective, reasonable, articulable suspicion justifying a traffic stop”).

The district court concluded that, “[u]nder the totality of the circumstances, Trooper Wenzel had reasonable and articulable suspicion to stop [Peterson] based on his seatbelt violation, speed, and equipment violation.” Because the district court’s factual findings are not clearly erroneous, and the district court correctly applied Minnesota law, we affirm the

district court's decision that Wenzel had reasonable articulable suspicion to stop Peterson in his driveway.

II. Peterson's arrest was lawful.

Peterson contends that he was unlawfully arrested because Wenzel was not in hot pursuit when Peterson entered his home. The state responds that Peterson's arrest was justified by either hot pursuit or Peterson's attempted destruction of evidence. We decline to address the state's arguments because we conclude, as addressed below, that Wenzel lawfully began to arrest Peterson in the doorway of Peterson's home.

The United States and Minnesota constitutions prohibit unreasonable searches and seizures of "persons, houses, papers and effects." U.S. Const. amend. IV; Minn. Const. art. I, § 10. Absent exigent circumstances, police officers may not enter an individual's home to make a warrantless arrest. *Payton v. New York*, 445 U.S. 573, 590, 100 S. Ct. 1371, 1382 (1980). The doorway of one's home, however, has been held to be a public place for the purposes of the Fourth Amendment. *See United States v. Santana*, 427 U.S. 38, 42, 96 S. Ct. 2406, 2409 (1976) (upholding arrest in vestibule of home when officers began arrest on the threshold and the appellant attempted to retreat into the house); *State v. Alayon*, 459 N.W.2d 325, 328 (Minn. 1990) (stating that officer did not need a warrant to knock on defendant's front door and, when defendant "freely chose to open the door and stood in the doorway," his arrest in a public place was constitutional).

Once a police officer has begun to arrest a person in a public place, that person may not retreat into their home to thwart an arrest. *Santana*, 427 U.S. at 42-43, 96 S. Ct. at 2409-10; *see also State v. Howard*, 373 N.W.2d 596, 599, 599 n.1 (Minn. 1985) (noting,

in part, that appellant's arrest would have been valid even if he had retreated into the home because officers "initiated the arrest as soon as [appellant] opened the door, identifying themselves and stating their purpose either when they crossed the threshold to seize [appellant] or seconds later"). As noted above, on search-and-seizure issues, this court reviews the district court's factual findings for clear error and its legal determinations de novo. *Gauster*, 752 N.W.2d at 502.

Here, the district court found, as described above, that Wenzel knocked on Peterson's door and asked to speak with him. After Peterson opened the door and stood in the doorway, Wenzel asked Peterson to come outside and told Peterson he would be arrested if he did not cooperate. Peterson refused and began backing up into the living room of the home. Wenzel grabbed Peterson's arm to prevent him from retreating inside the home, and his foot may have been on the threshold as he grabbed Peterson. Peterson struggled with Wenzel as a deputy assisted in bringing Peterson outside, arresting him, and placing him in the squad car.

Peterson argues that M.P.'s testimony establishes that Wenzel entered the home to arrest Peterson. The district court found that M.P.'s testimony "confirmed [Wenzel's] description of the events as a whole." Because M.P.'s testimony conflicts with the district court's finding of fact that Peterson was in the doorway when Wenzel began to arrest him, we conclude that the district court found M.P.'s testimony not credible on this point.

Wenzel had probable cause to arrest Peterson for DWI. As Peterson stood in his doorway, Wenzel observed multiple indicia of intoxication within a very short time after Peterson stopped driving. When these observations are considered together with Peterson's

evasive behavior and his refusal to cooperate with Wenzel, we conclude that Wenzel had probable cause to arrest Peterson for DWI. *See State v. Kier*, 678 N.W.2d 672, 674, 678 (Minn. App. 2004) (concluding that an officer had probable cause to arrest appellant for DWI when the officer observed appellant's strong alcoholic odor, watery eyes, and slurred speech after appellant exited his car).

Because the record supports the district court's factual findings that Wenzel began to arrest Peterson while he was in the doorway of Peterson's home, we conclude that these findings are not clearly erroneous. Because Wenzel began to arrest Peterson in the doorway, Peterson could no longer flee back into his house to thwart the arrest. *See Santana*, 427 U.S. at 42-43, 96 S. Ct. at 2409-10. The district court, therefore, correctly upheld Peterson's arrest as lawful and denied the motion to suppress.

Affirmed.