IN THE COURT OF APPEALS OF IOWA

No. 22-2015
Filed March 27, 2024

STATE OF IOWA,
Plaintiff-Appellee,

vs.

GLENN DALE THOMPSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Hancock County, Colleen Weiland, Judge.

A defendant appeals his convictions, challenging the denial of his motion to suppress. **AFFIRMED.**

Martha J. Lucey, State Appellate Defender, and Nan Jennisch, Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, Anagha Dixit and Nicholas E. Siefert, Assistant Attorneys General, and Braden Bennett, Law Student, for appellee.

Considered by Greer, P.J., Schumacher, J., and Vogel, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2024).

VOGEL, Senior Judge.

Glenn Thompson appeals his convictions for possession of methamphetamine with intent to deliver and failure to affix a drug-tax stamp, challenging the denial of his motion to suppress evidence obtained as a result of a traffic stop. He argues his constitutional rights were violated because the portion of the traffic stop preceding a drug dog sniff was impermissibly prolonged beyond what was reasonably necessary to issue a citation for speeding and a warning for failure to provide proof of insurance. He also argues the evidence thereafter obtained as a result of a search of his person would not have been inevitably discovered.

I. Background Facts and Proceedings

Shortly after 9:00 p.m. on August 9, 2021, Deputy Anthony Rasmussen of the Hancock County Sheriff's Office initiated a traffic stop of a vehicle for speeding. Thompson was the driver of the vehicle, and another individual was in the passenger seat. Deputy Rasmussen approached the car and asked Thompson for his driver's license, proof of insurance, and registration. Thompson advised Deputy Rasmussen that he did not have any insurance because he just purchased the car. Deputy Rasmussen detected a "chemical odor" of "burnt or used meth that was inside the car."[1] And he described his observations of Thompson as

[1] When asked at the suppression hearing how he knew it was methamphetamine that he smelled, Deputy Rasmussen testified: "My training and experience. I've had multiple encounters with users that admit that meth does have a specific odor to it. It's very distinctive. I mean, you can't really explain it. It's just that's what it is. It's the odor of burnt or used meth."

follows: "Very nervous. Touching his pocket. Kept touching his pocket. He was very nervous, like I said. Both windows down. Fresh-lit cigarette."

Deputy Rasmussen returned to his cruiser roughly three minutes after initiating the stop. He then ran Thompson's information through dispatch and learned he had "multiple drug violations." Deputy Rasmussen radioed for a K9 unit and began creating an electronic citation on his computer. The deputy activated his body camera roughly six minutes and twenty seconds into the stop, at which point he was still preparing the citation on his in-car computer.[2] As Deputy Rasmussen was preparing the citation, he noted his license scanner wasn't working. Deputy Rasmussen completed the citation roughly thirteen minutes and twenty-five seconds into the stop, upon which he approached Thompson's vehicle and had Thompson return to the cruiser with him to sign the citation. Deputy Rasmussen testified the "strong chemical odor" was present on Thompson's person when he was sitting in the cruiser as well.

Deputy Rasmussen also obtained the passenger's driver's license and ran it through dispatch as well. He then had Thompson sign the citation on his computer, advised he was also going to issue him a warning for his lack of proof of insurance, printed off the citation, and explained it to Thompson. As Deputy Rasmussen began preparing the warning, he attempted to use his license scanner again; this time it worked, and the deputy explained: "There, now it worked. It wasn't working earlier."

---

[2] Three videos from Deputy Rasmussen's equipment were admitted as evidence, one each from his dash camera, body camera, and cage camera.

Deputy Rasmussen spent the next couple of minutes preparing the warning. As he was doing so, the K9 officer arrived and advised: "While he's working on that stuff, I'm just going to run my dog around the car real quick," to which Thompson replied "that's fine" and reported there was nothing illegal in the car. By the time the K9 officer deployed his dog, however, Deputy Rasmussen had already completed the warning, had Thompson sign it, printed it, and explained it to Thompson. But Deputy Rasmussen directed Thompson to go ahead and stay in the cruiser anyway so as to not "tangle with" the dog. Deputy Rasmussen agreed at the suppression hearing that the original basis for the stop was completed by the time the K9 started his sniff, and he had Thompson remain in his cruiser while the sniff was conducted. Deputy Rasmussen described Thompson as "[v]ery nervous" once the K9 arrived: "At one point he passed gas in the car. He kept touching his pockets. At one point after the K9 arrived, he—he took a sigh. . . . He was moving his legs. His speech was I wouldn't say complete on some of his sentences or words."

