

*This opinion is nonprecedential except as provided by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
A23-0659**

James Kevin Obowa, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed February 5, 2024
Affirmed
Cochran, Judge**

Anoka County District Court
File No. 02-CV-23-242

Jeffrey S. Sheridan, Sheridan, Dulas, Hunstand & Kins, P.A., Eagan, Minnesota (for appellant)

Keith Ellison, Attorney General, Madeline M. Sheehy, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the district court's order sustaining the revocation of his driver's license following an implied-consent hearing. He argues that the district court erred by concluding that the arresting law-enforcement officer had (1) reasonable,

articulable suspicion to stop appellant's vehicle and (2) probable cause to arrest appellant for driving while intoxicated. We affirm.

FACTS

Around 11:30 p.m. on January 10, 2023, a law-enforcement officer with the Lino Lakes Public Safety Department was driving northbound on Lake Drive. A passenger vehicle was driving directly in front of the officer's squad car. When the driver of the vehicle braked to stop for a red light, the officer observed that one of the vehicle's brake lights was not working. The officer then initiated a traffic stop by pulling over the vehicle.

The officer spoke with the driver, appellant James Kevin Obowa, through the open driver's-side window. While speaking with Obowa, the officer could smell a strong odor of alcohol and observed that Obowa's eyes were bloodshot and his speech was slurred. After conducting a field sobriety test, the officer arrested Obowa for driving while impaired (DWI). Respondent Commissioner of Public Safety thereafter revoked Obowa's license pursuant to Minnesota Statutes section 169A.52 (2022).

Obowa petitioned for review of the revocation order, and the district court held an implied-consent hearing. *See* Minn. Stat. § 169A.53, subds. 2-3 (2022). The only witness to testify at the implied-consent hearing was the officer who stopped Obowa.

The officer testified that he has been a peace officer for more than 23 years and has participated in "numerous different trainings on impaired driving." Through his training, the officer learned to identify certain cues that can indicate impaired driving, including "slurred speech, a strong odor of alcoholic beverage, slow movements," and trouble balancing, among others.

On the day in question, the officer was driving behind Obowa's car. He observed that, when Obowa applied his brakes, the driver's-side brake light did not illuminate. The officer was approximately two to three car lengths behind Obowa's vehicle at the time of the observation. The officer stopped Obowa for a traffic violation based on the inoperable brake light.

While discussing the brake light with Obowa, the officer "noticed that [Obowa's] eyes were bloodshot and glassy" and "his speech appeared to be slurred." The officer also smelled the "strong odor of an alcoholic beverage." The officer asked Obowa if he had been drinking. Obowa said yes, but "not much." When questioned further, Obowa told the officer that he did not know how many drinks he had consumed. And Obowa did not answer the officer's inquiry about whether he had been drinking beer or mixed drinks.

After talking with Obowa, the officer instructed Obowa to exit the vehicle. The officer then administered a roadside field sobriety test called the horizontal gaze nystagmus (HGN) test.¹ During the test, the officer observed multiple "clues of impairment," including a "lack of smooth pursuit" in both of Obowa's eyes and "distinct and sustained nystagmus at maximum deviation." The officer was unable to check for some of the "clues," however, because Obowa was not "following the pen and keeping his head still." Still, the officer observed four of six possible HGN-test "clues," and testified that "four clues is what . . . you'll see if someone is impaired." After participating in the HGN test, Obowa refused to participate in further field sobriety testing, such as the one-leg stand test.

¹ The HGN test shows signs of impairment by measuring eye movements.

At that point in the stop, the officer believed that Obowa was impaired based on the officer's training, experience, and observations. The officer testified that he then placed Obowa under arrest for DWI.

After hearing the officer's testimony and argument from counsel, the district court sustained the revocation of Obowa's driver's license. The district court concluded that the officer had reasonable, articulable suspicion for the stop based on the inoperable brake light. The district court also determined that the officer lawfully administered the HGN test without a search warrant and had probable cause to arrest Obowa for DWI based on the officer's observations of Obowa's physical indicia of impairment and the HGN-test results.

Obowa appeals.

DECISION

Obowa makes two arguments on appeal. First, he challenges the district court's determination that the officer had reasonable, articulable suspicion to support the traffic stop. Second, Obowa argues that the district court erred when it concluded that the officer had probable cause to arrest him for DWI. We address each argument in turn and conclude that the district court did not err.

I. The record supports the district court's determination that the officer had reasonable, articulable suspicion to support the traffic stop.

Obowa contends that the district court erred when it concluded that the officer had reasonable, articulable suspicion to conduct the traffic stop. We disagree.

