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IN THE
COURT OF APPEALS OF INDIANA

April L. Chauncy,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 22, 2023

Court of Appeals Case No.
22A-CR-907

Appeal from the Shelby Superior
Court

The Honorable R. Kent Apsley,
Judge

Trial Court Cause No.
73D01-2108-F2-20

Opinion by Judge Tavitas
Chief Judge Altice and Judge Brown concur.

Tavitas, Judge.

Case Summary

[1] April Chauncy filed a motion to suppress evidence found during the search of an automobile in which she was a passenger. The trial court denied that motion, and Chauncy brings this interlocutory appeal challenging the trial court's decision. Chauncy claims that the trial court erred by determining that the police had reasonable suspicion to stop the vehicle in which Chauncy was a passenger and that the police did not prolong the stop in order to conduct a dog sniff of the vehicle. We disagree and, accordingly, affirm.

Issues

[2] Chauncy presents two issues, which we restate as:

- I. Whether the trial court erred by determining that the police had probable cause to stop the vehicle in which Chauncy was a passenger.
- II. Whether the trial court erred by determining that the police did not prolong the traffic stop in order to conduct a dog sniff of the vehicle.

Facts

[3] Early on the morning of August 17, 2021, Officer Alric Staggers of the Shelbyville Police Department ("SPD") was on patrol when he observed a silver BMW traveling on East Jackson Street approaching the intersection of East Jackson Street and North Noble Street. The driver of the BMW, later identified as Nichole Deaton, stopped her car at the stop sign at the intersection

and turned left (north) on North Noble Street. As she approached the intersection, Deaton did not use her left turn signal until she was already at the intersection. At the time, Indiana law required drivers preparing to turn their vehicles to use a turn signal not less than 200 feet before the turn if in a speed zone under fifty miles per hour or not less than 300 feet before the turn if in a speed zone above fifty miles per hour. *See* Ind. Code 9-21-8-25 (1991).¹ Due to the traffic violation he witnessed, Officer Staggers initiated a traffic stop by activating the flashing lights on his patrol car. Deaton quickly turned into a parking lot and stopped her car.

[4] Officer Staggers approached the car and explained to Deaton the reason for the stop. Deaton claimed to have properly used her turn signal, but Officer

¹ Effective January 1, 2023, this statute has been repealed. In conjunction with the repeal of this statute, the General Assembly amended Indiana Code Section 9-21-8-24 to provide:

(a) A person may not:

(1) slow down or stop a vehicle;

(2) turn a vehicle from a direct course upon a highway; or

(3) change from one (1) traffic lane to another;

unless the movement can be made with reasonable safety.

(b) Before making a movement described in this section, a person shall provide notice of the person's intention by giving:

(1) a clearly audible horn signal if any pedestrian may be affected by the movement; and

(2) an appropriate stop or turn signal in the manner provided in sections 27 through 28 of this chapter.

Id. (emphases added). Section 27 provides: "Except as provided in subsection (b) [regarding farm tractors and implements], a stop or turn signal required under this chapter may be given by means of the hand and arm or by a signal lamp or lamps or mechanical signal device." Ind. Code § 9-21-8-27(a). And Section 28 provides: "All signals required under this chapter may be given by hand and arm," then describes the arm signals to be used for a left turn, right turn, or stop. Ind. Code § 9-21-8-28.

Chauncy makes no argument that the repeal of Indiana Code 9-21-8-25 and the amendments to Indiana Code Section 9-21-8-24 should apply retroactively, nor is there any indication in the language of the latter statute that would indicate that our General Assembly intended the amendments to apply retroactively.

Staggers informed her that she did not signal for a turn until she had already stopped at the intersection. Officer Staggers asked Deaton where she was coming from, and Deaton replied that she was returning home from visiting her father and a friend. Officer Staggers considered Deaton's replies to be vague and hesitant and noted that Deaton appeared to be nervous, though he admitted that it was normal for a driver to be nervous during a traffic stop. Upon request, Deaton handed Officer Staggers her driver's license and a vehicle registration.