The open-air sniff was completed roughly one minute and ten seconds after Deputy Rasmussen finished issuing Thompson the warning. The K9 alerted twice on the vehicle, once in the rear area of the right side of the vehicle then again on the left side. About one minute later, Deputy Rasmussen directed Thompson to step out of the car and stand in front of the cruiser, after which the officers told Thompson that the dog hit on the car, and Thompson advised there was nothing in the car and they could search it. Deputy Rasmussen then told Thompson he was going to pat him down, which he testified was for "[o]fficer safety," upon which the deputy immediately felt something in Thompson's right pocket and said: "It

feels like there's something grinding in there." Deputy Rasmussen testified at the suppression hearing that it was "a crunchy lump" in Thompson's right pocket, which he believed to be methamphetamine.[3] Deputy Rasmussen ultimately found methamphetamine in the pocket and placed Thompson in handcuffs.

Thereafter, Deputy Erik Hjelmeland searched the vehicle and "found a bud of marijuana and then a two-gram chunk of marijuana located in the center console." Deputy Rasmussen testified he would have arrested Thompson for the marijuana found in the vehicle even if he hadn't found methamphetamine in his pocket since it would have been a felony marijuana charge given his prior drug convictions. He also explained he would have searched Thompson incident to arrest pursuant to policy and jail safety. Thompson was taken into custody, and his passenger was allowed to leave with the vehicle.

Thompson was charged by trial information with possession of methamphetamine with intent to deliver, third-offense possession of marijuana, and failure to affix a drug-tax stamp. Thompson later filed an untimely motion to suppress, in which he minimally indicated that the traffic stop was impermissibly prolonged beyond what was reasonably necessary to issue citations or warnings. The State resisted the motion as untimely and on the merits. In its supporting brief, the State argued Deputy Rasmussen had reasonable suspicion to prolong the traffic stop for an open-air sniff given his initial detection of the odor of methamphetamine coming from the vehicle, his later detection emanating from his

[3] Deputy Rasmussen explained: "Through my training and experience and multiple occasions where we've had an individual with a lump in his pocket, that is consistent with crystal meth."

person, and Thompson's nervous behavior. As to the search of Thompson's person, the State argued the finding of the methamphetamine was the result of a permissible plain-feel frisk for safety purposes. In the alternative, the State argued it would have been inevitably discovered pursuant to a search incident to arrest after officers found the marijuana in the vehicle. At the suppression hearing, the defense simply argued the dog sniff was unconstitutional because it unduly delayed the stop, and the claimed detection of odor and Thompson's nervousness did not provide probable cause to justify a search. The State largely stood by its written arguments.

In its suppression ruling, the court first decided to address the merits despite the untimeliness of the motion. On the merits, the court found the sniff did not impermissibly extend the stop because the dog began its search before Deputy Rasmussen completed the warning and ended less than two minutes after it was completed and there was no indication in the video evidence that Deputy Rasmussen "dawdled, delayed or prolonged processing defendant's violations." While the court disagreed that the pat-down search was necessary for officer safety, it agreed with the State that it would have been inevitably discovered because the dog's alerts on the vehicle provided probable cause to support the search that uncovered marijuana, which would have led to Thompson's arrest and a search of his person incident to that arrest. For those reasons, the court denied the motion to suppress.

The matter proceeded to a bench trial on the stipulated minutes of evidence and exhibits. The court found Thompson guilty of the methamphetamine and tax-stamp charges. But the court found him not guilty of the marijuana charge because

the evidence did not include laboratory testing results to show that the substance found in the vehicle was indeed marijuana. Thompson appealed following the imposition of sentence.

II. Standard of Review

Appellate review of the denial of a motion to suppress asserting a violation of a constitutional right is de novo. *State v. Hunt*, 974 N.W.2d 493, 496 (Iowa 2022). "We review the entire record to independently evaluate the totality of the circumstances and examine each case 'in light of its unique circumstances.'" *State v. Hauge*, 973 N.W.2d 453, 458 (Iowa 2022) (quoting *State v. Brown*, 930 N.W.2d 840, 844 (Iowa 2019)). "In doing so, '[w]e give deference to the district court's fact findings due to its opportunity to assess the credibility of the witnesses, but we are not bound by those findings.'" *Id.* (alteration in original) (quoting *State v. Brown*, 890 N.W.2d 315, 321 (Iowa 2017)).

