

**STATE OF MINNESOTA
IN COURT OF APPEALS**

A20-0302

A20-0912

Francis Christopher Soucie, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent (A20-0302),

and

State of Minnesota,
Respondent (A20-0912),

vs.

Francis Christopher Soucie,
Appellant.

Filed March 29, 2021

Affirmed

Ross, Judge

Blue Earth County District Court
File Nos. 07-CV-19-4216

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(for appellant)

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Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Smith,

Tracy M., Judge.

SYLLABUS

An officer who observes a car's tire touching the edge of the roadway fog line that separates the traffic lane from the highway shoulder has reasonable suspicion to stop the car for violating Minnesota Statutes section 169.18, subdivision 7(1) (2020), which prohibits unsafely moving a car "from the lane."

OPINION

ROSS, Judge

A state trooper stopped Francis Soucie's car after she observed the car's tires touch the edge of the fog line demarking the lane. The trooper found that Soucie was intoxicated, and the state charged him with drunk driving and suspended his driving privileges. Soucie unsuccessfully moved to suppress the evidence of his intoxication, arguing that the trooper lacked reasonable suspicion to stop him. In this consolidated appeal from his criminal conviction and administrative license suspension, we hold that Soucie's driving justified the stop for violating the statute requiring drivers to operate within their lanes, and we affirm.

FACTS

Minnesota State Trooper Vanessa Heller was on patrol after midnight in August 2019 when she saw a car merge onto a highway and observed what she believed was a traffic violation. The car's movement is depicted on a video recording from the trooper's dashboard camera. The trooper stopped the car and approached the driver, Francis Soucie. Trooper Heller smelled the odor of an alcoholic beverage and noticed that Soucie's eyes were bloodshot and watery. Soucie admitted that he had been drinking, and the trooper

suspected intoxication. She administered field sobriety tests and a preliminary breath test, both confirming her suspicion. She arrested Soucie. The state charged him with two counts of fourth-degree driving while impaired and revoked his driving privileges.

Soucie challenged the constitutionality of the stop and asked the district court to suppress the evidence of his impairment and reinstate his driving privileges. The district court held a joint omnibus and implied-consent hearing. Trooper Heller testified that she saw “the right . . . side of [Soucie’s] vehicle [move] completely over the fog line” and “occasionally touch[] the fog line.” The video recording seems to depict Soucie’s passenger-side tires cross the fog line entirely at the end of the entrance ramp as the car merged onto the highway, corroborating the trooper’s testimony. But the transcript of the hearing and the order that followed demonstrate that the district court did not discuss that movement across the fog line. The district court instead focused on the moment the car’s tires later merely touched the fog line.

The district court denied Soucie’s motion to suppress, implicitly holding that, by touching the fog line with his tires, he violated Minnesota Statutes section 169.18, subdivision 7(1) (2020).¹ The district court conducted a stipulated-evidence criminal trial and found Soucie guilty. Soucie first appealed the denial of his petition to rescind the revocation of his driving privileges and later appealed his conviction. We consolidated the

¹ The 2020 version of the statute includes nonsubstantive amendments to the subdivision in force during the traffic stop, Minnesota Statutes section 169.18, subdivision 7(a) (2018), and so we cite the current, 2020 version.

appeals to decide the sole issue they present, which is whether the trooper violated the Fourth Amendment by stopping Soucie.

ISSUE

Does a law-enforcement officer who observes a car's tires touching a roadway's fog line have reasonable suspicion to stop the car for violating Minnesota Statutes section 169.18, subdivision 7(1), which prohibits movement "from the lane" of traffic?

ANALYSIS

Soucie challenges his convictions and license revocation, contending only that the district court wrongly denied his motion to suppress. We review a district court's denial of a motion to suppress de novo, accepting the district court's factual findings unless they are clearly erroneous. *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007). For the following reasons, we reject Soucie's challenge.

Soucie bases his challenge on the theory that Trooper Heller's stop exceeded her constitutionally limited authority to seize him. The United States and Minnesota Constitutions prohibit unreasonable seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. This prohibition applies to investigative motor-vehicle stops. *State v. McKinley*, 232 N.W.2d 906, 908–09 (Minn. 1975). But an officer does not violate the prohibition if she stops a vehicle to conduct an investigation based on the officer's reasonable suspicion that the driver is engaging in criminal activity. *State v. Anderson*, 683 N.W.2d 818, 822–23 (Minn. 2004) (citing *United States v. Cortez*, 449 U.S. 411, 417–18, 101 S. Ct. 690 (1981)). An officer who sees a driver violate even a minor traffic law has reasonable suspicion to stop the car. *Id.* at 823. Our decision therefore turns on whether the conduct

the trooper observed constitutes a traffic violation, or at least afforded the trooper reason to suspect that a violation occurred.