[5] Chauncy, who was in the front passenger seat of Deaton's car, also gave her identification to Officer Staggers upon his request. Officer Staggers returned to his vehicle to run Deaton's and Chauncy's names through dispatch to check for active warrants. After Officer Staggers returned to his car, Deaton waved another registration out of her driver's side window to get his attention. Officer Staggers returned to Deaton's vehicle, and Deaton explained that she had given him the wrong registration and handed over the correct one. Officer Staggers took the correct registration and returned to his patrol car. While speaking with dispatch, Officer Staggers learned that neither Deaton nor Chauncy had any active warrants but that both had previously been charged with crimes involving methamphetamine.

[6] Officer Staggers exited his patrol car again, walked back to Deaton's car, and asked her if she would be willing to step out of the car and speak with him. Deaton declined to do so. Officer Staggers asked if there were any drugs or weapons in the car, and Deaton stated that there were no drugs, but admitted

that she did have a knife in her purse. Officer Staggers informed Deaton that he was going to issue her a written warning for the turn signal violation in lieu of a ticket and returned to his patrol car to print the warning using his in-car computer and printer. As he returned to his car, Officer Staggers radioed SPD Officer Charles Curry, a canine officer with a drug-sniffing canine, Buck, to come to the scene. Back inside his patrol car, Officer Staggers entered Deaton's personal and vehicle information into his computer to produce the written warning. Staggers testified that his computer was "spinning," and that this caused a delay in printing the warning. Tr. Vol. II p. 45.

[7] While Officer Staggers entered the information into his computer, Officer Curry arrived on the scene. Officer Curry instructed Deaton and Chauncy to step out of the car because Buck is an aggressive police dog. After the occupants had exited the car, Officer Curry brought Buck to the front of the car and motioned for the dog to sniff the car. Buck jumped up on the front bumper, so Officer Curry instructed Buck to get back on the ground. Officer Curry instructed Buck to sniff the car by moving his hand toward the driver's side door window. Buck jumped up with his front paws on the door of the car and put his head in the window for a short time. Officer Curry then instructed Buck to put his paws back on the ground. Officer Curry again moved his hand toward the driver's door. Buck responded by jumping up to the window again and putting his head inside the car for a moment. Buck then sat down at Officer Curry's feet, which indicated that Buck had alerted to the odor of illicit drugs. Seconds later, Officer Staggers finished printing the written warning. From the time Deaton

stopped her car to the time Buck alerted for the presence of illicit drugs, approximately seventeen minutes and thirty-eight seconds had elapsed.

[8] The police informed Deaton that, based on Buck's alert, they now had probable cause to search her car. During the subsequent search, the police found methamphetamine, scales, and smoking pipes.

[9] On August 17, 2021, the State charged Chauncy with dealing in methamphetamine, a Level 2 felony. Chauncy filed a motion to suppress the evidence found in the search of Deaton's car and claimed that the police illegally stopped Deaton's car, unlawfully detained Deaton and Chauncy, and illegally searched the car. The trial court denied Chauncy's motion to suppress. Chauncy filed a motion requesting that the trial court certify its order for interlocutory appeal, which the trial court granted on March 22, 2022. We subsequently accepted interlocutory jurisdiction, and this appeal ensued.

Discussion and Decision

[10] Chauncy claims that the initial stop of Deaton's vehicle violated both the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution. Chauncy further claims that the police impermissibly prolonged the stop in order to conduct a dog-sniff, which she also claims violated her rights under both the Fourth Amendment and Article 1, Section 11.

[11] The Fourth Amendment provides:

The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST. amend. IV. If a search is conducted without a warrant, the State bears the burden to show that one of the well-delineated exceptions to the warrant requirement applies. *Farris v. State*, 144 N.E.3d 814, 819-20 (Ind. Ct. App. 2020) (citing *M.O. v. State*, 63 N.E.3d 329, 331 (Ind. 2016)), *trans. denied*.

[12] The text of Article 1, Section 11 of the Indiana Constitution mirrors that of the Fourth Amendment, but our courts interpret Article 1, Section 11 separately and independently. *See Farris*, 144 N.E.3d at 820 (citing *Robinson v. State*, 5 N.E.3d 362, 368 (Ind. 2014)). If a defendant raises a claim under Article 1, Section 11, the State must show the police conduct was reasonable under the totality of the circumstances. *Id.* (citing *Robinson*, 5 N.E.3d at 368).

