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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1126**

Sheila Laurel Jensen, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed March 9, 2020
Affirmed
Segal, Judge**

Pine County District Court
File No. 58-CV-19-124

Robert M. Christensen, Robert M. Christensen, P.L.C., Minneapolis, Minnesota (for appellant)

Keith Ellison, Attorney General, Nicholas R. Moen, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Cochran, Presiding Judge; Ross, Judge; and Segal, Judge.

UNPUBLISHED OPINION

SEGAL, Judge

In this appeal from the district court's order sustaining the revocation of her driver's license for driving while impaired (DWI), appellant argues that the district court committed

clear error in crediting the arresting officer's testimony regarding the legal justification for stopping appellant's vehicle. Because the court did not commit clear error, we affirm.

FACTS

At about 1:40 a.m. on March 3, 2019, a Pine County sheriff's deputy was patrolling the area near Airport Road and Highway 61. The deputy was behind a vehicle driven by appellant Sheila Laurel Jensen. As the deputy followed behind her, Jensen activated her left turn signal and slowed down as if to turn left onto Henriette Road but missed the turn and continued driving on Highway 61 for a short distance. Jensen then pulled off onto the right shoulder, crossed two lanes of traffic and made a U-turn. The deputy, who had maintained a distance of approximately three car lengths, had to "tap [his] brakes and slow down to prevent a risk of getting into an accident" when Jensen made the U-turn. The deputy initiated a traffic stop, later identifying an "illegal U-turn" as the reason for the stop.¹ During the stop, the deputy noticed indicia of intoxication. Jensen took a breath test which revealed an alcohol concentration above 0.08. Ultimately, Jensen was arrested for

¹ The applicable portion of the U-turn provision is as follows:

No vehicle shall be turned to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 1,000 feet, nor shall the driver of a vehicle turn the vehicle to proceed in the opposite direction unless the movement can be made safely and without interfering with other traffic.

Minn. Stat. § 169.19, subd. 2 (2018).

suspicion of DWI. This appeal arises out of the subsequent revocation of Jensen's driver's license by respondent Commissioner of Public Safety.

Jensen petitioned for judicial review of the revocation of her driving privileges. At the hearing, she contested the legality of the stop. The deputy was the only witness. Jensen argued that the deputy's testimony about having to tap his brakes and slow his speed to avoid a collision must not be credited because, among other arguments, the deputy's police report did not include this information. While the report, itself, was not admitted into evidence, the following portion of the report was read into the record by the deputy on cross-examination as follows: "[The vehicle] turned on its left blinker to turn onto Henriette Road. The vehicle missed the turn, and then pulled over to the right shoulder and made a U-turn in front of me. I pulled the vehicle over after it got onto Henriette Road." The district court found the deputy's testimony credible and sustained Jensen's license revocation. This appeal follows.

D E C I S I O N

Jensen argues that the district court committed clear error by crediting the officer's testimony about the traffic stop. The United States and Minnesota Constitutions prohibit the government from conducting unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. However, a law-enforcement officer may conduct a limited warrantless stop if he has 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)). "Generally, if an officer observes a violation of a traffic law, no matter how insignificant the traffic law, that observation forms the requisite particularized and

objective basis for conducting a traffic stop.” *Wilkes v. Comm’r of Pub. Safety*, 777 N.W.2d 239, 243 (Minn. App. 2010) (quotation omitted).

This court defers to the district court with regard to credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012); *see also Wilkes*, 777 N.W.2d at 246 (“[C]redibility determinations are the province of the district court.”). Findings of fact will not be set aside unless they are clearly erroneous. *Frost v. Comm’r of Pub. Safety*, 348 N.W.2d 803, 804 (Minn. App. 1984).

Jensen argues that the district court committed clear error when it credited the officer’s testimony regarding the illegal nature of the U-turn that instigated the traffic stop. First, she claims that the deputy’s testimony is not credible because his police report does not contain “one objective fact that supports” the assertion that she made an illegal U-turn. The deputy’s testimony, however, was not in any way inconsistent with his report. There is also no requirement that, in order to justify a stop, police reports must contain the level of detail being sought by Jensen.

Second, Jensen argues the deputy’s testimony is “not credible because it is illogical.” Jensen claims that “no one ‘taps’ the brakes to avoid an accident from three car lengths back.” The deputy, however, testified that he needed to slow down in order to avoid a possible collision with Jensen’s vehicle while Jensen made the U-turn, and the district court found the deputy’s testimony to be credible. Jensen’s arguments to the contrary were raised and lost at the district court level. She has failed to show clear error on this appeal.

Finally, the fact the deputy had to brake and slow his speed to avoid a collision due to the U-turn satisfies the elements for a violation of the traffic law. It is illegal to make a U-turn “unless the movement can be made safely and without interfering with other traffic.”² Minn. Stat. § 169.19, subd. 2. This provision does not suggest that another driver had to slam on his brakes to avoid a collision to be a violation. Having credited the deputy’s testimony that he had to apply his brakes to avoid a collision, the district court correctly concluded that the deputy’s basis for the stop, the illegal U-turn, was valid under the constitution.

Jensen also argues that the district court misinterpreted the statute regarding the 1,000-foot sight-line rule. However, because the district court correctly interpreted the statute with regard to the requirement that a U-turn may only be made if it is safe to do so, we need not reach this issue.

Because credibility determinations are the province of the district court and there is sufficient evidence to support the court’s conclusions, the district court did not err in finding the deputy’s testimony credible and sustaining the revocation of Jensen’s driver’s license.

Affirmed.

² Jensen argues that the U-turn was not conducted where there were any hills or curves in the road, but that is not the portion of the U-turn statute relied on by the deputy.