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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
The Honorable Edward W. Miller, Circuit Court Judge

Appellate Case No. 2018-002246

THE STATE,

Respondent,

v.

SHELDON ALONZO WATSON,

Appellant.

BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Did the judge err in denying Appellant's motion to suppress the drugs found in Appellant's car when Appellant committed a traffic violation by having an illegible paper tag on his car? And even if Appellant had not committed a traffic violation, did Deputy Chadwick have a reasonable suspicion that Appellant was engaged in criminal activity when Chadwick witnessed Appellant appear to engage in a drug transaction in a dark parking lot in a high crime area when Appellant attempted to evade Chadwick as soon as Chadwick arrived?

STATEMENT OF THE CASE

In August 2018, the Greenville County Grand Jury indicted Appellant for one count of trafficking in methamphetamine greater than twenty-eight grams but less than one hundred grams. On December 11-12, 2018, a jury trial was held in the Greenville County Court of General Sessions with the Honorable Edward W. Miller presiding. Appellant was represented by Christopher Grubbs, Esq. and Teal Johnson, Esquire of the Greenville County Public Defender's Office. The State was represented by Assistant Solicitor Kimberly Howard of the Thirteenth Circuit Solicitor's Office. At the conclusion of trial, the jury convicted Appellant as charged. The trial judge sentenced Appellant to twelve years' imprisonment. Counsel for Appellant initially filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967) and moved to be relieved as counsel. By order dated September 22, 2021, this Court denied appellate counsel's motion to be relieved and requested both parties submit a brief regarding whether the trial judge erred in denying Appellant's motion to suppress evidence found during a traffic stop of his vehicle.

STATEMENT OF FACTS

At approximately 9:00 PM on April 24, 2017, Deputy Corey Chadwick of the Greenville County Sheriff's Office was patrolling the southern end of Greenville County when he stopped at the Spinx gas station on Fairview Road. (R. 29-30, 33, 74). Chadwick drove to the parking lot at the rear of the gas station where he noticed a car sitting in an open area behind the gas station. (R. 30). Chadwick observed a black male in the driver's seat, a white male passenger, and a white male leaning inside the passenger's seat window. (R. 30-31). Chadwick testified that as soon as his headlights hit the car, the male leaning through the passenger's window began to walk in the opposite direction, while the car drove off. (R. 31). Chadwick thought he may have witnessed a hand to hand narcotics transaction and decided to follow the vehicle. (R. 31). As Chadwick followed the vehicle, he noted the vehicle had a temporary paper tag that was illegible. (R. 31). Chadwick activated his blue lights and initiated a traffic stop. (R. 32).

Chadwick spoke with the driver and identified him as Appellant. (R. 30, 32). Appellant told Chadwick he did not have a driver's license or any insurance on the vehicle. (R. 33). Appellant claimed the vehicle belonged to his cousin, Jonathan Simmons, and that information was confirmed by Chadwick. (R. 33). Appellant claimed he was test driving the vehicle to determine what was wrong with it and also dropping off a friend. (R. 34). Chadwick asked for Appellant's consent to search the vehicle and Appellant consented to the search. (R. 35). Chadwick located a glass pipe in the center console along with small, crystal, rock-like flakes on the passenger side floorboard. Based on his training and experience, Chadwick suspected the substance may be methamphetamine. (R. 35-36). Chadwick also located a plastic bag inside a coffee cup that contained a similar crystal-like substance inside. (R. 36). A field test was performed on the substance which rendered a positive result for methamphetamine. (R. 36-37).

Chadwick placed both Appellant and his passenger under arrest and read them their Miranda rights. Both men waived their Miranda rights and spoke with Chadwick. Each man denied knowledge of the narcotics and blamed the presence of the drugs on the other. (R. 37).

Chadwick placed the suspected drugs into evidence at the Sheriff's Department. (R. 80-81). The substance was analyzed and weighed by forensic chemist, Kristen McCall. McCall determined the bag found in Appellant's car contained 55.65 grams of methamphetamine. (R. 104). At the conclusion of trial, Appellant was convicted as charged.

STANDARD OF REVIEW

“A trial court’s Fourth Amendment suppression ruling must be affirmed if supported by any evidence, and an appellate court may reverse only when there is clear error.” State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013). “Our review in Fourth Amendment search and seizure cases is limited to determining whether any evidence supports the trial court’s finding.” State v. Willard, 374 S.C. 129, 133, 647 S.E.2d 252, 255 (Ct. App. 2007). “This Court will not reverse a trial court’s findings of fact merely because we would have reached a different conclusion.” State v. Pope, 410 S.C. 214, 222, 763 S.E.2d 814, 818 (Ct. App 2014).

ARGUMENT

The trial judge did not err in denying Appellant's motion to suppress the drugs found in Appellant's car because Appellant committed a traffic violation by having an illegible paper tag on his car and because Deputy Chadwick had a reasonable suspicion that Appellant was engaged in criminal activity after Chadwick witnessed Appellant appear to engage in a drug transaction in a dark parking lot in a high crime area and Appellant attempted to evade Chadwick as soon as Chadwick arrived.

