

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Juan Jose Santoyo Escamilla,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 11, 2023

Court of Appeals Case No.
22A-CR-2264

Appeal from the Huntington
Superior Court

The Honorable Jennifer E.
Newton, Judge

Trial Court Cause No.
35D01-2012-F6-420

Memorandum Decision by Judge Weissmann
Judges Bailey and Brown concur.

Weissmann, Judge.

- [1] Juan Escamilla appeals his convictions for possession of methamphetamine, operating a vehicle while under the influence of a controlled substance, possession of drug paraphernalia, and driving without a license. He argues that the trial court erred in admitting evidence stemming from an allegedly unconstitutional traffic stop. Finding the stop violated neither the Fourth Amendment to the United States Constitution nor Article 1, Section 11 of the Indiana Constitution, we affirm Escamilla’s convictions.

Facts

- [2] Indiana State Trooper Anthony Repass was watching the evening traffic on I-69 when Escamilla’s van passed him. Trooper Repass noticed the van noticeably reduce its speed as it neared his location. And as the van passed by, Trooper Repass observed Escamilla leaning behind the pillar of the car frame between the front and rear seats “as if [Escamilla] was avoiding” him. Tr. Vol. II, p. 28. Based on these facts, Trooper Repass decided to pull out into traffic behind Escamilla.
- [3] Trooper Repass soon noted that the license plate light on Escamilla’s van was burnt out and, as a result, he could not see the van’s rear license plate information from 50 feet away. Trooper Repass knew that the unreadable rear license plate was a traffic violation. He therefore activated the lights on his patrol car and pulled Escamilla over.

- [4] When Trooper Repass asked Escamilla for his driver's license and vehicle registration, Escamilla handed over a Mexican Consular ID Card and stated he did not have the car's registration as it was not his vehicle. Escamilla later admitted to Trooper Repass he did not possess a valid driver's license.
- [5] Trooper Repass instructed Escamilla to step out of the vehicle, and Escamilla complied. While escorting Escamilla to his police vehicle to pat him down for weapons, Trooper Repass first noticed that Escamilla had poor balance and his breath smelled of alcohol. Escamilla also had difficulty following Trooper Repass's instructions so Trooper Repass placed Escamilla in handcuffs.
- [6] Trooper Repass believed Escamilla was intoxicated because he appeared overly nervous, was fidgeting, had dilated eyes, and struggled to focus. After Trooper Repass read Escamilla his *Miranda* rights, Escamilla submitted to a portable breath test, which came back positive for alcohol consumption but at a level well-under the legal limit. Still suspicious of Escamilla's behavior, Trooper Repass now suspected that "something else other than alcohol" was the cause. *Id.* at 36-37.
- [7] Trooper Repass read Escamilla his *Pirtle* rights, after which Escamilla consented to the search of his vehicle. The search of Escamilla's vehicle yielded a glass pipe containing white crystal residue and beer cans scattered throughout the vehicle. Trooper Repass then read Escamilla Indiana's implied consent law and offered him a chemical test. Escamilla consented and underwent a blood draw

at a local hospital. The test came back positive for amphetamine and methamphetamine.

- [8] The State charged Escamilla with Level 6 felony possession of methamphetamine, and three Class C misdemeanors, operating a vehicle with a Schedule I or II controlled substance, possession of paraphernalia, and operating a vehicle while never having received a license.
- [9] Before the trial, Escamilla moved to suppress the evidence collected from the traffic stop, arguing that the stop, investigation, and subsequent searches violated his constitutional rights under the Fourth Amendment and Article 1, Section 11. After a hearing, the trial court denied Escamilla's motion. The court reasoned that Trooper Repass had probable cause to stop Escamilla after witnessing him drive a vehicle without a functioning license plate light. The court also concluded that the further investigation and searches were reasonably based on Escamilla's visible intoxication and lack of a valid driver's license.
- [10] Escamilla did not contemporaneously object to the introduction of evidence from the traffic stop at his trial. Only after the State's presentation of evidence did Escamilla seek to object to the search evidence by asking the trial court to reconsider its ruling on his pre-trial motion to suppress. The trial court denied this request, and the jury found Escamilla guilty of all charges.

Discussion and Decision

- [11] "Traffic stops, even for minor violations, fall within the protections of the federal and state constitutions." *Marshall v. State*, 117 N.E.3d 1254, 1258 (Ind.

2019). Escamilla argues that his traffic stop, and the resulting evidence, violated both the federal and state constitutional protections against unreasonable searches and seizures because Trooper Repass did not have reasonable suspicion to pull him over.

[12] Although Escamilla frames his appeal as a challenge to the trial court’s decision denying his pre-trial motion to suppress evidence from the traffic stop, Escamilla’s case has already gone to trial, where he was found guilty. Thus, his appeal is “better framed as a request to review the trial court’s ruling on [the evidence’s] admissibility.” *Guilmette v. State*, 14 N.E.3d 38, 40 (Ind. 2014). Trial courts possess “broad discretion” on evidentiary matters, and we review a court’s rulings in this area only for an abuse of that discretion. *Id.* However, the constitutionality of a search or seizure is a question of law that we review de novo.¹ *Id.*

I. Fourth Amendment

[13] The Fourth Amendment generally requires that law enforcement obtain a warrant supported by probable cause before executing searches or seizures.

¹ After the denial of his motion to suppress evidence, Escamilla failed to contemporaneously object to the admission of the evidence at his trial or raise a continuing objection to the evidence for the record. As the State correctly notes, Escamilla’s arguments on the admissibility of this evidence on appeal are thus waived. *Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010) (“A contemporaneous objection at the time the evidence is introduced at trial is required to preserve the issue for appeal, whether or not the appellant has filed a pretrial motion to suppress.”). Escamilla also does not allege any exception to waiver, such as fundamental error. But waiver notwithstanding, we exercise our discretion to address the merits of Escamilla’s claims here. *Sharp v. State*, 42 N.E.3d 512, 515 (Ind. 2015) (endorsing the “common practice” of Indiana Appellate Courts choosing to address waived claims).