The United States and Minnesota Constitutions prohibit unreasonable seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. “Generally, warrantless searches are per se unreasonable.” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). “A law enforcement officer may, however, consistent with the Fourth Amendment, conduct a brief, investigatory stop of a motor vehicle when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021) (quotation omitted). To satisfy the reasonable-suspicion standard, the officer “must articulate a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008) (quotation omitted).

In the traffic-stop context, the bar for reasonable suspicion is relatively low. *See Taylor*, 965 N.W.2d at 752, 757. “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.” *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004). Further, an officer does not need to “be absolutely certain of the possibility of criminal activity” to satisfy the test for reasonable suspicion. *State v. Schrupp*, 625 N.W.2d 844, 847 (Minn. App. 2001), *rev. denied* (Minn. July 24, 2001). “In order to justify [] an investigatory stop, the police 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.” *Anderson*, 683 N.W.2d at 823 (quotation omitted).

Here, the district court determined that the officer had reasonable, articulable suspicion to stop Obowa's vehicle based on the officer's observation that Obowa's brake light was not operating properly. "This court reviews a district court's determination of reasonable suspicion de novo, but accepts the district court's factual findings unless they are clearly erroneous." *Kruse v. Comm'r of Pub. Safety*, 906 N.W.2d 554, 557 (Minn. App. 2018).

Obowa challenges the district court's determination that the officer had reasonable, articulable suspicion to support the traffic stop. More specifically, Obowa contends that the district court's decision is based on a mistake of law and a mistake of fact because the record does not reflect that the officer had an objective basis to suspect that Obowa was operating his vehicle in violation of a traffic law. Based on our review of the applicable traffic laws and the record in this case, we are not persuaded.

Minnesota law requires that a vehicle's stop lamps and signal lamps "must at all times be maintained in good working condition." Minn. Stat. § 169.57, subd. 3(a) (2022). In *State v. Beall*, we clarified that the statute "unambiguously applies to *all lamps* with which a vehicle is equipped." 771 N.W.2d 41, 45 (Minn. App. 2009) (emphasis added). We concluded that "[a] vehicle with an inoperable [] brake light is operated unlawfully in violation of [section 169.57, subdivision 3(a)]." *Id.* And we held that an officer's observation of a violation of that statutory provision "gives rise to objective, reasonable, articulable suspicion justifying a traffic stop." *Id.*

Beall instructs that an officer's mere observation of an inoperable brake light is sufficient to justify a traffic stop. *See id.* That is exactly what the officer testified to in this

case. At the implied-consent hearing, he stated that “when the vehicle applied its brakes, the driver’s-side brake light was inoperable.” This testimony is sufficient to support the traffic stop based on a violation of section 169.57, subdivision 3(a). We therefore conclude that the district court did not err in its determination that the officer had reasonable, articulable suspicion to stop Obowa.

II. The officer had probable cause to arrest Obowa for DWI.

Obowa next argues that the district court erred when it determined that the officer had probable cause to arrest him for DWI. The determination of probable cause presents a mixed question of law and fact. *See State v. Chavarria-Cruz*, 784 N.W.2d 355, 364 (Minn. 2010). We review the district court’s factual findings for clear error, but we review the legal determination of whether probable cause exists de novo. *State v. Kier*, 678 N.W.2d 672, 678 (Minn. App. 2004).

Here, the district court made several findings to support its determination that the officer had probable cause to arrest Obowa for DWI. The district court found that the officer observed Obowa had “bloodshot/watery eyes” and “slurred speech,” along with an “odor of alcohol.” The district court also determined that these observations, in tandem with the HGN-test results, constituted “evidence of intoxication.” Based on these factual findings, the district court determined that the officer had probable cause to arrest Obowa for DWI.

Obowa does not challenge the district court’s factual findings. Instead, Obowa claims the district court erred as a matter of law by relying on the HGN-test results in making its probable-cause determination because the HGN test was itself an impermissible

warrantless search in violation of the Fourth Amendment. Obowa further argues that, without the HGN test, there was insufficient evidence of his impairment to establish probable cause to arrest him for DWI. We disagree.

A. Roadside field sobriety tests are not Fourth Amendment searches.

We begin by considering Obowa’s contention that the HGN test was an unconstitutional search in violation of the Fourth Amendment and that the district court therefore erred by relying on the HGN-test results. Our precedent unequivocally rejects Obowa’s position.