Appellant argues the trial judge erred in denying Appellant's motion to suppress the drugs found in his car because he did not commit a traffic violation and Deputy Chadwick lacked any reasonable suspicion of criminal activity to justify a traffic stop. Appellant does not challenge whether he gave Chadwick consent to search the vehicle. Appellant's argument fails for two reasons. First, Appellant committed a traffic violation by driving a car with an illegible paper tag. Second, Chadwick had a reasonable suspicion that Appellant was involved in criminal activity based on the totality of the circumstances he observed. Specifically, Chadwick observed what he believed to be a drug transaction in a dark parking lot behind a gas station where only employees and large trucks parked that was also a high crime area and as soon as Chadwick arrived, Appellant and the unknown male leaning inside the passenger door immediately fled. When taken together, the aforementioned circumstances provided an experienced officer a reasonable suspicion that Appellant was involved in criminal activity.

“A police officer may stop and briefly detain and question a person for investigative purposes, without treading upon his Fourth Amendment rights, when the officer has a reasonable suspicion supported by articulable facts, short of probable cause for arrest, that the person is involved in criminal activity.” State v. Woodruff, 344 S.C. 537, 546, 544 S.E.2d 290, 295 (Ct. App. 2001). “The term ‘reasonable suspicion’ requires a particularized and objective basis that would lead one to suspect another of criminal activity.” Id. A reasonable suspicion is a “commonsense, nontechnical [conception] that [deals] with ‘the factual and practical

considerations of everyday life on which reasonable and prudent men, not legal technicians act.” Ornelas v. United States., 517, U.S. 690, 695 (1996) (quoting Illinois v. Gates, 462 U.S. 213, 231 (1983)). “In determining whether reasonable suspicion exists, the court must consider the totality of the circumstances.” Willard, 374 S.C. at 134, 647 S.E.2d at 255.

“Courts are not remiss in crediting the practical experience of officers who observe on a daily basis what transpires on the street.” United States v. Lender, 985 F.2d 151, 154 (4th Cir. 1993). “While the defendant’s mere presence in a high crime area is not by itself enough to raise reasonable suspicion, an area’s propensity toward criminal activity is something that an officer may consider.” Id. “As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to determine that a traffic violation has occurred. The police, however, may also stop and briefly detain a vehicle if they have a reasonable suspicion that the occupants are involved in criminal activity.” State v. Butler, 343 S.C. 198, 201, 539 S.E.2d 414, 416 (Ct. App. 2000).

Appellant asserts the traffic stop initiated by Chadwick was improper because he did not commit a traffic violation and because Chadwick lacked reasonable suspicion that Appellant was involved in criminal activity. Appellant’s argument fails on both counts. First, Appellant committed a traffic violation. Pursuant to the relevant statute in effect on the date Appellant was stopped, any owner of a newly purchased vehicle or a foreign vehicle being moved into the state had a 45 day grace period to register their vehicle. In order to operate such a vehicle on the roads of our state, a motorist must either transfer a license plate from another vehicle, purchase a new license plate, or obtain a temporary plate. S.C. Code § 56-3-210 (A) (2016). If a motorist has a temporary plate, the plate must contain various information including “the expiration date of the period within which the purchaser must register the vehicle pursuant to subsection (E) of this

section.” S.C. Code § 56-3-210 (C) (2016). Furthermore, the expiration date on the plate “must be clearly legible from a distance of at least twenty-five feet, written using a permanent black marker with at least a one quarter inch wide tip, and must contain a numerical month, day, and year.” S.C. Code § 56-3-210 (C) (2016). A motorist who doesn’t comply with the provisions of S.C. Code § 56-3-210 (A) or S.C. Code § 56-3-210 (C) is guilty of a misdemeanor offense. S.C. Code § 56-3-210 (E) (2016).

Here, Appellant’s paper tag was illegible. (R. 31-32). Therefore the tag violated the provisions of S.C. Code § 56-3-210 (C). While Appellant correctly asserts that “having a paper tag on a vehicle is not a traffic violation”, having an illegible paper tag, as Appellant did here, is indeed a traffic violation. (Brief of Appellant 7). Therefore, even if Chadwick did not have a reasonable suspicion that Appellant was involved in criminal activity, he nonetheless properly initiated a traffic stop of Appellant’s vehicle because of Appellant’s illegible paper tag.

Even if Appellant’s illegible paper tag had not furnished Chadwick with a reason to stop Appellant’s vehicle, Chadwick properly initiated a stop based on his reasonable suspicion that Appellant was engaged in criminal activity. Here, Chadwick summarized his reasons for stopping Appellant’s vehicle in the following exchange with the solicitor:

Ms. Howard: Deputy Chadwick, one other thing – question that [counsel for Appellant] asked you was if the traffic stop was based solely on the paper tag. Is that the case or was it from everything you had---

Deputy Chadwick: It was—it was the collection of everything. It was the – it was the suspicion of what I had observed along with the paper tag.