Standard of Review

[13] “When a trial court denies a motion to suppress evidence, we necessarily review that decision ‘deferentially, construing conflicting evidence in the light most favorable to the ruling.’” *Marshall v. State*, 117 N.E.3d 1254, 1258 (Ind. 2019) (quoting *Robinson v. State*, 5 N.E.3d 362, 365 (Ind. 2014)), *cert. denied*, 140 S. Ct. 113 (2019). We, however, consider any substantial and uncontested evidence favorable to the defendant. *Id.* We review the trial court’s factual findings for clear error, and we decline invitations to reweigh evidence or judge

witness credibility. *Id.* We consider “afresh any legal question of the constitutionality of a search and seizure.” *O’Keefe v. State*, 139 N.E.3d 263, 267 (Ind. Ct. App. 2019) (quoting *Hansbrough v. State*, 49 N.E.3d 1112, 1114 (Ind. Ct. App. 2016), *trans. denied*).

I. The Police had Probable Cause to Stop Deaton’s Vehicle

[14] Chauncy first contends that Officer Staggers’s stop of Deaton’s car violated the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution. Specifically, she claims that the police did not have reasonable suspicion for the traffic stop, thereby rendering any evidence seized after the stop inadmissible. We disagree.

[15] Under both the Fourth Amendment and Article 1, Section 11, police officers may stop a vehicle when they observe any traffic violations. *See State v. Keck*, 4 N.E.3d 1180, 1184 (Ind. 2014) (citing *State v. Quirk*, 842 N.E.2d 334, 340 (Ind. 2006)) (both addressing Article 1, Section 11); *Toppo v. State*, 171 N.E.3d 153, 155-56 (Ind. Ct. App. 2021) (noting that, under the Fourth Amendment, “the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.”) (quoting *Whren v. United States*, 517 U.S. 806, 810, 116 S. Ct. 1769, 1772 (1996)), *trans. denied*.

Accordingly, any traffic violation, however minor, creates probable cause to stop the driver of the vehicle. *Quirk*, 842 N.E.2d at 340. Although Chauncy frames her argument as one of whether Officer Staggers had “reasonable suspicion” to stop Deaton’s car, our Supreme Court has explained that “[i]f an officer observes a driver commit a traffic violation, he has probable cause—and

thus also the lesser included reasonable suspicion—to stop that driver.” *Keck*, 4 N.E.3d at 1184 (citing *Quirk*, 842 N.E.2d at 340).

[16] Here, Officer Staggers stopped Deaton’s vehicle because he observed her fail to signal 200 feet before her turn. Chauncy claims that Officer Staggers lacked reasonable suspicion to stop her vehicle because he was unable to identify the length of the block on which Deaton was traveling. Officer Staggers, however, testified that Deaton did not activate her turn signal until she was already at the intersection where she made her turn. Chauncy claims that Officer Staggers’s dashboard video is unclear regarding when Deaton activated her turn signal. We disagree with Chauncy’s characterization of the video. Having viewed the video, we can only conclude that the video corroborates Officer Staggers’s testimony that Deaton did not activate her turn signal until she was already stopped at the intersection.²

[17] Deaton clearly violated the then-existing traffic statute requiring a driver to signal a turn 200 feet prior to the turn. Accordingly, Officer Staggers had probable cause to stop Deaton’s vehicle. The traffic stop was, therefore, permissible under both the federal and state constitutions. *See Farris*, 144 N.E.3d at 821 (holding that, under both the Fourth Amendment and Article 1, Section 11, a police officer had probable cause to conduct a traffic stop of

² At the very least, the video does not indisputably contradict Officer Staggers’s testimony. *See Love v. State*, 73 N.E.3d 693, 699 (Ind. 2017) (holding that where video evidence “indisputably contradicts” a trial court’s factual findings, relying on such video evidence does not constitute “reweighing” evidence and holding that video evidence is indisputable only if “no reasonable person could view the video and conclude otherwise.”); accord *Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022).

defendant's vehicle where the officer observed the defendant did not use a turn signal until the vehicle was almost at the intersection where it turned, which violated then-existing traffic laws regarding use of turn signals), *trans. denied*.

