

IN THE COURT OF APPEALS OF IOWA

No. 1-715 / 11-0315
Filed October 19, 2011

STATE OF IOWA,
Plaintiff-Appellee,

vs.

HEATHER M. DAVIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Cynthia M. Moisan (motion to suppress) and William A. Price (sentencing order), District Associate Judges.

A defendant contends that the district court erred in denying her motion to suppress evidence of her intoxication. **AFFIRMED.**

Catherine K. Levine, Des Moines, and James P. Piazza, Jr. of Piazza Law Office, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Benjamin M. Parrott, Assistant Attorney General, John P. Sarcone, County Attorney, and David Porter, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Vaitheswaran and Tabor, JJ.

VAITHESWARAN, J.

We must decide whether the district court erred in denying a motion to suppress evidence.

I. Background Facts and Proceedings

A Windsor Heights police officer stopped a vehicle driven by Heather Davis for having a pink, rather than red, taillight. Following the stop, the officer suspected Davis was intoxicated and administered field sobriety tests. Based on his investigation, he arrested Davis for operating a motor vehicle while intoxicated and administered a breath test that revealed a blood alcohol concentration above the legal limit.

The State charged Davis with operating while intoxicated. Davis moved to suppress the evidence of intoxication on the ground that the stop violated her constitutional rights to be free from unreasonable searches and seizures. See U.S. Const. Amend. IV; Iowa Const. art. I, § 8. Following a hearing, the district court denied the suppression motion and, by agreement, proceeded to a bench trial on the minutes of testimony. Davis was adjudged guilty and this appeal followed.

II. Analysis

A law enforcement officer's stop of a vehicle is a "seizure" within the meaning of the Fourth Amendment to the United States Constitution. *State v. Lloyd*, 701 N.W.2d 678, 680 (Iowa 2005).¹ Warrantless seizures are generally

¹ Recently, the Iowa Supreme Court held that "while United States Supreme Court cases are entitled to respectful consideration, we will engage in independent analysis of the content of our state search and seizure provisions." *State v. Ochoa*, 792 N.W.2d 260, 267 (Iowa 2010). Because Davis "has not given us reason to do otherwise, and the

unreasonable, subject to certain exceptions. *State v. Louwrens*, 792 N.W.2d 649, 651 (Iowa 2010). One exception is when a law enforcement officer “observes a traffic violation, no matter how minor.” *Id.*

The district court determined that the condition of the taillight gave “the officer probable cause to stop” the vehicle. Davis takes issue with this determination, contending the taillight was not faulty. Both sides agree that the controlling statute is Iowa Code section 321.387 (2009). That statute provides:

Every motor vehicle and every vehicle which is being drawn at the end of a train of vehicles shall be equipped with a lighted rear lamp or lamps, exhibiting a red light plainly visible from a distance of five hundred feet to the rear. All lamps and lighting equipment originally manufactured on a motor vehicles shall be kept in working condition or shall be replaced with equivalent equipment.

Iowa Code § 321.387.

At the suppression hearing, the State stipulated that the rear lamp or lamps were “lighted” and were “plainly visible from a distance of five hundred feet to the rear.” The State maintained, however, that the taillight in question was missing the manufacturer-supplied hard plastic cover and was instead covered with tape that did not “exhibit[] a red light,” as required by section 321.387. In support of this assertion, the State offered the officer’s testimony that the taillight emitted a pink, rather than red, glow. Davis responded that the taillight was repaired with red “[t]aillight repair tape” purchased from an auto parts repair store, which amounted to a “replace[ment] with equivalent equipment” under

facts of this case do not give us a basis to distinguish the protections of our state constitution from those of the federal constitution, our discussion of the merits . . . applies equally to [her] state and federal constitutional claims.” See *State v. Hoskins*, 711 N.W.2d 720, 725 (Iowa 2006).

section 321.387.² She introduced pictures of the taillight, which depicted a red glow. The pictures, however, were taken several days after the stop.

The district court was faced with divergent opinions on whether the taillight exhibited a red light at the time of the stop. The court did not explicitly credit the officer's testimony on this question. But the judge's finding that the taillight was faulty necessarily means she accepted the officer's assertion that the taillight emitted a pink, rather than red, glow at the time of the stop. See *EnviroGas, L.P. v. Cedar Rapids/Linn Cnty. Solid Waste Agency*, 641 N.W.2d 776, 782 (Iowa 2002) ("Although the court did not specifically discuss the latter issue, we presume this factual matter was resolved so as to support the court's ultimate ruling."); *Hubby v. State*, 331 N.W.2d 690, 695 (Iowa 1983) ("[W]e assume as fact an unstated finding that is necessary to support the judgment against plaintiff."). As we have no way to assess the demeanor of the witnesses, we will defer to this implicit finding. See *State v. Predka*, 555 N.W.2d 202, 206 (Iowa 1996) (giving weight to assessment of the district court in its evaluation of whether an officer observed a traffic violation providing probable cause for a traffic stop). Based on this finding, we conclude the taillight emitted a pink rather than red glow, in contravention of Iowa Code section 321.387, and this equipment violation amounted to probable cause for the stop.

² The parties define "equivalent" similarly. Davis defines it as "equal in quantity, value, force, meaning, etc." YourDictionary, <http://www.yourdictionary.com/equivalent> (last visited Oct. 5, 2011). The State defines it as "corresponding or virtually identical esp. in effect or function." Webster's Third New International Dictionary 769 (1993).

We affirm the district court's suppression ruling and Davis's judgment and sentence for operating a motor vehicle while intoxicated.

AFFIRMED.