

IN THE COURT OF APPEALS OF IOWA

No. 2-200 / 11-0922
Filed March 28, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LEWELLYN HUGHES,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, William A. Price,
District Associate Judge.

A defendant appeals the district court's denial of his motion to suppress
evidence obtained following a police stop of his vehicle. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, John P. Sarcone, County Attorney, and Shannon Archer, Assistant
County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Tabor and Mullins, JJ.

VAITHESWARAN, P.J.

Lewellyn Hughes appeals the district court's denial of his motion to suppress evidence obtained following a police stop of his vehicle.

I. Background Facts and Proceedings

Hughes was driving a vehicle early one morning when a Des Moines police officer noticed that his taillights were not working. The officer stopped the vehicle and learned that Hughes was driving without a valid license.

The State charged Hughes with driving while barred as a habitual offender, in violation of Iowa Code section 321.561 (2009). Hughes moved to suppress the evidence obtained following the stop on the ground that the stop was not supported by probable cause or reasonable suspicion. After an evidentiary hearing, the district court denied the motion.

Hughes subsequently consented to a bench trial on the minutes of evidence. The district court adjudged him guilty and imposed sentence.

On appeal, Hughes contends the stop was not justified. Our review is de novo. *State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004).

II. Analysis

The Fourth Amendment to the United States Constitution and article I, section 8 of Iowa's constitution protect individuals from unreasonable searches and seizures. *State v. Reinders*, 690 N.W.2d 78, 81 (Iowa 2004). A law enforcement officer's stop of a vehicle is a "seizure" within the meaning of the Fourth Amendment. *State v. Lloyd*, 701 N.W.2d 678, 680 (Iowa 2005).¹

¹ The Iowa Supreme Court has held that "while United States Supreme Court cases are entitled to respectful consideration, we will engage in independent analysis of the

Warrantless seizures are deemed per se unreasonable unless they fall within certain exceptions. *State v. Christopher*, 757 N.W.2d 247, 249 (Iowa 2008). One such exception is based on the existence of probable cause and exigent circumstances. *Id.* It is undisputed that exigent circumstances existed, as the case involved a moving vehicle. *See Hoskins*, 711 N.W.2d at 726 (stating a moving vehicle creates the exigent circumstances, as the vehicle's contents may not be found again if a warrant is required). The focus is on whether there was probable cause to support the stop.

"[A] traffic violation, no matter how minor, gives an officer probable cause to stop the motorist." *Id.* This doctrine has been applied to situations involving non-moving violations. *See State v. Aderholdt*, 545 N.W.2d 559, 563 (Iowa 1996).² Hughes argues the State did not establish a traffic violation to support a finding of probable cause.³

The State relied on the taillight requirements of Iowa Code section 321.387. That provision states:

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

content of our state search and seizure provisions." *State v. Ochoa*, 792 N.W.2d 260, 267 (Iowa 2010). Because Hughes

has not given us reason to do otherwise, and the 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 [his] state and federal constitutional claims.

See State v. Hoskins, 711 N.W.2d 720, 725 (Iowa 2006).

² Equipment violations also have been analyzed under the reasonable-suspicion standard and have been found sufficient to generate reasonable suspicion for the stop. *State v. Kinkead*, 570 N.W.2d 97, 100 (Iowa 1997) (analyzing stop based on muffler violation under reasonable suspicion standard); *Aderholdt*, 545 N.W.2d at 563 (stating that to justify the stop, the officer only needed "reasonable, not probable, cause to believe the traffic violation has occurred").

³ It is undisputed that, absent an equipment violation, the officer lacked probable cause or reasonable suspicion to stop the vehicle.

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 (emphasis added).⁴

To establish a violation of this provision, the State elicited testimony from the officer, as follows:

I was at the intersection of SW 9th and Payton on the south side of Des Moines. I had a red '91 Ford Explorer sitting in front of me at the stop sign heading eastbound on Payton. I noticed that none of the brake lights were working on the vehicle. As we continued down Payton heading eastbound towards where we ended up stopping at SE 4th and Waller—Hart, correction, I noticed the brake lights still weren't working. With the time of day I noticed that's an extremely dangerous thing. There is no way to judge whether the vehicle in front of him was slowing down, stopping, anything to that effect, so I went ahead and conducted a traffic stop at that time.

Hughes points out that the officer said nothing about the distance between the two vehicles. Citing *State v. Reisetter*, 747 N.W.2d 792 (Iowa Ct. App. 2008), he contends this omission was fatal to the State's claim that probable cause existed to justify the stop.

In *Reisetter*, this court concluded that a stop for an equipment violation was unreasonable where the State failed to establish a statutory requirement that the officer observe a vehicle's rear license plate "from a distance of fifty feet to the rear." 747 N.W.2d at 794–95. The court noted that, while the officer estimated the distance by car lengths between his vehicle and the defendant's,

⁴ Section 321.387 addresses "rear lamps." Section 321.404 addresses "signal lamps and signal devices." Section 321.408 addresses "back-up lamps." The officer referred to malfunctioning "brake lights." The State relied exclusively on section 321.387 as a basis for the stop.

he did not specifically refer to the statutorily-prescribed distance or a reasonable approximation of that distance. *Id.* at 795.

We do not agree with Hughes that *Reisetter* is controlling. While the officer in this case did not articulate whether the rear brake light was visible from a distance of 500 feet, we can infer from his statements that (1) Hughes's car was "sitting in front of [him] at the stop sign," (2) he continued to follow the vehicle, and (3) they "ended up stopping" at a city intersection that the taillight was not visible from 500 feet. For that reason, we affirm the suppression ruling.

AFFIRMED.