II. The Police Did not Prolong the Traffic Stop

[18] Chauncy also claims that, under both the Fourth Amendment and Article 1, Section 11, Officer Staggers impermissibly prolonged the traffic stop so that Officer Curry's dog could conduct a sniff of Deaton's car.

[19] "It is well settled that a dog sniff is not a search protected by the Fourth Amendment or Article 1, Section 11 of the Indiana Constitution." *Tinker v. State*, 129 N.E.3d 251, 256 (Ind. Ct. App. 2019) (citing *Austin v. State*, 997 N.E.2d 1027, 1034 (Ind. 2013)), *trans. denied*. "Accordingly, no degree of suspicion is required to summon the canine unit to the scene to conduct an exterior sniff of the car or to conduct the sniff itself." *Id.* at 255-56 (quoting *State v. Hobbs*, 933 N.E.2d 1281, 1286 (Ind. 2010)).

[20] A dog sniff of a vehicle, however, "becomes 'an unreasonable investigatory detention if the motorist is held for longer than necessary to complete the officer's work related to the traffic violation and the officer lacks reasonable suspicion that the motorist is engaged in criminal activity.'" *Tinker*, 129 N.E.3d at 256 (quoting *Austin*, 997 N.E.2d at 1034). As we explained in *Tinker*:

In *Rodriguez v. United States*, 575 U.S. 348, 351, 135 S. Ct. 1609, 1612 (2015), the United States Supreme Court explained that the tolerable duration of a seizure is dictated by the seizure's particular "mission." In the context of a traffic stop, an officer's

mission is to address the underlying traffic violations that warranted the stop and attend to related safety concerns. *Id.* This includes checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the vehicle’s registration and proof of insurance. *Id.* at 1615. While “[t]hese checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly[,]” a canine sniff, “by contrast, is a measure aimed at ‘detect[ing] evidence of ordinary criminal wrongdoing.’” *Id.* (quoting *Indianapolis v. Edmond*, 531 U.S. 32, 40-41, 121 S. Ct. 447, 545 (2000)). Thus, a traffic stop “prolonged beyond” the “time reasonably required to complete [the stop’s] mission” is “unlawful.” *Id.* at 1616 (quoting *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S. Ct. 834, 837 (2005)). **“The critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket, . . . but whether conducting the sniff prolongs—i.e., adds time to—the stop.”** *Id.* (quotations omitted). The burden is on the State to show that the time for the traffic stop was not increased due to a canine sniff. *Wells v. State*, 922 N.E.2d 697, 700 (Ind. Ct. App. 2010), *trans. denied*.

129 N.E.3d at 256 (emphasis added).

[21] Here, the following timeline sets forth the actions taken during the stop and their duration:

- 1:13:39 a.m. Officer Staggers stops his vehicle behind Deaton’s car.
- 1:13:40 a.m. Officer Staggers approaches the car and tells Deaton the reason for the stop and asks for the vehicle registration and Deaton and Chauncy’s identification.

- 1:15:39 a.m. Officer Stagers returns to his vehicle with the identification and registration.
- 1:16:22 a.m. Officer Stagers exits his car to get the correct registration from Deaton.
- 1:16:46 a.m. Officer Stagers returns to his vehicle with the correct registration.
- 1:19:05 a.m. Officer Stagers asks Deaton if she would exit the car and speak with him, but she declines. Officer Stagers asks if there are any weapons or drugs in the car and he informs Deaton he will issue a written traffic warning.
- 1:21:43 a.m. Officer Stagers returns to his vehicle and radios for Officer Curry to come to the scene.
- 1:23:18 a.m. Officer Stagers goes back to Deaton to ask for her proof of insurance, and Deaton shows her insurance information on her phone.
- 1:24:40 a.m. Officer Stagers returns to his patrol car and begins to input Deaton's information into his computer.
- 1:27:04 a.m. Officer Curry arrives and is briefed on the situation by Officer Stagers.
- 1:30:34 a.m. Officer Curry gets Buck out of the vehicle.
- 1:31:16 a.m. Buck alerts to the presence of illicit drugs in the car.
- 1:31:24 a.m. Officer Stagers's computer prints the warning.

