

*This opinion is nonprecedential except as provided by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
A23-1483**

State of Minnesota,
Respondent,

vs.

Jacob James Simons,
Appellant.

**Filed August 5, 2024
Affirmed
Ross, Judge**

Olmsted County District Court
File No. 55-CR-22-2475

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

Michael J. Spindler-Krage, Rochester City Attorney, Brent R. Carlsen, Deputy City Attorney, Rochester, Minnesota (for respondent)

Daniel A. McIntosh, Restovich Braun & Associates, Rochester, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Ross, Judge; and Jesson, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

ROSS, Judge

A state trooper believed that he may have seen a car some distance ahead of him on the highway leave its lane without signaling, so he sped forward to get a better view. He then saw the car drive onto the lane-dividing line. The trooper stopped the car and, noticing indicia of the driver's impairment, arrested him on probable cause of drunk driving. The driver refused to provide a breath sample for chemical testing, and the district court convicted him of second-degree impaired-driving test refusal. The driver, Jacob Simons, appeals from his conviction, arguing that the district court should have suppressed evidence resulting from what he contends was an unconstitutional traffic stop. We affirm on alternative grounds. Based on the trooper's first observation, reasonable suspicion existed to stop Simons to investigate whether he had unlawfully left his lane. And based on the trooper's second observation, probable cause existed to stop Simons to charge him with the lane violation. On both theories, we affirm the conviction.

FACTS

The state charged Jacob Simons with one count of second-degree impaired-driving test refusal and one count of third-degree impaired driving for his operation of a car while intoxicated based on an encounter he had with a state trooper in April 2022. Simons moved the district court to suppress all evidence resulting from the traffic stop and to dismiss the charges, arguing that the state obtained the evidence as a result of an unconstitutional stop. The district court held an evidentiary hearing on the motion and denied it.

Evidence at the hearing established that Trooper Robert Elwood encountered Simons on April 18, 2022, just after midnight. Trooper Elwood entered four-lane Highway 14 in Olmsted County travelling eastward in the right lane. He testified that he saw a white SUV about a half mile in front of him also in the right lane. As he watched, it appeared to him that the SUV may have crossed over the lane-dividing line into the left lane, based on the SUV's orientation toward the left side of the lane: "What I saw was the vehicle in front of me in the right lane had moved over to the left, and far enough to where it appeared to have crossed over the [lane-dividing line], and then that's what drew my attention to the vehicle." At that time, he was unable to see the SUV's tires. The trooper testified that he sped up and closed the distance to the SUV. At that point he saw its tires, and then he saw that the vehicle "drifted to the left, and the tires on the left side of the vehicle drove onto the [lane-dividing line]." Trooper Elwood stopped the SUV and approached the driver, finding Simons at the wheel.

The district court watched the video footage captured by Trooper Elwood's squad-mounted camera. It acknowledged that, although the "video does not clearly show the lane violation," it "certainly shows the vehicle much closer to the [lane-dividing line] than the fog line using the width of the traffic lane as a reference." It concluded that the video "corroborates Trooper Elwood's testimony" that he witnessed the tires touch the lane line. The video's grainy picture failed to concretely show Simons drive on the lane-dividing line. Trooper Elwood attributed the squad-car camera's lack of clarity to its technical limitations: squad-car cameras are "fixed-lens" and "fixed-angle" and lack "the ability to

zoom in at certain moments or zoom out.” The trooper also asserted that despite the video’s not capturing the lane violation, he saw it occur clearly when it happened.

The district court denied Simons’s motion to suppress, concluding that Trooper Elwood saw Simons drive on the lane-dividing line. Simons and the state agreed to a stipulated-facts trial under Minnesota Rule of Criminal Procedure 26.01, subdivision 4. The district court found Simons guilty of test refusal and adopted the parties’ agreement to stay imposition of the sentence for two years. Simons appeals.

DECISION

Simons challenges his conviction based on the fruit-of-the-poisonous-tree doctrine, arguing that the district court wrongly denied his motion to suppress evidence of his impairment by erroneously concluding that the traffic stop was constitutional. Both the United States and Minnesota Constitutions prohibit unreasonable seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. We review the district court’s denial of a motion to suppress *de novo*, accepting the district court’s findings of fact unless they are clearly erroneous. *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007). Simons’s appeal rests on a factual contention. He argues that the district court clearly erred by finding that the trooper saw his tires touch the lane-dividing line because the video renders his testimony incredible. Because the trooper did not actually see his tires touch the line, argues Simons, he could not constitutionally stop and detain him. This argument is unconvincing.

