

IN THE COURT OF APPEALS OF IOWA

No. 3-132 / 12-0863
Filed March 13, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JEFFREY BRIAN MEADOWS,
Defendant-Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Gerald W. Magee (motion to suppress) and Colleen D. Weiland (trial), Judges.

Jeffrey Meadows appeals his conviction for operating while intoxicated, first offense. **AFFIRMED.**

John P. Lander of Brown, Kinsey, Funkhouser & Lander, P.L.C., Mason City, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney General, Carlyle D. Dalen, County Attorney, and Nicole Benes, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

Jeffrey Meadows appeals following his conviction and sentence for operating while intoxicated, first offense, in violation of Iowa Code section 321J.2 (2011). He contends the district court erred in denying his motion to suppress, alleging the arresting deputy did not have reasonable suspicion to stop his vehicle. Upon our review, we affirm.

I. Background Facts and Proceedings

At approximately 2:45 a.m. on August 12, 2011, FedEx truck driver James Bennien was travelling southbound on Interstate 35 from Minneapolis when a vehicle entered the highway from an on-ramp “shot straight across both lanes and . . . almost went into the median.” Bennien dialed 911 to report the vehicle, stating his concern about the condition of the driver. The vehicle then “zigzagged off to the shoulder” and Bennien “kind of forgot about him for awhile.”

Ten to twelve miles later, “out of the blue” the vehicle passed Bennien again, “this time he was going very fast” and then it “slowed down again erratically.” Bennien saw the vehicle “was swerving constantly, back and forth, back and forth.” Bennien was now in Iowa; he dialed 911 to report the vehicle again. Bennien described his observations and told the dispatcher the location of the vehicle, the direction it was headed, as well as its make, model, and license plate number.

Cerro Gordo County Deputy Sheriff Cameron Manson learned of “a possible intoxicated or tired driver southbound on the interstate” from the dispatcher. Deputy Manson positioned himself in the median of the highway and “approximately one minute” later he identified the vehicle. He followed the

vehicle for “a very short distance” and noticed “some weaving, it touched the white fog line and then it corrected back onto the road” before he stopped the vehicle. He stated he stopped the vehicle based on his observations and the complaint received from the dispatcher. Specifically, Deputy Manson stated he learned three things from the dispatch: the vehicle was “changing speeds,” it was “going onto the shoulder and back on the roadway,” and it was “having a hard time maintaining lanes.”

The driver of the vehicle was Jeffrey Meadows. Meadows stated he had two drinks earlier in the day. He failed field sobriety tests. His blood alcohol content was subsequently determined to be over the legal limit.

The State charged Meadows with operating while intoxicated, first offense. Meadows filed a motion to suppress, alleging Deputy Manson did not have probable cause or reasonable suspicion to stop his vehicle. Bennien and Deputy Manson testified at the evidentiary hearing on Meadows’ motion to suppress. Following the hearing, the district court denied the motion to suppress, finding Deputy Manson had a reasonable suspicion criminal activity was afoot based on the information provided by Bennien and his own observations.

Meadows waived his right to a jury trial and the district court found him guilty of operating while intoxicated based on the minutes of testimony. Meadows now appeals, alleging the district court erred in denying his motion to suppress.

II. Standard of Review

Because Meadows contends the stop violated his rights under the Fourth Amendment of the United States Constitution and article I, section 8 of the Iowa

Constitution, we review his claim de novo. See *State v. Fleming*, 790 N.W.2d 560, 563 (Iowa 2010). We independently evaluate the totality of the circumstances as shown by the entire record. *State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004). While we give considerable deference to the district court's findings regarding the credibility of witnesses, we are not bound by them. *Id.*

III. Analysis

Meadows contends the district court should have granted his motion to suppress. He claims Deputy Manson's limited observations of his driving and the tip from a citizen informant did not give Deputy Manson reasonable suspicion to stop his vehicle.¹