III. Discussion[4]

Thompson challenges the length of the traffic stop and the search of his person as unconstitutional. "The Fourth Amendment [to] the United States

[4] We first touch on the State's argument on appeal that Thompson's motion to suppress should not have been considered because the court did not find good cause for the untimely filing of the motion. Under the rules of criminal procedure prior to their amendment on July 1, 2023, motions to suppress must be filed no later than forty days after arraignment. Iowa R. Crim. P. 2.11(4). A failure to do so "shall constitute waiver thereof, but the court, for good cause shown, may grant relief from such waiver." Iowa R. Crim. P. 2.11(3). Here, Thompson was arraigned on September 14, 2021, so the deadline was October 25. Thompson did not file his motion until more than six months after the deadline, on May 5, 2022. The motion itself did not address good cause for the delay but, at the suppression hearing, defense counsel simply indicated he did not see any basis for the motion to suppress but later did after further review in preparation for trial, upon which he consulted with colleagues and then "filed the motion right away." Counsel also hinted at the notion of judicial economy, noting the same issue could be pursued

Constitution," as applied to the states by the Fourteenth Amendment, "and article I, section 8 of the Iowa Constitution protect individuals against unreasonable searches and seizures." *State v. Naujoks*, 637 N.W.2d 101, 107 (Iowa 2001); *accord State v. McNeal*, 867 N.W.2d 91, 99 (Iowa 2015). Evidence obtained following a violation of these constitutional protections is generally inadmissible at trial. *See Wong Sun v. United States*, 371 U.S. 471, 484–85 (1963); *Mapp v. Ohio*, 367 U.S. 643, 654–55 (1961); *Naujoks*, 637 N.W.2d at 111.

A. Length of Detention

Thompson argues the record "shows that Deputy Rasmussen unduly extended the time for processing Thompson's information and issuing the traffic citation and warning." Thompson points out it took Deputy Rasmussen roughly seven minutes "to manually enter the information on his in-car computer" and, although he commented that his license scanner wasn't working, "when the deputy later prepared the paperwork for the traffic warning, he used the device to instantly scan Thompson's license to automatically populate information into the traffic citation and incident report being filled out on the in-car computer." According to Thompson, this "suggests that the deputy deliberately entered information manually as a stall tactic."[5] In Thompson's view, because Deputy Rasmussen extended the stop beyond its initial purpose prior to the drug dog's sniff of the

---

on postconviction relief, "which would then bring us back here again." The court decided it would consider the merits despite the untimeliness of the motion, but it did not specifically find that there was good cause for the delay. Without an explicit finding of good cause, the State submits the motion could not be considered. We view the district court's decision to consider the merits as an implicit finding of good cause and proceed to the merits.

[5] We note no evidence was presented concerning the failure rate of the operation of the cruiser's scanner which would support this "stall tactic" allegation.

vehicle, the evidence against him must be suppressed. Before we address the merits of his argument, we begin by laying out the applicable legal principles.

1. Legal principles

"[A] dog sniff conducted during a lawful traffic stop does not violate the Fourth Amendment's proscription of unreasonable seizures." *Rodriguez v. United States*, 575 U.S. 348, 350 (2015) (discussing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). However, a "stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures." *Id.* "A seizure justified only by a police-observed traffic violation, therefore, 'become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission' of issuing a ticket for the violation." *Id.* at 350–51 (alterations in original) (quoting *Caballes*, 543 U.S. at 407); *accord In re Prop. Seized from Pardee*, 872 N.W.2d 384, 392 (Iowa 2015) (citation omitted). "Because addressing the infraction is the purpose of the stop, it may 'last no longer than is necessary to effectuate th[at] purpose.'" *Rodriguez*, 575 U.S. at 354 (alteration in original) (quoting *Florida v. Royer*, 460 U.S. 491, 500 (1983)). "Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed." *Id.* "An officer, in other words, may conduct certain unrelated checks during an otherwise lawful traffic stop" but "he [or she] may not do so in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual." *Id.* at 355; *accord Arizona v. Johnson*, 555 U.S. 323, 333 (2009) ("An officer's inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not

measurably extend the duration of the stop."); *State v. Coleman*, 890 N.W.2d 284, 285 (Iowa 2017) ("[T]he stop must end when reasonable suspicion is no longer present.").