In *Vondrachek v. Commissioner of Public Safety*, the appellant argued that roadside field sobriety tests, including the HGN test, are searches under the Fourth Amendment that require a warrant. 906 N.W.2d 262, 266, 268-69 (Minn. App. 2017), *rev. denied* (Minn. Feb. 28, 2018). This court rejected that argument, holding that roadside field sobriety tests “differ in significant ways from what is ordinarily considered a search.” *Id.* at 269. We held that such tests are merely visual observations of a subject, in contrast with searches, which “generally involve the collection of some physical evidence.” *Id.* Because roadside field sobriety tests are not searches, we evaluate them as investigatory expansions of a traffic stop, which must be closely related to the reason for the initial stop or based on independent reasonableness. *Id.*; *see State v. Klamar*, 823 N.W.2d 687, 696 (Minn. App. 2012) (“[A]n intrusion that is not closely related to the initial justification for the seizure is invalid unless there is independent reasonableness to justify that particular intrusion.” (quotation omitted)); *see also Mesenburg v. Comm’r of Pub. Safety*, 969 N.W.2d 642, 647 (Minn. App. 2021) (holding that officers may request that drivers

undergo roadside field sobriety tests “when the officer has a reasonable suspicion that the driver was driving while impaired”), *rev. denied* (Minn. Mar. 15, 2022).

In *Klamar*, we held that an officer lawfully expanded a traffic stop by initiating a roadside field sobriety test after the officer “noticed an odor of alcohol emanating from [the driver] and that [the driver’s] eyes were bloodshot and watery.” 823 N.W.2d at 696. Similarly, here, the officer observed bloodshot and watery eyes, slurred speech, and the odor of alcohol when talking with Obowa through the driver’s-side window. Just as in *Klamar*, these observations “reasonably justified further intrusions in the form of field sobriety . . . testing.” *Id.* And, at oral argument, Obowa did not dispute that the officer’s observations sufficiently gave rise to reasonable suspicion that Obowa was impaired. Because the officer had a reasonable basis to incrementally expand the traffic stop to administer a field sobriety test, the district court did not err by considering the HGN-test results in its analysis of probable cause.²

B. There was sufficient probable cause to arrest Obowa for DWI.

Likewise, we conclude that the district court did not err when it determined that Obowa’s arrest for DWI was supported by probable cause. “Probable cause to arrest a person for DWI exists when the facts and circumstances available at the time of arrest reasonably warrant a prudent and cautious officer to believe that an individual was driving while under the influence.” *Reeves v. Comm’r of Pub. Safety*, 751 N.W.2d 117, 120 (Minn.

² Obowa also asserts that the state did not prove that Obowa consented to the HGN test and that the consent exception to the Fourth Amendment’s prohibition on warrantless searches therefore does not apply. But, having determined that the HGN test was not a search subject to the Fourth Amendment, we do not reach Obowa’s consent argument.

App. 2008). Whether probable cause exists is an objective inquiry based on the totality of the circumstances. *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016). Our duty as a reviewing court is “to ensure that the officer had a substantial basis for concluding that probable cause for arrest for DWI existed.” *Reeves*, 751 N.W.2d at 120 (quotation omitted).

Here, the officer observed several indicia of intoxication that provided the officer with probable cause to arrest Obowa for DWI. First, as the district court found, the officer observed that Obowa had bloodshot eyes and slurred speech. The officer also smelled an odor of alcohol when talking with Obowa. The odor of alcohol, bloodshot eyes, and slurred speech are common indicators of intoxication. *Kier*, 678 N.W.2d at 678. Second, the officer testified that Obowa admitted to drinking that night. “An admission of drinking, coupled with other indicators of intoxication, is generally sufficient probable cause to arrest.” *Otto v. Comm’r of Pub. Safety*, 924 N.W.2d 658, 662 (Minn. App. 2019). Third, the HGN test revealed four “clues of impairment,” which indicated that Obowa was intoxicated. The totality of these circumstances would “reasonably warrant a prudent and cautious officer to believe that [Obowa] was driving while under the influence.” *See Reeves*, 751 N.W.2d at 120. Moreover, an officer needs to observe “only one objective indication of intoxication to constitute probable cause” of intoxication. *Kier*, 678 N.W.2d at 678. Because the officer observed several different indicia of intoxication, the officer had sufficient probable cause to arrest Obowa for DWI, with or without the HGN-test results.

In sum, we conclude that the record supports the district court's determination that the officer had reasonable, articulable suspicion to support the traffic stop and probable cause to arrest Obowa for DWI. Accordingly, we affirm the district court's decision to uphold the commissioner's revocation of Obowa's driver's license.

Affirmed.