See Ex. Vol. State's Exs. 1, 2. Accordingly, from the initial stop to the printing of the written warning, a total of seventeen minutes and forty-five seconds elapsed.

[22] Although Chauncy claims that Officer Staggers impermissibly delayed the stop by asking if there were any weapons or drugs in the vehicle, our Supreme Court has held that “[w]here an officer stops a vehicle for a traffic violation, a request for the driver’s license and vehicle registration, a license plate check, a request to search the driver’s vehicle **and an inquiry regarding whether the driver has a weapon in the vehicle** are within the scope of reasonable detention.” *Quirk*, 842 N.E.2d at 340 (emphasis added). Moreover, Officer Staggers asked this question before he requested Officer Curry to come to the scene with his police dog, making it unlikely that Officer Staggers was purposely delaying the stop so that a dog sniff could occur.

[23] Officer Staggers also testified that his computer was running slow, and we are in no position to second-guess the trial court’s credibility judgment of Officer Staggers’s testimony. Officer Curry arrived just over thirteen minutes after the initial stop, and Buck alerted approximately four minutes later. More importantly, Officer Staggers had not yet completed his traffic stop when Buck alerted to the presence of illicit drugs in the car, as Officer Staggers still had not printed the written warning.

[24] In short, the dog sniff did not prolong the stop, which is the critical question. *See Rodriguez*, 575 U.S. at 351, 135 S. Ct. at 1612 (citing *Caballes*, 543 U.S. at 407, 125 S. Ct. at 837). Because the dog sniff did not prolong the stop, the stop

did not become an investigatory detention that was unreasonable absent reasonable suspicion that the motorist was engaged in criminal activity.³

[25] Accordingly, we conclude that the trial court did not err by denying Chauncy's motion to suppress the evidence found in the subsequent search of Deaton's vehicle. *See Tinker*, 129 N.E.3d at 258 (dog sniff did not impermissibly prolong traffic stop where the canine officer arrived fourteen minutes after the stop began and the dog alerted while the traffic stop was still ongoing); *Hansbrough v. State*, 49 N.E.3d 1112 (Ind. Ct. App. 2016) (dog sniff did not impermissibly prolong traffic stop where the canine officer arrived approximately fourteen minutes after the stop began and the dog alerted two minutes later while the initial officer was still checking for warrants); *Cf. Quirk*, 842 N.E.2d 341-43 (concluding that traffic stop was improperly prolonged in order to conduct a dog sniff of the defendant's vehicle where the defendant was detained while the officer completed his work on the traffic violation, defendant was told he was free to go, then detained again for reasons unrelated to the traffic violation, released again, then followed and effectively detained a third time for an additional twenty minutes while a canine was brought to the scene); *Wells*, 922 N.E.2d at 700 (holding that the length of the traffic stop of the defendant's car was substantially lengthened by the call for a canine officer to conduct a dog sniff where stopping officer had, within twenty minutes, received the necessary information from the defendant, confirmed that there were no warrants for the

³ Chauncy does not argue on appeal that, once Buck alerted to the presence of the illicit drugs in the vehicle, the police did not have probable cause to search the car.

defendant, confirmed that the vehicle was not stolen, and then detained the defendant for an additional twenty minutes before the canine officer arrived to start the dog sniff).

Conclusion

[26] The traffic stop of the car in which Chauncy was a passenger was supported by probable cause based on the driver's failure to signal her turn prior to stopping at the intersection. Furthermore, the dog sniff of the vehicle did not prolong the traffic stop and, therefore, was not an additional detention that required reasonable suspicion under either the Fourth Amendment or Article 1, Section 11. We, therefore, affirm the order of the trial court denying Chauncy's motion to suppress the drugs found during the search of the vehicle.

[27] Affirmed.

Altice, C.J., and Brown, J., concur.