"Beyond determining whether to issue a traffic ticket, an officer's mission" may include typical inquires incident to the stop, such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." *Rodriguez*, 575 U.S. at 349 (citations omitted). "These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly." *Id.* (citations omitted); *accord Pardee*, 872 N.W.2d at 393. "A dog sniff, by contrast, is a measure aimed at 'detect[ing] evidence of ordinary criminal wrongdoing.'" *Rodriguez*, 575 U.S. at 355 (alteration in original) (quoting *Indianapolis v. Edmond*, 531 U.S. 32, 40–41 (2000)). As such, a dog sniff "can only be undertaken without individualized suspicion if it does not prolong the traffic stop." *Pardee*, 872 N.W.2d at 393. "If an officer can complete traffic-based inquiries expeditiously, then that is the amount of 'time reasonably required to complete [the stop's] mission.'" *Rodriguez*, 575 U.S. at 357 (alteration in original) (quoting *Caballes*, 543 U.S. at 407); *accord Pardee*, 872 N.W.2d at 393.

"The critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket, . . . but whether conducting the sniff 'prolongs'—*i.e.*, adds time to—'the stop.'" *Rodriguez*, 575 U.S. at 357. Notably, a police officer violates the Fourth Amendment when he or she "develope[s] reasonable suspicion of other criminal activity—if at all—only by prolonging the initial stop beyond the time reasonably necessary to execute the traffic" stop. *Pardee*, 872 N.W.2d

at 391; *State v. Arrieta*, 998 N.W.2d 617, 621 (Iowa 2023) (noting extension of stop is only unconstitutional "[a]bsent individualized suspicion" to support investigation of matters unrelated to the stop's initial objectives). "If the duration of the stop is impermissibly extended, the question is whether an individualized suspicion to extend the seizure would have existed without the undue delay." *State v. Britcher*, No. 20-1142, 2021 WL 2452069, at *5 (Iowa Ct. App. June 16, 2021) (collecting cases).

2. Merits

In a nutshell, Thompson argues Deputy Rasmussen deliberately stalled in processing his citation and warning to facilitate the drug dog's arrival and search of the vehicle. Assuming without deciding that the stop was measurably prolonged beyond its initial purpose, it was only a constitutional violation if reasonable suspicion of other criminal activity did not arise prior to extending the initial stop beyond the time that was reasonably necessary to complete the initial mission. *See Arrieta*, 998 N.W.2d at 621; *Pardee*, 872 N.W.2d at 391; *State v. Bounmy*, No. 15-2225, 2017 WL 512486, at *5 (Iowa Ct. App. Feb. 8, 2017); *State v. Carroll*, No. 15-0970, 2016 WL 3274500, at *3 (Iowa Ct. App. June 15, 2016).

While the district court did not hang its hat on a conclusion that reasonable suspicion of criminal activity aside from the traffic infractions arose prior to the extension, we may affirm the denial of the motion to suppress on that basis since it was argued by the State below. *See King v. State*, 818 N.W.2d 1, 11 (Iowa 2012) ("[W]e will uphold a district court ruling on a ground other than the one upon which the district court relied provided the ground was urged in that court." (citation omitted)). In that vein, the State notes on appeal that the extension of a stop is

only constitutionally impermissible absent the development of independent reasonable suspicion. The State also notes that Deputy Rasmussen's detection of a chemical odor of burnt methamphetamine coupled with Thompson's nervous behavior provided probable cause to search, which would of course be above the mere reasonable suspicion required to continue the seizure beyond the initial purpose of the stop. In the district court, the State repeatedly argued Deputy Rasmussen's observations provided independent reasonable suspicion to detain Thompson beyond the initial purpose of the stop.

Deputy Rasmussen testified he noticed the smell of burnt methamphetamine on his initial approach to Thompson's vehicle and later smelled it on Thompson's person when he brought him to the cruiser to sign his citation. Trained detection of an odor of a controlled substance coming from an automobile provides "reasonable cause to conduct a comprehensive search of the car." *State v. Eubanks*, 355 N.W.2d 57, 59 (Iowa 1984); *accord State v. Watts*, 801 N.W.2d 845, 854–55 (Iowa 2011); *State v. McMullen*, 940 N.W.2d 456, 462 (Iowa Ct. App. 2019). Deputy Rasmussen also testified to Thompson's nervous mannerisms. The district court adopted these observations as findings of fact in its suppression ruling, which we give deference to. *See Hauge*, 973 N.W.2d at 458.

