

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1879**

State of Minnesota,
Respondent,

vs.

Brian Dale Preston,
Appellant.

**Filed August 5, 2019
Affirmed
Connolly, Judge**

Beltrami County District Court
File No. 04-CR-17-3014

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David L. Hanson, Beltrami County Attorney, River D. Thelen, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Cleary, Chief Judge; and
Cochran, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellant challenges his convictions for driving after cancellation—inimical to public safety, driving while impaired, and possession of methamphetamine, arguing that the district court erred by finding that the officer had a reasonable, articulable suspicion to stop his automobile. Because the record supports the district court’s finding, we affirm.

FACTS

In September 2017, Deputy Bender was monitoring traffic when appellant, Brian Preston, drove past him. Deputy Bender was unable to read appellant’s vehicle’s license plate number because it was obstructed by a dangling light. After getting close enough to read the license plate number, Deputy Bender contacted central dispatch and learned that the registered owner’s driver’s license had been cancelled as inimical to public safety.

Deputy Bender initiated a traffic stop. He then approached the car and recognized the driver as appellant. Deputy Bender was familiar with appellant and knew his driver’s license was also cancelled. Appellant was arrested. Deputy Bender then searched the vehicle and found numerous smoking devices, marijuana, and an open container of alcoholic iced tea. Appellant admitted to smoking methamphetamine six hours earlier. A search warrant was obtained and executed, and appellant’s blood tested positive for methamphetamine.

Respondent State of Minnesota subsequently charged appellant with driving after cancellation—inimical to public safety under Minn. Stat. § 171.25, subd. 5 (2016); third-

degree driving while impaired under Minn. Stat. § 169A.26, subd. 1(a) (2016); and fifth-degree possession of methamphetamine under Minn. Stat. § 152.025, subd. 2(1) (2016).

Appellant filed a motion to suppress the evidence on the grounds that the stop was not supported by a reasonable, articulable suspicion. The district court denied appellant's suppression motion because the obstruction of the license plate "was [a] sufficient basis to stop the vehicle driven by [appellant]." After a stipulated-facts trial pursuant to Minn. R. Crim. P. 26.01, subd. 4, the district court found appellant guilty on all three charges. Appellant challenges the denial of his suppression motion, arguing that Deputy Bender lacked a reasonable, articulable suspicion to conduct the traffic stop.

D E C I S I O N

Whether reasonable suspicion exists to support a traffic stop is a mixed question of fact and law. *State v. Lugo*, 887 N.W.2d 476, 487 (Minn. 2016). This court reviews the district court's findings of fact for clear error, but reviews whether those findings support reasonable suspicion de novo. *Id.* This court gives deference "to a district court's findings of fact and [this court] will not set them aside unless clearly erroneous." *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008).

When making an investigatory stop of a vehicle, a police officer must have "specific and articulable facts' establishing 'reasonable suspicion' of a motor vehicle violation or criminal activity." *State v. Duesterhoeft*, 311 N.W.2d 866, 867 (Minn. 1981). If an officer observes a violation of a traffic law, even one that is insignificant, there is an objective basis for an investigatory stop. *State v. George*, 557 N.W.2d 575, 578 (Minn.

1997). The district court found that the dangling light, which obstructed the view of the license plate, provided Deputy Bender with a basis to stop appellant.

Minnesota law prohibits obstructing the view of a license plate. “The person driving the motor vehicle shall keep the plate legible and unobstructed . . . so that the lettering is plainly visible at all times.” Minn. Stat. § 169.79, subd. 7 (2016). In finding that appellant violated this traffic law, the district court relied on a photograph of the license plate and testimony from Deputy Bender. The photograph, taken at the time of the traffic stop, shows a light dangling over the last three letters of the license plate. One letter is obstructed and another letter is partially obstructed. Further, Deputy Bender testified that the light made the license plate “difficult to see.” Because the record supports the district court’s factual finding that the license plate was obstructed and this provided Deputy Bender with a reasonable, articulable suspicion to stop appellant’s vehicle, we affirm.

While not material to our decision, we note in passing that the district court stated in its order that because Deputy Bender “did not observe whether the driver of the vehicle matched the description of the registered owner,” knowledge of the registered owner’s revoked driver’s license was insufficient to support the traffic stop. This is incorrect. Knowledge of a registered owner’s revoked driver’s license is enough to provide an officer with a reasonable, articulable suspicion to stop a vehicle as long as the officer remains “*unaware* of facts which would render unreasonable the assumption that the owner is driving the vehicle.” *State v. Pike*, 551 N.W.2d 919, 922 (Minn. 1996) (emphasis added).

Affirmed.