

*This opinion is nonprecedential except as provided by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
A23-0569**

State of Minnesota,
Respondent,

vs.

Patrick Martin Orman,
Appellant.

**Filed December 26, 2023
Affirmed
Gaïtas, Judge**

Dakota County District Court
File No. 19HA-CR-21-1561

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

Alina Schwartz, Hastings City Attorney, Campbell Knutson, P.A., Eagan, Minnesota (for respondent)

Justin J. Duffy, John J. Leunig, The Law Office of John J. Leunig, Bloomington, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Gaïtas, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Patrick Martin Orman appeals his second-degree impaired-driving conviction, challenging the district court's denial of his motion to suppress evidence from a traffic stop that Orman contends violated his constitutional rights. Because the police

officer who stopped Orman reasonably suspected unlawful activity after observing Orman weaving within the traffic lane and speeding, the stop was constitutionally valid, and we affirm.

FACTS

After Orman was charged with two counts of second-degree impaired driving and speeding, he moved to suppress the evidence against him on constitutional grounds. Orman's motion asserted that the traffic stop that led to the charges was an unlawful seizure that violated his federal and state constitutional rights.

At the hearing on Orman's suppression motion, the parties agreed to submit the constitutional issue to the district court based on a stipulated record and without testimony. Respondent State of Minnesota submitted the police report and video from the arresting officer's squad-car and body-worn cameras. Orman submitted a map of the area where the traffic stop occurred and several photographs depicting the road conditions. The parties also provided written arguments to the district court. Orman argued that the arresting officer had no legal reason to stop his car, and thus the stop was unconstitutional, requiring suppression of the evidence. The state argued that its evidence showed that the arresting officer had a reasonable suspicion of criminal activity because Orman failed to signal a lane change, was speeding, and was weaving within the traffic lane.

After taking the motion under advisement, the district court issued a written order and made the following factual findings. At approximately 9:37 p.m., the arresting officer was on routine patrol when he observed Orman's vehicle turn out of a bar parking lot and then move from a turn lane into the main lane of travel without using a turn signal. The

officer began following Orman, and he used his radar to clock Orman's speed. Initially, Orman was traveling at 30 miles per hour in a 45 mile-per-hour zone. But then Orman increased his speed to 42 miles per hour while in a 35 mile-per-hour zone. The officer confirmed Orman's speed by pacing Orman's car with his squad car. Additionally, the officer observed Orman's car weaving within its own lane, and, at one point, he noticed that the car nearly struck the curb. The officer then initiated a traffic stop. He identified Orman as the driver and ultimately arrested Orman on suspicion of impaired driving.

Based on these factual findings, the district court concluded that, "[u]nder the totality of the circumstances, the officer had reasonable articulable suspicion to conduct a traffic stop." The district court denied Orman's motion to suppress the evidence.

Following the denial of Orman's suppression motion, the parties submitted the case to the district court for a stipulated-evidence trial to preserve the suppression issue for appeal.¹ The district court found Orman guilty of all three charges. At sentencing, the district court convicted Orman of one count of impaired driving for operating a vehicle under the influence of alcohol and dismissed the remaining charges. The district court placed Orman on supervised probation for two years and imposed multiple conditions, including 28 days of electronic home monitoring.

Orman appeals.

¹ Minnesota Rule of Criminal Procedure 26.01, subdivision 4, allows a criminal defendant to obtain appellate review of a pretrial ruling by stipulating to the state's evidence and waiving a jury trial. To utilize this procedure, the parties must agree that the pretrial ruling is dispositive. Minn. R. Crim. P. 26.01, subd. 4.

DECISION

Orman argues that the district court erred in denying his motion to suppress the evidence. When reviewing a pretrial order on a motion to suppress evidence, appellate courts “review the district court’s factual findings under a clearly erroneous standard and the district court’s legal determinations de novo.” *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009) (quotation omitted). A factual finding “is not clearly erroneous if it is reasonably supported by the evidence as a whole.” *State v. Barshaw*, 879 N.W.2d 356, 366 (Minn. 2016). An appellate court also defers to the district court’s credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012).

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. The “[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of ‘persons’ within the meaning of [the Fourth Amendment].” *Whren v. United States*, 517 U.S. 806, 809-10 (1996). Warrantless seizures are generally unreasonable. *State v. Hummel*, 483 N.W.2d 68, 72 (Minn. 1992). But an officer may initiate a limited, investigatory stop without a warrant if the officer has a 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 (1968)). The reasonable suspicion showing is “not high,” *State v. Bourke*, 718 N.W.2d 922, 927 (Minn. 2006) (quotation omitted), but requires more than an unarticulated “hunch,” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted). “Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate that he or she had

a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quotations omitted). The state bears the burden of establishing that a stop was constitutional. *Wilkes v. Comm’r of Pub. Safety*, 777 N.W.2d 239, 243 (Minn. App. 2010).

An officer’s observation of a violation of any traffic law, “however insignificant,” provides the officer with an objective basis for conducting a stop. *State v. George*, 557 N.W.2d 575, 578 (Minn. 1997). “An actual violation of . . . traffic laws need not be detectable.” *State v. Pike*, 551 N.W.2d 919, 921 (Minn. 1996). Instead, an officer “must only show that the stop was not the product of mere whim, caprice or idle curiosity, but was based upon specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Id.* at 921-22 (quotation omitted).