Robinson v. State, 5 N.E.3d 362, 367 (Ind. 2014). One of the most “popular” exceptions to the Fourth Amendment’s warrant requirement is the *Terry* Stop. *Id.* A *Terry* Stop “permits an officer to ‘stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity may be afoot, even if the officer lacks probable cause.’” *Id.* (quoting *United States v. Sokolow*, 490 U.S. 1, 7 (1989)).

[14] “Traffic stops typically fall into this *Terry* Stop category, and, therefore, must be based on reasonable suspicion.” *Marshall v. State*, 117 N.E.3d 1254, 1259 (Ind. 2019). Reasonable suspicion requires more than “inarticulate hunches” that a person is committing a crime. *Terry v. Ohio*, 392 U.S. 1, 22 (1968). In the traffic stop context, the Indiana Supreme Court has said reasonable suspicion exists where “the stopping officer [can] articulate some facts that provide a particularized and objective basis for believing a traffic violation occurred.” *Marshall*, 117 N.E.3d at 1259.

[15] Trooper Repass had reasonable suspicion to pull Escamilla over and conduct a traffic stop. Escamilla argues that the first acts Trooper Repass identifies as raising his suspicion—Escamilla’s slower speed and alleged attempt to evade the Trooper’s view—are not illegal activities in and of themselves and, consequently, could not give Trooper Repass reasonable suspicion of a crime. These acts, however, did not give rise to the search. Trooper Repass only made the decision to stop Escamilla after observing that his rear license was obscured in violation of Indiana traffic law. Ind. Code § 9-19-6-4(e) (requiring that the rear license plate be illuminated so it is legible from 50 feet); Ind. Code § 9-19-6-

24(b) (violations under this chapter are Class C infractions). “An officer’s decision to stop a vehicle is valid so long as his on-the-spot evaluation reasonably suggests that lawbreaking occurred.” *Meredith v. State*, 906 N.E.2d 867, 870 (Ind. 2009).

[16] Escamilla does not contest that he committed a traffic violation; he instead argues that Trooper Repass’s decision not to cite him for the obscured rear license plate reveals Trooper Repass’s lack of reasonable suspicion. This argument has been rejected by our Supreme Court. In *Marshall v. State*, the defendant was convicted of a litany of driving while intoxicated offenses after being stopped for speeding. 117 N.E.3d at 1257. The defendant argued that because he was not charged with speeding and the officer did not document the excessive speed justifying the stop, the traffic stop was unconstitutional for lacking reasonable suspicion. *Id.* at 1260. The Supreme Court rejected this argument, finding that regardless of the formal documentation of the defendant’s speed at the time of the stop, the officer “possessed and provided sufficient articulable facts” to justify a reasonable suspicion that lawbreaking occurred. *Id.* at 1261.

[17] We find the same situation here. Trooper Repass testified that he had a clear view of the license plate, he observed that the light was burnt out, and he could not read the plate from about 50 feet away. Trooper Repass knew this was a traffic violation. Looking at the totality of these facts, we conclude Trooper Repass had reasonable suspicion to stop Escamilla. We therefore conclude that the traffic stop did not violate the Fourth Amendment.

II. Article 1, Section 11

[18] Like the Fourth Amendment, Article 1, Section 11 of the Indiana Constitution also protects Hoosiers from unreasonable searches and seizures. Although sharing the same text, Article 1, Section 11 is interpreted and applied independently. *Isley v. State*, 202 N.E.3d 1124, 1130 (Ind. Ct. App. 2023).

“When a defendant challenges the propriety of an investigative stop under the Indiana Constitution, the burden falls to the State to ‘show the police conduct was reasonable under the totality of the circumstances.’” *Marshall v. State*, 117 N.E.3d 1254, 1262 (Ind. 2019) (quoting *Robinson v. State*, 5 N.E.3d 362, 368 (Ind. 2014)). The reasonableness of a stop is evaluated through the three-part *Litchfield* test analyzing “1) the degree of concern, suspicion, or knowledge that a violation has occurred, 2) the degree of intrusion the method of the search imposes on the citizen’s ordinary activities, and 3) the extent of law enforcement needs.” *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005).²

[19] Escamilla’s traffic stop was reasonable under the *Litchfield* factors. First, Trooper Repass had a high degree of knowledge that Escamilla’s obscured rear license plate constituted a traffic violation. Second, the traffic stop was not highly intrusive to Escamilla’s ordinary activities. *See Marshall*, 117 N.E.3d at 1262 (holding that a traffic stop for speeding “amounted to a small intrusion”

² We note that the State failed to analyze this issue through the *Litchfield* test. It is well settled that investigatory stops like the one here must be reviewed “under Article 1, Section 11’s strictures” meaning, an inquiry into “whether a stop proved reasonable given the totality of the circumstances by applying our three-part *Litchfield* test.” *Marshall*, 117 N.E.3d at 1262.

on the defendant's ordinary activities). Trooper Repass followed usual procedures during the stop, asking for a license and the vehicle's registration. He only escalated the investigation upon learning that Escamilla had no valid driver's license, did not possess the vehicle's registration, and exhibited signs of intoxication. And lastly, we recognize the government's interest in enforcing traffic laws. Balancing these factors together, we find the traffic stop reasonable under the totality of the circumstances.

[20] We affirm the trial court's judgment.

Bailey, J., and Brown, J., concur.