

IN THE COURT OF APPEALS OF IOWA

No. 0-543 / 09-1132
Filed August 25, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

GREGORY RAY JOHNSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Woodbury County, Todd A. Hensley, Judge.

Defendant appeals his conviction of operating while intoxicated, first offense. **AFFIRMED.**

Brian B. Vakulskas of Vakulskas Law Firm P.C., Sioux City, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, Patrick Jennings, County Attorney, and Jayme Kirsch, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., Eisenhauer and Danilson, JJ. Tabor, J., takes no part.

EISENHAUER, J.

Gregory Johnson appeals from his conviction for operating while intoxicated, first offense. Johnson asserts the district court erred in denying his motion to suppress. We affirm.

On November 8, 2008, Officer Echter was in his patrol car operating stationary radar. Officer Echter testified he observed Johnson's vehicle approach a stop sign and drive through without stopping. Officer Echter stopped Johnson's vehicle and could smell the odor of an alcoholic beverage coming from the vehicle. After Johnson failed field sobriety tests, Officer Echter transported Johnson to the law enforcement center. Johnson's subsequent Data Master reading was 0.122. Officer Echter booked Johnson on three charges: (1) operating while intoxicated, second offense; (2) no driver's license; and (3) failure to obey a stop sign.

Johnson moved to suppress the evidence resulting from the stop asserting the warrantless stop of his vehicle was not supported by a "reasonable suspicion that a criminal act had occurred or was occurring." The district court denied Johnson's motion to suppress. Next, the court granted the State's motion to amend the trial information to charge Johnson with operating while intoxicated, first offense. Johnson pled guilty. After his sentencing, Johnson now appeals arguing the court erred in denying his motion to suppress.

We do not address the merits of Johnson's appeal because claims arising from the denial of a motion to suppress "do not survive the entry of a guilty plea." *State v. Carroll*, 767 N.W.2d 638, 643 (Iowa 2009). Accordingly, we affirm.

AFFIRMED.