We observe first that Simons’s appeal fails regardless of whether we affirm the district court’s decision to credit the trooper’s testimony that he saw Simons’s tires touch the lane-dividing line. This is because even before the trooper saw the tires touch the line,

he saw Simons's car move in a manner that caused him to reasonably suspect that the SUV had already violated the statute prohibiting a car to leave its lane without signaling. Even a minor traffic offense can justify a traffic stop. *State v. Anderson*, 683 N.W.2d 818, 822–23 (Minn. 2004). Although most stops for minor traffic offenses occur after an officer has personally observed an actual violation, Minnesota caselaw informs us that officers may also stop a car for a minor traffic offense even when the officer did not witness the offense if the officer has reason to suspect that the driver has recently committed a moving violation.

The premise that officers may lawfully stop a car for a completed misdemeanor traffic offense was not a certain consequence of the Supreme Court's acknowledgment in *Terry v. Ohio* that an officer who has reasonable suspicion may stop a person to investigate a potential felony that has not yet occurred. 392 U.S. 1, 21–22 (1968). This doubt existed because, when the Supreme Court first applied *Terry* to hold that an officer may also stop and detain a person to investigate a completed rather than potential crime in *United States v. Hensley*, the Court expressly left open the possibility that investigating already-completed misdemeanors might not be authorized:

We need not and do not decide today whether *Terry* stops to investigate all past crimes, however serious, are permitted. It is enough to say that, if police have a reasonable suspicion, grounded in specific and articulable facts, that a person they encounter was involved in or is wanted in connection with a completed felony, then a *Terry* stop may be made to investigate that suspicion.

469 U.S. 221, 229 (1985). We believe that the question left open by the *Hensley* Court has been partly answered in Minnesota.

Once before and once after the United States Supreme Court's caveat in *Hensley*, the state supreme court has validated police stops to investigate completed traffic offenses when the officer lacked probable cause to file a charge. In *Marben v. State, Department of Public Safety*, the court considered the constitutionality of a traffic stop that a state trooper initiated after a trucker reported by CB radio that a car had just engaged in tailgating. 294 N.W.2d 697, 699 (Minn. 1980). It held that the stop for the completed offense was valid, explaining, "[T]he trooper had a specific and articulable suspicion that a traffic violation had occurred and thus the stop of Marben's vehicle was proper." *Id.* Likewise in *State v. Davis*, the supreme court considered the constitutionality of a traffic stop that a police officer initiated after a passenger in an adjacent car shouted to the officer stopped at an intersection that the car behind her "just ran the red light." 393 N.W.2d 179, 180 (Minn. 1986). Because the officer had reasonable suspicion to believe that the driver of the reported car had run a red light, the court held that "the officer was . . . justified in stopping the car to investigate the violation." *Id.* at 181. Ten years later, the supreme court put a limit on police stops to investigate completed nonfelonies, reasoning that, because a "parking violation is not as serious as a traffic violation," the offense lacks the severity to permit an officer to seize an individual to investigate a completed parking offense. *State v. Holmes*, 569 N.W.2d 181, 185 (Minn. 1997). These cases implicitly recognize the serious nature of violations of traffic laws that are designed to avoid collisions. And they establish that an officer may stop a car on reasonable suspicion to investigate completed traffic offenses even when the officer lacks probable cause to conclude that a violation has in fact occurred.

We recognize that this court has previously expressed a categorical restriction, stating broadly in *Blaisdell v. Commissioner of Public Safety*, “We . . . hold that vehicle stops to investigate completed misdemeanors violate the fourth amendment of the United States Constitution.” 375 N.W.2d 880, 884 (Minn. App. 1985), *aff’d on other grounds*, 381 N.W.2d 849 (Minn. 1986). But the traffic stop in *Blaisdell* did not involve an officer’s reasonable suspicion that the driver had violated a public-safety oriented traffic law. The stop instead resulted from suspicion that the driver had, two months earlier, committed a minor gasoline theft. *Id.* at 881. And the supreme court distanced itself from our expansive holding, stating instead, “We express no opinion as to the correctness of the Court of Appeals’ holding. We simply hold that the information provided to the officer by the clerk was not sufficient to justify the stop of Blaisdell.” *Blaisdell v. Comm’r of Pub. Safety*, 381 N.W.2d 849, 850 (Minn. 1986).

