

IN THE COURT OF APPEALS OF IOWA

No. 2-531 / 09-1940
Filed July 11, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

WOODY ELY MURPHY,
Defendant-Appellant.

Appeal from the Iowa District Court for Adair and Clarke Counties, Gary G. Kimes and David L. Christensen, Judges.

Woody Ely Murphy appeals from the district court's denial of his motions to suppress. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Bradley M. Bender, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, Michael Maynes, County Attorney, and Michelle Rivera, County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

MULLINS, J.

At approximately 1:30 a.m. on March 26, 2009, Adair County Deputy Sheriff Tobias Henry responded to Orient High School after a burglary alarm was activated. A school employee also responded to the alarm, and advised Deputy Henry that she would go through the school because she assumed it was a false alarm. Deputy Henry left the location, but shortly thereafter received a call from the school employee reporting that she had just chased two individuals out of the school. Deputy Henry returned to the school, and found items that had been dropped as the individuals fled.

When Deputy Henry was leaving the school parking lot after investigating, he observed a white vehicle pulling up to a stop sign in front of the school. Given the suspected burglary and that vehicles are not often seen in that area of town at that time of night, the vehicle piqued Deputy Henry's interest. Deputy Henry followed the vehicle through Orient before deciding to perform a traffic stop based upon a non-working rear license plate light.

The driver and sole occupant of the vehicle was Woody Murphy. Upon questioning, Murphy provided conflicting stories and timelines regarding his activities that night. Murphy eventually admitted he had been at the Orient school. Murphy was arrested, and an inventory search of the vehicle revealed several items from the Orient school as well as items from Clarke County Community School, which had been burglarized in February 2009.

Based upon the items found in the vehicle and through subsequent investigation, Murphy was charged with burglary in the third degree in Adair

County as well as burglary in the third degree and theft in the second degree in Clarke County. Further, Murphy was alleged to have violated the terms of his probation in a Clarke County case that he had previously been granted a deferred judgment.

Murphy filed identical motions to suppress in each of the three cases seeking to exclude the items found in the vehicle as a result of the traffic stop. Murphy claimed his rear license plate light was working; therefore, the stop by Deputy Henry lacked probable cause. In support of his motions, Murphy submitted an affidavit signed by his father stating he personally inspected the rear license plate light after the incident, and found the light was working.

Following a consolidated hearing, the district court denied the motions to suppress. The district court specifically found “the officer’s testimony credible.” Accordingly, the district court found Deputy Henry had probable cause for the stop due to the unlit rear license plate.

Murphy subsequently stipulated to a trial on the minutes of testimony for both burglary cases and to a probation revocation hearing on a stipulated record. The district court found Murphy guilty on the two burglary charges and the theft charge. Based upon those convictions, the district court revoked the deferred judgment and sentenced Murphy to prison with a combination of concurrent and consecutive sentences.

Murphy now appeals, arguing the district court erred in denying his motion to suppress because the stop was not justified by probable cause. Our review is *de novo*. *State v. Kurth*, 813 N.W.2d 270, 272 (Iowa 2012).

Murphy acknowledges it is well-settled law that a traffic violation, no matter how minor, gives a police officer probable cause to stop a motorist. *State v. Hoskins*, 711 N.W.2d 720, 726 (Iowa 2006). He further acknowledges that Iowa law requires a vehicle's rear license plate to be illuminated so as to render it clearly legible from a distance of fifty feet. See Iowa Code § 321.388 (2009). Rather, Murphy contends Deputy Henry's testimony the rear license plate was unlit lacked credibility, and that the stop was actually pretextual.

Although we are not bound by the district court's findings of facts on our de novo review, we do give them deference. *State v. Reissetter*, 747 N.W.2d 792, 793 (Iowa Ct. App. 2008). This is especially true for credibility determinations. *State v. Liggins*, 524 N.W.2d 181, 186 (Iowa 1994) (“[T]he court's findings on credibility of the witnesses are entitled to considerable deference.”). While we must rely on the printed record in evaluating the evidence, the district court has the advantage of also observing firsthand the witness's appearance, conduct, and demeanor. *In re Marriage of Vrban*, 359 N.W.2d 420, 423 (Iowa 1984). The district court found Deputy Henry credible after observing him testify. Upon our review of the record, we find the district court's credibility determination should be given deference. See *State v. Weaver*, 608 N.W.2d 797, 804 (Iowa 2000) (“Determinations of credibility are in most instances left for the trier of fact, who is in a better position to evaluate it.”). Accordingly, we find Deputy Henry had probable cause to stop Murphy's vehicle due to an unlit rear license plate. The district court's denial of the motion to suppress is affirmed.

AFFIRMED.