Ms. Howard: And, again, you said as soon as your—as soon as your lights—you testified, and I’m just clarifying, as soon as your lights hit them and y’all first saw each other that everyone left, scattered---

Deputy Chadwick: It was immediate, yes.

Ms. Howard: Immediate? Okay. And then tell me about this hunch. When he keeps saying hunch, I think—I'm just curious what—would you describe what you mean by hunch? Is it just a one-time gut feeling? Is it training and experience? Explain that a little bit to us.

Deputy Chadwick: It was a collection of a lot of things. It was their behavior as soon as they saw me, the backlit or the non-backlit lot, the dark lot, the fact that the vehicle was back there with a third party leaning over where his hands couldn't be seen, the vehicle wasn't near any fuel pump, the air pumps for tires were around the front. The only things usually around the back is where employees park and where like big rig truckers, there's an area back there where they can park. So I found it, you know, suspicious that this vehicle's back there, this third party's there, that and all the, you know, all the previous cases that I've made and beat partners have made down there getting out with suspicious vehicles and people and finding narcotics and stolen property in vehicles back there.

(R. 43, lines 12-25- R. 44, lines 1-18). The aforementioned exchange highlights the multiple circumstances that informed Chadwick's decision to stop Appellant's vehicle. Appellant's vehicle was parked in a dark lot behind a gas station where only employees and large trucks parked. Chadwick observed what he believed to be a narcotics transaction¹ in a high crime area where he had personally made arrests for previous narcotics transactions. (R. 31). Furthermore, the unknown male and Appellant immediately fled the scene as soon as they saw Chadwick arrive. (R. 31). These circumstances when taken in conjunction with each other, provided Chadwick with a particularized and objective basis to suspect Appellant was engaged in criminal activity. Therefore, the trial judge did not err in denying Appellant's motion to suppress the methamphetamine found inside Appellant's car.

Appellant argues his case shares similarities with the factual scenario presented in United States v. Sprinkle, 106 F.3d 613 (4th Cir. 1997). In Sprinkle, the Fourth Circuit considered whether officers had a reasonable suspicion to stop Sprinkle's vehicle when the driver of

¹ Chadwick conceded he did not witness money or drugs changing hands because he was unable to do so due to the poor lighting conditions in the parking lot and the unknown male's hands being deep inside Appellant's vehicle. (App. 38-39).

Sprinkle's vehicle, Poindexter, was known to have a criminal record of narcotics violations, Sprinkle was seen in a high crime area, Sprinkle entered Poindexter's car and huddled together with him near the center console, Poindexter attempted to avoid detection by placing his hand over his face, and the car drove away as soon as the officers walked by. Sprinkle 106 F.3d at 617. In ruling the circumstances articulated by the officers did not rise to the level of reasonable suspicion, the Fourth Circuit noted the officers lacked information that Poindexter had resumed his criminal activity, the officers did not see a hand to hand transaction, and the alleged transaction took place in daylight hours. Sprinkle 106 F.3d at 617-618.

The facts of Appellant's case are distinguishable from Sprinkle and are more similar to the factual scenario considered by the Fourth Circuit in United States v. Lender, 985 F.2d 151 (4th Cir. 1993). In Lender, the court considered whether officers had reasonable suspicion to stop Lender when they witnessed Lender on a street corner in a high crime area with four or five men huddled around him looking down toward his palm at approximately 1:00 AM. Lender 985 F.2d at 153. When officers approached the men, the group dispersed and Lender refused to stop when asked by law enforcement. Id. As Lender moved away a gun fell from his waistband, and he was placed under arrest. Id. In ruling that officers had a reasonable suspicion to detain Lender, the Fourth Circuit considered the late hour and Lender's presence in a high crime area while engaged in what appeared to be a drug transaction. While the court noted that officers did not see a drug transaction take place, "the officers were not required in the absence of probable cause simply to 'shrug [their] shoulders and allow a crime to occur.'" Lender 985 F.2d at 154 (quoting Adams v. Williams, 407 U.S. 143, 145 (1972)). The court further noted that Lender's evasive conduct also contributed to the officer's reasonable suspicion that Lender was engaged in criminal activity. Lender 985 F.2d at 154.

Here, like in Lender, Appellant was engaged in what appeared to a trained law enforcement officer to be a drug transaction at nighttime in a high crime area. Also like Lender, when Appellant saw law enforcement, he attempted to evade Chadwick. Appellant's case can be contrasted with Sprinkle, because unlike Sprinkle, Appellant's encounter with Chadwick took place at night in a poorly lit parking lot. Furthermore, Appellant immediately attempted to evade Chadwick whereas Sprinkle remained in Poindexter's car until the officers had passed on foot. Sprinkle 106 F.3d at 617. Thus, while all three factual scenarios share the same circumstances of suspects appearing to engage in drug transactions in high crime areas, Appellant's case is more similar to the scenario in Lender because of the hour which the transaction occurred and the immediate evasive behavior by Appellant. The trial judge did not err in concluding Chadwick had a reasonable suspicion that Appellant was engaged in criminal activity. Appellant's conviction and sentence should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court should be affirmed.

Respectfully submitted,

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