The holdings and reasoning in *Marben*, *Davis*, and *Holmes* demonstrate that our categorical statement in *Blaisdell* was too broad. Based on the approach consistently demonstrated or expressed by the supreme court, an officer’s reasonable suspicion that a driver violated a public-safety oriented traffic law in a completed offense justifies an immediate traffic stop to investigate. And applying that rationale here, we hold that Trooper Elwood was justified to stop Simons’s SUV even before he saw its tires touch the line separating the lanes. The trooper had seen Simons’s SUV positioned in a manner that led him to believe that it had already crossed the line, meaning he reasonably suspected that Simons had violated the law requiring drivers to operate entirely within their lane of travel. He could stop to investigate that offense regardless of what he later witnessed.

Because the district court and the parties instead have focused on whether the trooper later saw the tires touch the line so as to justify the stop based on probable cause that a violation occurred, however, we also address that basis in the interest of completeness. Minor traffic offenses that occur in an officer's presence justify stopping a motorist. *Anderson*, 683 N.W.2d at 823. Vehicles may not lawfully "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) (2020). And a lane is "the area *between* the painted lines that demark it," not including the lines themselves. *Soucie v. Comm'r of Pub. Safety*, 957 N.W.2d 461, 464 (Minn. App. 2021), *rev. denied* (Minn. June 29, 2021). A statutory violation therefore occurs if a driver moves "even a fraction of the vehicle" outside the lane onto the dividing line. *Id.* Implicitly acknowledging that the trooper had probable cause to stop Simons's vehicle if he saw its tires touch the lane-dividing line, Simons insists that the trooper did not actually see it.

Simons specifically challenges the district court's determination that the trooper credibly testified that he saw the tires touch the line. He maintains that the district court made three clearly erroneous findings of fact that refute its credibility finding. We review a district court's fact findings for clear error and defer to the district court's credibility determinations. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008); *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1989). Simons's arguments are not convincing.

Simons unpersuasively argues first that the district court clearly erred by finding that the trooper saw Simons's first possible violation from three quarters of a mile away and saw the tires touch the line from a half mile away because the trooper testified that he

could not see Simons's tires from his initial vantage point of a half mile away. It is true that the trooper gave differing distances on direct examination and cross-examination and that he testified that he could not see the tires from a half mile away. But these minor inconsistencies do not undermine the district court's credibility determination. The trooper's stated distances during the hearing were his approximations only. And he testified clearly and consistently that, when he first spotted the SUV, he could not see the tires and lane markings but that, once he closed the distance, he saw the tires contact the line.

Likewise unpersuasive is Simons's contention that the district court's mistaken fact-finding about the location of the squad-car camera compels us to conclude that the trooper testified incredibly. The district court mistakenly found that the camera's positioning in the squad car was lower and to the right of the trooper's vantage point despite testimony that the squad-car camera sat higher, not lower, than Trooper Elwood's line of sight. That the district court incorrectly envisioned the position of the two vantage points does not undermine its principal concern that the camera and the trooper saw the objects from different points, meaning that the images the camera captured might not accurately depict what the trooper observed. The district court's mistaken detail does not render its credibility finding clearly erroneous.

We similarly reject Simons's contention that the squad-car camera's footage contradicts the trooper's testimony that Simons drove on the lane-dividing line. As the district court found, the footage shows the SUV operating much closer to the lane-dividing line than the lane's opposite line. And the footage is simply too unclear to unquestionably establish either that the tires touched the line or that they did not. The footage therefore

does not contradict the trooper's testimony, and, as a result, it does not lead us to hold that the district court clearly erred.

Simons adds that he could not have violated the statute because no car was near his on the highway, meaning that he could move from his lane safely. It is true that drivers may move from their lanes after “ascertain[ing] that the movement can be made with safety.” Minn. Stat. § 169.18, subd. 7(1); *see also Birkland v. Comm’r of Pub. Safety*, 940 N.W.2d 822, 827 (Minn. App. 2020) (suppressing evidence because there was no indication that the driver changed lanes unsafely). But the argument overlooks the full statutory rationale justifying the stop. Even if a driver can safely leave his lane, he cannot do so lawfully without first signaling. *See* Minn. Stat. § 169.19, subd. 4 (2020) (requiring drivers to signal when “moving left or right upon a highway”); *State v. Bissonette*, 445 N.W.2d 843, 846 (Minn. App. 1989). Simons failed to remain entirely in his own lane while failing to signal a lane departure, giving the trooper probable cause to stop him after observing the violation. Because valid bases supported the stop, the district court correctly denied Simons’s motion to suppress the consequent evidence.

Affirmed.