Trooper Heller stopped Soucie's car because she believed he had violated a statute requiring drivers to operate only within their own lane. That statute mandates that "a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety." Minn. Stat. § 169.18, subd. 7(1). We clarify that we are not deciding this appeal based on the trooper's observation of Soucie's passenger-side tires passing entirely over and beyond the fog line. Although the video recording corroborates the trooper's testimony (as acknowledged by both attorneys during oral argument on appeal), the district court apparently did not notice this on its viewing. The state raised no related appeal challenging the district court's factual omission as clear error, and neither party has briefed the question of whether an appellate court may hold a stop constitutional based on a violation that is unquestionably visible on a recording but that was apparently inadvertently missed by the district court. We therefore decide this appeal based on the factual findings of the district court, including specifically the finding that Soucie's car (meaning his tires) touched the fog line. By "touched," it is clear from the district court's description and our view of the recording that, only the outside edge of Soucie's tires momentarily contacted the inside edge of the fog line.

Soucie argues in essence that this touching is too insignificant to meet the statutory prohibition. We need only look to how we have construed the clear prohibition of section 169.18, subdivision 7(1), to reject this argument. In *Kruse v. Commissioner of Public*

Safety, we held that driving with one’s outside tire completely on top of the fog line violates the statute. 906 N.W.2d 554, 556 (Minn. App. 2018). The officer there had seen Kruse’s tire “move right and onto . . . but not over the fog line,” and we determined that this conduct violated the statute, justifying the traffic stop. *Id.* at 556, 560. The *Kruse* decision inspires inferences that we apply here.

We infer two legal conclusions from the statute’s express prohibition as applied in our *Kruse* holding, informing our understanding of what it means for a “vehicle” to move “from” a “lane.” First, we infer that, under the statute, a lane is comprised of the area *between* the painted lines that demark it and does not include the lines themselves. To borrow from sports, a lane is like the area of play in basketball (where a player stepping on the boundary line is out of bounds) and unlike the area of play in tennis (where a ball landing on the boundary line is in bounds). Second, the statutory violation of moving a vehicle from the lane occurs when even a fraction of the vehicle extends outside its lane. The idea that one violates the statute by unsafely moving even part of one’s car from the lane arises not only from our holding in *Kruse* but also from a common-sense understanding of the danger the statute intends to avoid. It is self-evident that the statute aims to curb collisions with persons, obstacles, or vehicles outside of one’s lane, and dangerous collisions can occur when even a small portion of a car extends out of bounds. *See Kruse*, 906 N.W.2d at 559 (“Moreover, driving on the fog line could compromise the safety of any stopped motorist, pedestrian, or cyclist on the right side of the fog line.”); *State v. Al-Naseer*, 734 N.W.2d 679, 681 (Minn. 2007) (“[A] car driven by Al-Naseer

struck and killed a person who was changing a tire along the side of Highway 10.”). We can readily apply these premises to the facts here.

In this framework, we conclude that Trooper Heller had reason to suspect that Soucie moved his car “from the lane” when the outside edge of his tires touched the inside edge of the painted fog line. The district court found that Soucie’s vehicle weaved and briefly touched the edge of the line. Having reviewed the squad-car video, we cannot say that this finding is clearly erroneous. Common experience and cases like *Al-Naseer* remind us that the parts of a motor vehicle that can collide dangerously with persons or things include the fenders, quarter panels, and mirrors, and that these parts tend to extend somewhat beyond the outer plane of the tires. So when an officer sees that a car’s tires even merely graze the inside edge of the fog line, she can usually be sure—and for our purposes, she at least has reasonable ground to suspect—that part of the car has moved from the lane, violating the statute.

DECISION

Because operating a car with its tires touching the edge of the fog line constitutes moving a vehicle from the lane under Minnesota Statutes section 169.18, subdivision 7(1), the district court correctly concluded that Trooper Heller had reasonable suspicion to stop Soucie’s car for a traffic violation.

Affirmed.