

IN THE COURT OF APPEALS OF IOWA

No. 2-1067 / 12-0276
Filed February 27, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LINDA SUE WILLIAMS,
Defendant-Appellant.

Appeal from the Iowa District Court for Story County, Lawrence E. Jahn,
District Associate Judge.

A defendant appeals her conviction and sentence for operating a motor
vehicle while intoxicated, third offense. **AFFIRMED.**

Kimberly A. Voss-Orr of Law Office of Kimberly A. Voss-Orr, Ames, for
appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, Stephen Holmes, County Attorney, and Timothy Meals, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Vogel and Vaitheswaran, JJ.

VAITHESWARAN, J.

We must decide whether an officer had probable cause or reasonable suspicion to stop a vehicle.

I. Background Facts and Proceedings

A Nevada, Iowa police officer observed Linda Williams pull out of a parking space “very slowly and dr[i]ve in the parking lot where people are supposed to park their cars.” He activated his dashboard camera and followed Williams as she proceeded down a residential road without painted lines. Williams drove on the left side of the road to avoid parked cars and a pedestrian. The officer opined “there was an area of no vehicles [about a block] where she could have gotten back into her correct lane, and she failed to do that.” Eventually, the officer stopped Williams and arrested her, after a preliminary breath test revealed an alcohol content over the legal limit.

The State charged Williams with operating while intoxicated, third offense. Iowa Code § 321J.2 (2011). Williams moved to suppress the test result, contending the officer did not have reasonable suspicion to stop her vehicle. At a hearing on the motion, the prosecutor responded that the officer had probable cause to make the stop because she drove to the left of center, in violation of Iowa Code section 321.297. The district court denied the motion to suppress. Williams waived her right to a jury trial, and the court found her guilty on the stipulated minutes of testimony. This appeal followed.

II. Analysis

Williams asserts the officer lacked probable cause or reasonable suspicion to stop her vehicle. Because her challenge to the district court’s denial

of her motion to suppress implicates constitutional rights to be free of unreasonable searches and seizures, our review is de novo. U.S. Const. amend IV; Iowa Const. art. I, § 8; *State v. Kurth*, 813 N.W.2d 270, 272 (Iowa 2012).

An officer may stop a vehicle without a search warrant if the officer has probable cause to believe a traffic violation was committed. *State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004). The State asserts that Williams violated Iowa Code section 321.297, which provides in relevant part, “A vehicle shall be driven upon the right half of the roadway upon all roadways of sufficient width.” Williams responds that her driving fell with the following exception to this rule:

When an obstruction exists making it necessary to drive to the left of the center of the roadway, provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within such distance as to constitute an immediate hazard.

Iowa Code § 321.297(1)(b). She argues it was necessary for her to periodically drive to the left of center to avoid parked cars and pedestrians. The State counters that she continued to drive on the wrong side of the road even when there were no impediments.

On our review of the dashboard video, it is apparent that Williams drove left of center for several blocks. She is correct that, on some of the blocks, parked cars or pedestrians rendered it difficult to drive to the right. She is also correct that there was no oncoming traffic while she was driving on the left. But it is also undisputed that, for approximately one block, she continued to drive on the left-hand side of the road despite the absence of obstructions to the right.¹

¹ In *Tague*, 676 N.W.2d at 203, cited by Williams, the line that Tague crossed was the edge line rather than the center line. The Iowa Supreme Court concluded “Tague did

For that reason, we agree with the district court that the officer had probable cause to stop the vehicle. In light of our conclusion, we find it unnecessary to address Williams' alternate argument that the officer lacked reasonable suspicion to make the stop.

We affirm the district court's denial of Williams' motion to suppress and her judgment and sentence for operating a motor vehicle while intoxicated, third offense.

AFFIRMED.

not drive his vehicle 'to the left of the center line of the roadway,' which is the conduct prohibited by section 321.297(3)." *Tague* is distinguishable on its facts.