The State must demonstrate Deputy Manson had a reasonable suspicion criminal activity was occurring or had occurred to justify stopping Meadows' vehicle. See *id.* at 204. The stopping officer must have specific and articulable facts that, along with rational inferences, demonstrate that he or she reasonably believed criminal activity was occurring or imminent. *State v. Vance*, 790 N.W.2d 775, 781 (Iowa 2010). Reasonable suspicion is determined by an objective standard: whether a reasonable person would deem the officer's actions appropriate given the totality of the circumstances confronting the officer at the time of the stop. See *State v. Kreps*, 650 N.W.2d 636, 641–42 (Iowa 2002). Unparticularized suspicion is not an acceptable reason for a stop. *Id.* at 641.

In *State v. Walshire*, 634 N.W.2d 625, 628 (Iowa 2001), an anonymous citizen informant called to report the license plate, make, and model of a vehicle,

¹ Because the State does not maintain Deputy Manson had probable cause to stop Meadows's vehicle, we will not address Meadows's contention to that regard.

and that the caller thought the driver was drunk. The stopping officer “did not personally observe any behavior that would generate reasonable suspicion for a traffic stop.” *Id.* The Iowa Supreme Court affirmed the district court’s denial of the defendant’s motion to suppress, finding reasonable suspicion did not require “independent observations by the officer of inculpatory conduct.” *Id.* at 627; see also *State v. Markus*, 478 N.W.2d 405, 407, 409 (Iowa Ct. App. 1991) (finding “when the officers stopped [the defendant], the anonymous tip had been sufficiently corroborated by the identification of the vehicle and its location to furnish reasonable suspicion that he was engaged in criminal activity,” even though the officers “made no independent observations of how the defendant was driving”). The court noted there was a “rebuttable presumption that information imparted by a citizen informant is generally reliable.” *Id.* at 629 (citation omitted).

Indeed, Deputy Manson’s observation of Meadows’s driving, on that basis alone, may not have given him reasonable suspicion to stop Meadows. See *Tague*, 676 N.W.2d at 205–06 (crossing an edge line once on a divided highway without weaving, veering, or erratic speed changes was insufficient to support an investigatory stop); *State v. Otto*, 566 N.W.2d 509, 511 (Iowa 1997) (weaving within one’s own lane does not always provide reasonable suspicion for a stop). In this case, however, in addition to his own observation of slight weaving, minutes before he observed the vehicle, Deputy Manson received information from the dispatcher that an informant reported the driver of the vehicle appeared to be impaired. See *Walshire*, 634 N.W.2d at 628 (“When the officers found the informant to be accurate concerning the vehicle’s description and location, they

had reason to believe the informant was also accurate as to the alleged criminal activity,” and “[i]ndependent corroboration of the *inculpatory* details of a defendant’s tip [was] not mandatory.” (quoting *Markus*, 478 N.W.2d at 408)).

Although Deputy Manson did not know at the time whether the tip was from a citizen informant or an anonymous informant, the tip had sufficient indicia of reliability—it included a description of the vehicle, its license plate number, its location and direction of travel, as well as an account of the impaired driving. See *Alabama v. White*, 496 U.S. 325, 332 (1990) (“[U]nder the totality of the circumstances the anonymous tip, as corroborated, exhibited sufficient indicia of reliability to justify the investigatory stop of respondent’s car.”); *Markus*, 478 N.W.2d at 409 (“The specificity and underlying circumstances of the tip . . . increase[s] its reliability.”); see also *Walshire*, 634 N.W.2d at 629 (noting the suspicious activity was open to the public view and distinguishing between the public crime of operating while intoxicated and the concealed crime of a possessory offense).

Considering the totality of the circumstances, we conclude when Deputy Manson stopped Meadows, the informant’s tip was sufficiently corroborated by the identification of the vehicle and its location and, coupled with Deputy Manson’s observation of Meadows’s driving, furnished reasonable suspicion he was engaged in criminal activity. Accordingly, we affirm the district court’s denial of Meadows’s motion to suppress and his judgment and sentence for operating a motor vehicle while intoxicated, first offense.

AFFIRMED.