

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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### ATTORNEY FOR APPELLANT

Paul J. Podlejski  
Anderson, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana  
Jodi Kathryn Stein  
Supervising Deputy Attorney  
General  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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Tommy E. Lampley, Jr.,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

April 25, 2022

Court of Appeals Case No.  
21A-CR-2069

Appeal from the  
Madison Circuit Court

The Honorable  
Angela Warner Sims, Judge

Trial Court Cause No.  
48C01-1904-F3-892

**Molter, Judge.**

- [1] Tommy E. Lampley, Jr. appeals from his convictions following a jury trial for Level 3 felony possession of cocaine and Level 4 unlawful possession of a firearm

by a serious violent felon. He argues the trial court erred in admitting evidence seized as the result of an allegedly invalid traffic stop. Concluding there was no constitutional violation making the evidence inadmissible, we affirm.

### **Facts and Procedural History**

- [2] While on patrol in April 2019, Officer Brandon Grant with the Anderson Police Department noticed Lampley's vehicle traveling without operating taillights, so he initiated a traffic stop by activating his emergency lights. When Lampley did not immediately stop, Officer Grant activated his emergency sirens. Lampley then stopped his vehicle, and Officer Grant noticed that the taillights on Lampley's vehicle illuminated when he applied the brakes.
- [3] Officer Grant approached the vehicle and asked Lampley for identification. Lampley complied, providing Officer Grant with an identification card and telling him that he had recently taken steps to reinstate his driver's license. After Officer Grant returned to his vehicle to review Lampley's information, he learned Lampley's driver's license was suspended and that he had a prior conviction. He also requested a police canine unit because Lampley's vehicle smelled of burnt marijuana.
- [4] Soon after, Officer Grant returned to Lampley's vehicle and asked him to exit the car. Also, Officer Matthew Jarrett arrived at the scene with his canine partner, "Horace." Appellant's App. Vol. 2 at 23; Tr. Vol. 1 at 48. Officer Grant arrested Lampley for driving with a suspended license and searched Lampley's person, finding \$472.00 and a clear plastic baggie with cocaine in Lampley's pockets.

- [5] Officer Jarrett then deployed Horace to sniff Lampley’s vehicle. Horace reacted to the driver’s side of the vehicle and its glove compartment. The officers subsequently found a loaded handgun, \$3,385.00, and 22.42 grams of cocaine in the glove compartment. They also found a small amount of a leafy green substance, which they thought was marijuana, in the vehicle’s center console. The State charged Lampley with Level 3 felony possession of cocaine, Level 4 felony unlawful possession of a firearm by a serious violent felon, and Class A misdemeanor driving while suspended. The State later amended the charges and dismissed the Class A misdemeanor count.
- [6] Before trial, both parties examined Lampley’s vehicle—particularly its lighting system. They found that the knob for the light switch was missing and that the taillights illuminated if the headlights were turned on. The parties also observed that neither the taillights nor headlights turned on if another switch—the twilight switch—was in the “off” position.
- [7] Also before trial, Lampley moved to suppress the evidence obtained as a result of the traffic stop, but the trial court denied his motion. Then, Lampley objected to the admission of the same evidence at his jury trial; however, the trial court admitted the evidence over his objection. Tr. Vol. 1 at 170, 172–73, 179. Lampley was found guilty of Level 3 felony possession of cocaine and Level 4 felony unlawful possession of a firearm by a serious violent felon. Tr. Vol. 2 at 80, 83–88. The trial court sentenced Lampley to an aggregate sentence of ten years, with five years executed in the Indiana Department of Correction and five years suspended to probation. Lampley now appeals.

## Discussion and Decision

### I. Standard of Review

[8] We review a trial court’s ruling on the admissibility of evidence for an abuse of discretion. *Tinker v. State*, 129 N.E.3d 251, 255 (Ind. Ct. App. 2019), *trans. denied*. A trial court abuses its discretion when the admission of evidence is clearly against the logic and effect of the facts and circumstances. *Id.* In reviewing a trial court’s ruling, we will not reweigh the evidence and will view conflicting evidence in the light most favorable to the trial court’s ruling, deferring to the trial court’s factual determinations unless clearly erroneous. *Hansbrough v. State*, 49 N.E.3d 1112, 1114 (Ind. Ct. App. 2016), *trans. denied*. However, when the admissibility of the evidence turns on whether it was obtained by an unconstitutional search or seizure, it raises a question of law that we review de novo. *Thomas v. State*, 81 N.E.3d 621, 624 (Ind. 2017). We affirm “a trial court’s decision regarding the admission of evidence if it is sustainable on any basis in the record.” *Holloway v. State*, 69 N.E.3d 924, 931 n.5 (Ind. Ct. App. 2017) (citing *Barker v. State*, 695 N.E.2d 925, 930 (Ind. 1998)), *trans. denied*.