Notably, these observations were made prior to the stop being extended beyond its original purpose. While we assign little weight to the deputy's observations of Thompson's nervous behavior, *see, e.g.*, *United States v. Richardson*, 385 F.3d 625, 630 (7th Cir. 2004) ("[A]lthough nervousness has been considered in finding reasonable suspicion in conjunction with other factors, it is

an unreliable indicator, especially in the context of a traffic stop."), Deputy Rasmussen's "detection of an odor of [methamphetamine] at this point—when the seizure was still lawful—was sufficient to establish the reasonable suspicion necessary to prolong the stop for further investigation." *State v. Beller*, No. 17-1552, 2018 WL 3302362, at *3 (Iowa Ct. App. July 5, 2018); *see also United States v. Jackson*, 801 F. App'x 941, 946 (6th Cir. 2020) (finding officer had reasonable suspicion of defendant's "possession of illegal drugs," which authorized the officer to extend the stop "to use the drug dog"); *United States v. Winters*, 782 F.3d 289, 301 (6th Cir. 2015) ("We hold that there was reasonable suspicion to justify the extended detention . . . and that the dog-sniff inspection was a reasonable means to dispel that suspicion."); *United States v. Borne*, 239 F. App'x 185, 186–87 (6th Cir. 2007) (affirming magistrate court's conclusion that the "chemical odor that [the officer] associated with methamphetamine was a sufficient basis upon which to extend the defendant's detention"); *United States v. Arnulfo-Sanchez*, 71 F. App'x 35, 38–39 (10th Cir. 2003) (finding officer had reasonable suspicion and probable cause to extend a stop when "he detected an odor, which his training and experience indicated was the scent of raw methamphetamine"); *United States v. Harrell*, No. ACM 38538, 2015 WL 4626527, at *5 (Air Force Ct. Crim. App. July 2, 2015) (finding officer was "constitutionally authorized to extend his traffic stop in order to conduct the dog-sniff" where facts gave rise to a reasonable suspicion "that the appellant was engaged in criminal conduct relating to illegal drugs"); *Wilson v. State*, 733 S.E.2d 365, 368 (Ga. Ct. App. 2012) (finding minimal extension of traffic stop to perform drug dog sniff was justified by

reasonable suspicion when officer "smelled marijuana and saw that [the defendant] was very nervous").

Because we conclude Deputy Rasmussen had the reasonable suspicion necessary to extend the stop beyond its original purpose, we affirm the district court's denial of the motion to suppress on this point.

B. Inevitable Discovery

In the district court, Thompson successfully challenged the validity of the pat-down search of his person for safety purposes. Nevertheless, the district court found no constitutional violation because the methamphetamine found in Thompson's pocket would have been inevitably discovered. Thompson claims that conclusion was error. In doing so, however, Thompson only argues that "Deputy Rasmussen's testimony regarding the smell of methamphetamine was not reasonable" and "there are otherwise insufficient facts to support probable cause for the search of his vehicle," which led to the discovery of marijuana and would have inevitably resulted in a search incident to arrest and the discovery of the methamphetamine.

The State responds Deputy Rasmussen conducted a lawful pat-down for weapons for officer safety and that a lawful *Terry* search supplied probable cause to search based on the plain-feel doctrine. Alternatively, the State claims Deputy Rasmussen had independent probable cause to search Thompson's person based on the totality of the circumstances, including the chemical smell of methamphetamine coming from inside the vehicle as well as Thompson's person. Finally, the State defends the district court's decision on the application of the inevitable discovery doctrine.

While we generally agree with the State on each of its defenses, we choose to focus on inevitable discovery as did the district court. An exception to the exclusionary rule "allows the admission of unlawfully obtained evidence where 'the discovery of the evidence by lawful means was inevitable.'" *State v. McMickle*, ___ N.W.2d ___, ___, 2024 WL 500651, at *3 (Iowa 2024) (quoting *Naujoks*, 637 N.W.2d at 111). As noted, Thompson argues that "Deputy Rasmussen's testimony regarding the smell of methamphetamine was not reasonable" and "there are otherwise insufficient facts to support probable cause for the search of his vehicle." But we have already concluded that Deputy Rasmussen had reasonable suspicion that authorized him to extend the stop for the purpose of conducting an open-air sniff. From there, the dog's alerts on the vehicle provided probable cause to search it. *See State v. Stevens*, 970 N.W.2d 598, 602 (Iowa 2022). That search uncovered marijuana, and Deputy Rasmussen unequivocally testified he would have arrested Thompson for that felony offense[6] and—for jail safety and pursuant to policy—searched his person incident to that arrest. So, even assuming the search of Thompson's person was unlawful, we agree with the district court that the evidence would have been otherwise discovered by lawful means. Consequently, we affirm the denial of the motion to suppress on this ground.

IV. Conclusion

Finding no constitutional violation, we affirm the denial of Thompson's motion to suppress and his resulting convictions.

AFFIRMED.

---

[6] *See* Iowa Code § 124.401(5) (2021).