

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0371**

State of Minnesota,
Respondent,

vs.

Vanessa Lynn Page,
Appellant.

**Filed October 18, 2021
Affirmed
Jesson, Judge**

Jackson County District Court
File No. 32-CR-20-129

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

Thomas J. Prochazka, Jackson County Attorney, Jackson, Minnesota (for respondent)

Max A. Keller, Keller Law Offices, Minneapolis, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Vanessa Lynn Page¹ challenges the district court's denial of her motion to suppress evidence obtained from a traffic stop that she contends violated her constitutional rights. Because the arresting officer observed Page commit a traffic offense when she drove on the fog line at the edge of the road, we conclude that the stop was lawful and affirm.

FACTS

In August 2020, the state charged Page with two counts of driving while impaired following a traffic stop. At an omnibus hearing, Page moved to suppress the evidence obtained through the traffic stop, arguing that the stop was unreasonable under the Fourth Amendment. But Page's attorney neither filed a written motion to suppress nor requested an evidentiary hearing. Instead, he requested that the parties brief the issue. The district court granted the request. The prosecutor attached a copy of the arresting deputy's police report to his subsequent brief. The following facts come from the deputy's report.

Early one morning in August 2020, a deputy on patrol observed a car touch the fog line² of a highway. The deputy began to follow the car. Soon after, the car turned into a

¹ Appellant's legal name is now Vanessa Talks, but because her driver's license bore the name "Vanessa Page," the parties used that name below and continue to use that name on appeal.

² We follow the parties in referring to the white line on the far-right side of the roadway as the "fog line."

parking lot, crossed it, and took a left turn out of the lot without using a turn signal. The deputy then stopped the car and spoke with Page, the driver.

While speaking with Page, the deputy observed that her eyes were bloodshot, and he detected an odor of marijuana coming from the car. The deputy asked Page to exit the car, and he noticed the odor of an alcoholic beverage emanating from her when she did so. Page underwent field sobriety tests that indicated signs of impairment. She failed a preliminary breath test. The deputy arrested Page, and a breath test administered at the law enforcement center showed an alcohol concentration of 0.100.

In November 2020, the district court issued an order denying Page's motion to suppress evidence obtained as a result of the traffic stop. The district court concluded that the deputy reasonably suspected Page of a lane violation when he observed her car touch the fog line.³

In January 2021, the parties agreed to stipulate to the prosecution's case under Minnesota Rule of Criminal Procedure 26.01, subdivision 4, so Page could have the denial of her suppression motion reviewed by this court. In February 2021, the district court adjudicated Page guilty of driving while impaired with an alcohol concentration over 0.08 within two hours of driving. This appeal follows.

³ While the district court reasoned that Page was not required to use a turn signal when turning out of the parking lot, it concluded that Page's use of the parking lot to bypass the main roadway further supported the traffic stop.

DECISION

Page argues that her conviction must be reversed because the record does not support the district court's conclusion that the deputy reasonably suspected her of committing a traffic violation by touching the fog line. If the deputy did not have a reasonable basis to suspect Page of criminal activity, the stop would violate the Fourth Amendment's prohibition against unreasonable seizures. *United States v. Cortez*, 449 U.S. 411, 417-18 (1981). When reviewing the denial of a pretrial motion to suppress, we defer to the district court's findings of fact and independently review its legal conclusions. *State v. Edstrom*, 916 N.W.2d 512, 517 (Minn. 2018).

We begin our analysis with the constitutional framework. The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. A police officer may stop a driver within constitutional parameters if the officer can articulate specific facts that led the officer to reasonably suspect the driver of criminal activity. *State v. Anderson*, 683 N.W.2d 818, 822-23 (Minn. 2004). A mere hunch is not reasonable suspicion. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). But when an officer witnesses a driver violate even a minor traffic law, that observation may justify a traffic stop of the driver. *Anderson*, 683 N.W.2d at 823.

One such traffic law requires drivers who are traveling on any road divided into two or more clearly marked lanes to stay within a single lane as nearly as practicable. Minn. Stat. § 169.18, subd. 7(1) (2020). The driver must remain within a single lane until the driver has determined that movement to another lane is safe. *Id.* The lane that drivers are

required to stay within is the area of the road *between* the marked boundary lines, but the lane does not include the lines themselves. *Kruse v. Comm’r of Pub. Safety*, 906 N.W.2d 554, 559-60 (Minn. App. 2018).⁴ A driver who moves onto, but does not cross, the fog line violates section 169.18, subdivision (7)(1). *Id.* at 560.⁵

Here, the deputy stated in his report that he observed Page’s car touch the fog line. When the deputy observed Page’s car touch the fog line, he observed her move outside of the designated lane because the lane ends before that line. *Kruse*, 906 N.W.2d at 560. Based on this observation, the deputy reasonably suspected Page of violating section 169.18, subdivision (7)(1). *Soucie*, 957 N.W.2d at 465. Because the deputy reasonably suspected Page of committing a traffic violation, the traffic stop was permissible under the United States and Minnesota constitutions. *Anderson*, 683 N.W.2d at 823.

To persuade us otherwise, Page argues that *Kruse* does not support the district court’s conclusion that the deputy reasonably suspected her of a traffic violation. She argues that *Kruse* is distinguishable because the driver in *Kruse* drove on *both* the fog line

⁴ The *Kruse* court cited Minn. Stat. § 169.18, subd. 7(a) (2016). *Id.* at 557. In 2019, the legislature renumbered subdivision 7(a) to subdivision 7(1). 2019 Minn. Laws 1st Spec. Sess. ch. 3, art. 3, § 37, at 751.

⁵ Correspondingly, an officer reasonably suspects a driver of violating section 169.18, subdivision (7)(1), if the officer observes the driver’s tires graze the edge of the fog line. *Soucie v. Comm’r of Pub. Safety*, 957 N.W.2d 461, 465 (Minn. App. 2021), *rev. denied* (Minn. June 29, 2021). Page argues that the officer did not reasonably suspect her of a traffic violation because there is no evidence showing how long she was on the fog line or how much of her tire touched the line. But because a driver violates the statutory requirement to maintain a single lane when “even a fraction” of the car extends outside the lane, this argument is not persuasive. *Id.* at 464.

and the center line. But the *Kruse* court concluded that the officer reasonably suspected Kruse of committing a traffic violation on the sole basis of Kruse driving on the fog line, and not the combination of driving on the center and fog lines as Page suggests. *Kruse*, 906 N.W.2d at 560-61. Under *Kruse* and *Soucie*, the state just had to show that Page's car touched the fog line for the deputy to reasonably suspect her of a traffic violation. The state did so here.

Page further contends that the record contained no basis from which the district court could uphold the stop of her car because the parties did not stipulate to the admission of the police reports and because no testimony was taken at the omnibus hearing. But because Page raised her suppression motion orally at the omnibus hearing, the state did not have the opportunity to present testimony. And the prosecutor attached the deputy's report as an addendum to his brief submitted in opposition to Page's suppression motion. The district court may receive evidence offered by the prosecutor or the defendant on any omnibus issue. Minn. R. Crim. P. 11.03(a). In the police report, the deputy stated that he saw Page's car touch the fog line. Accordingly, Page has not shown that the district court erred by denying her motion to suppress.⁶

Affirmed.

⁶ Page raises two more arguments. She argues that she was not weaving, but the district court did not consider whether Page weaved in her lane. And she argues that her failure to signal her turn did not justify the traffic stop, but the district court did not rely on her failure to signal in concluding that the stop was reasonable.