### II. United States Constitution

[9] Lampley argues the initial traffic stop violated his Fourth Amendment rights because Officer Grant’s stated justification for the stop—that he believed Lampley’s taillights were inoperable—was not credible. The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures. The safeguards of the Fourth Amendment extend to brief investigatory

stops of persons or vehicles that fall short of traditional arrest. *Santiago v. State*, 127 N.E.3d 1285, 1288 (Ind. Ct. App. 2019), *trans. denied*. A traffic stop is a seizure under the Fourth Amendment, and, accordingly, the police must possess at least a reasonable suspicion that a traffic law has been violated or that other criminal activity is taking place. *Meredith v. State*, 906 N.E.2d 867, 869 (Ind. 2009). Such reasonable suspicion must encompass more than hunches or unparticularized suspicions; that is, an officer must be able to point to specific facts giving rise to a reasonable suspicion of criminal activity. *Reid v. State*, 113 N.E.3d 290, 298 (Ind. Ct. App. 2018), *trans. denied*.

[10] Here, Officer Grant testified that he observed Lampley commit a traffic infraction—*i.e.*, having inoperable taillights. Indiana Code section 9-19-6-4(c) provides that a motor vehicle “must be equipped with at least two (2) tail lamps mounted on the rear that, when lighted, complies with this section.” Also, “[a] tail lamp . . . must be wired so as to be lighted whenever the head lamps . . . are lighted.” Ind. Code § 9-19-6-4(e). An officer’s observation of a violation of Indiana Code section 9-19-6-4 is a valid basis for a traffic stop. *See Freeman v. State*, 904 N.E.2d 340, 343 (Ind. Ct. App. 2009).

[11] Further, Indiana Code section 9-21-7-1 provides that a person may not drive a motor vehicle on a highway “unless the equipment upon the vehicle is in good working order and adjustment.” “Implicit in this statute is a requirement that before operating a motor vehicle, one inspect his or her vehicle to ensure that its equipment, including taillights, works.” *Schumm v. State*, 866 N.E.2d 781, 795 (Ind. Ct. App. 2007).

[12]Lampley does not deny that failing to maintain operable taillights constitutes a traffic violation. Instead, he asserts the evidence establishes his taillights were functioning and “it is not reasonable to accept [Officer] Grant’s testimony that Lampley’s taillights were not operating at the time the stop was initiated.” Appellant’s Br. at 14. In particular, he focuses on: (1) Officer Grant’s statement that he noticed the taillights on Lampley’s vehicle were illuminated when he applied the brakes; (2) photographs from the scene showing the vehicle’s headlights and taillights illuminated; and (3) a witness’s statement that subsequent examination of the vehicle revealed that the taillights illuminated if the headlights were turned on. Based on this evidence, Lampley argues the only conclusion is that Lampley’s taillights were fully operational leading up to the traffic stop.

[13]Critically, there was contradictory evidence. Officer Grant testified that, as he was driving and on patrol, he noticed Lampley’s vehicle did not have operating taillights. To be sure, the undisputed evidence is that the taillights were later illuminated, but the State introduced evidence reconciling these facts. There were at least two potential impediments to the taillights operating when Officer Grant initiated the stop even if the lights later turned on—the taillights would not be on if the headlights were not on, and an investigator for the Marion County Prosecutor’s Office testified that the taillights would not turn on if another switch—the twilight switch—was in the “off” position. Lampley’s request that we credit the evidence suggesting the taillights were fully operable rather than the evidence that the officer reasonably suspected they were not is simply a request that we reweigh the evidence and make our own credibility determinations, which we are not permitted

to do. *Hansbrough*, 49 N.E.3d at 1114. Because the evidence established that Officer Grant initiated a valid traffic stop after observing a violation of Indiana Code section 9-19-6-4, we conclude that the stop was justified under the Fourth Amendment.

### III. Indiana Constitution

[14]Lampley also argues that Officer Grant's actions violated his rights under Article 1, section 11 of the Indiana Constitution, which protects citizens from unreasonable searches and seizures. Although its text mirrors the Fourth Amendment, we interpret Article 1, section 11 of our Constitution separately and independently. *Triblet v. State*, 169 N.E.3d 430, 436 (Ind. Ct. App. 2021), *trans. denied*. When a section 11 claim is raised, the State must show that the police conduct was reasonable under the totality of the circumstances. *Id.* In our evaluating the reasonableness of the conduct, we consider three factors: (1) the degree of concern, suspicion, or knowledge that a violation has occurred; (2) the degree of intrusion the method of the search or seizure imposes on the citizen's ordinary activities; and (3) the extent of law enforcement needs. *Id.*

[15]Here again, Lampley does not dispute that inoperable taillights would justify a stop in compliance with section 11. As with his Fourth Amendment claim, his only argument is that Officer Grant's testimony is not credible, and that his taillights were in fact fully operable. This argument fails for the same reason—it is a request that we reweigh the evidence and make our own credibility determination, which we cannot do.

[16] In sum, because we have determined that Officer Grant did not violate Lampley's rights under the Fourth Amendment of the United States Constitution and Article I, section 11 of the Indiana Constitution, we hold that the trial court did not err in admitting the evidence obtained as a result of the traffic stop.

[17] Affirmed.

Mathias, J., and Brown, J., concur.