Here, the district court found that the officer articulated two lawful bases for the stop that were supported by the evidence: weaving within the traffic lane and speeding. Caselaw recognizes that an officer’s observation of weaving within a lane provides an objective basis for conducting a traffic stop. *State v. Dalos*, 635 N.W.2d 94, 96 (Minn. App. 2001) (“[C]ontinuous weaving within one’s own lane is sufficient by itself to create a reasonable articulable suspicion of criminal activity to support a traffic stop.”); *see also State v. Richardson*, 622 N.W.2d 823, 826 (Minn. 2001) (“Even observing a motor vehicle weaving within its own lane in an erratic manner can justify an officer stopping a driver.”); *State v. Ellanson*, 198 N.W.2d 136, 137 (Minn. 1972) (holding that an officer may stop a vehicle weaving within its lane to investigate the cause of the unusual driving). And because driving above the speed limit is unlawful, *see* Minn. Stat. § 169.14, subd. 2(a)

(2020), an officer who reasonably suspects that a driver is speeding can perform a traffic stop. *State v. Fort*, 660 N.W.2d 415, 418 (Minn. 2003).

Orman challenges the district court's findings that he was weaving and speeding. He argues that, because the stipulated record does not support these factual findings, they are clearly erroneous.

In reviewing a district court's factual findings for clear error, we do not reweigh the evidence or reconcile conflicting evidence. *See State v. Thompson*, 988 N.W.2d 149, 158 (Minn. App. 2023) (discussing the role of an appellate court when conducting clear error review), *rev. denied* (Minn. June 20, 2023). Rather, clear-error review requires "a review of the record to confirm that evidence exists to support the decision." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 222 (Minn. 2021); *see also Shull v. Comm'r of Pub. Safety*, 398 N.W.2d 11, 14 (Minn. App. 1986) (noting that, if the facts support a reasonable inference that a person is driving while impaired, the possibility of an innocent explanation for those facts does not render the stop invalid).

Orman first contends that the video from the officer's squad-car camera directly contradicts the officer's assertions in the police report that Orman was weaving within the traffic lane.² Thus, according to Orman, the district court clearly erred in finding that Orman was weaving and further erred in relying on this factual finding to justify the stop.

² Orman also argues that the video does not show that he failed to signal a lane change. Because the district court made no factual finding regarding Orman's failure to signal, we do not address this argument.

We disagree for three reasons. First, in submitting the constitutional issue to the district court based on the stipulated record, the parties acknowledged that the video did not capture all of the driving conduct that the officer observed because there was a delay between the officer's initial observations and the beginning of the recording. It is therefore conceivable that the officer included information in his police report that is not apparent in the video. Second, the district court credited the officer's police report—which is also part of the stipulated record. The police report states that Orman was weaving within the traffic lane and almost struck the curb. It also states that Orman failed to signal a lane change. Third, based on our review of the record, the video and the police report are not inconsistent. Because the record supports the district court's factual finding that Orman was weaving, we discern no clear error.

Orman next argues that the evidence he submitted to the district court—a map of the area of the stop and several photographs—undermines the officer's assertions in the police report. Because our standard of review does not allow us to reconcile conflicting evidence or reweigh evidence, *Thompson*, 988 N.W.2d at 158, we reject this argument.

Finally, Orman argues that the district court clearly erred in finding that he was speeding because the state failed to satisfy statutory requirements for introducing evidence of speed from a radar device. *See* Minn. Stat. § 169.14, subd. 10(a) (2020) (noting that, “[i]n any prosecution in which the rate of speed of a motor vehicle is relevant, evidence of the speed as indicated on radar or other speed-measuring device is admissible in evidence,” subject to certain conditions, including an officer's testimony “as to the manner in which the device was set up and operated,” and evidence that the officer was trained to operate

the equipment, the device was operated with minimal interference from outside sources, and the device was tested when set up). According to Orman, the state's failure to present the evidence required by statute precluded the district court from considering speeding as a basis for the stop. However, we have held that an officer's visual observation of speeding is sufficient to justify a traffic stop. *Sazenski v. Comm'r of Pub. Safety*, 368 N.W.2d 408, 409 (Minn. App. 1985) (determining that an "officer had sufficient cause to stop" a car when the officer noticed that the car "appeared to be speeding"). And the district court's finding that Orman was speeding was based, in part, on the officer's "pacing" of Orman's vehicle with the squad car. Thus, even assuming without deciding that Orman's statutory argument has merit, the district court's factual finding that Orman was speeding is not clearly erroneous because the finding has record support that is independent of any radar reading.

The district court determined that the traffic stop was not an unreasonable seizure because the officer had two lawful bases for the stop—Orman's weaving and speeding. Both the law and the record support the district court's determinations. Because the officer had an objectively reasonable basis for stopping Orman, the stop was not an unconstitutional seizure, and the district court did not err in denying Orman's motion to suppress.

Affirmed.