

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Charles Anthony Robinson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 10, 2024

Court of Appeals Case No.
23A-CR-676

Appeal from the Huntington
Superior Court

The Honorable Jennifer E.
Newton, Judge

Trial Court Cause No.
35D01-2106-F2-000172

Memorandum Decision by Judge May
Judges Bailey and Felix concur.

May, Judge.

[1] Charles Anthony Robinson appeals following his convictions of Level 2 felony possession of methamphetamine with intent to deliver,¹ Level 4 felony unlawful possession of a firearm by a serious violent felon,² Level 5 felony possession of a narcotic drug,³ and Class B misdemeanor possession of marijuana,⁴ and the finding that he is a habitual offender.⁵ Robinson challenges the trial court's admission of evidence that police seized during a traffic stop of his vehicle. The parties present several issues for our review, which we revise and restate as:

1. Whether the police violated Robinson's rights under the Fourth Amendment of the United States Constitution by unconstitutionally:
 - 1.1 prolonging the traffic stop; or
 - 1.2 searching his vehicle; and
2. Whether Robinson's argument that the police violated his rights under Article 1, Section 11 of the Indiana Constitution:
 - 2.1 was waived; and/or
 - 2.2 fails on the merits.

¹ Ind. Code § 35-48-4-1.1(e).

² Ind. Code § 35-47-4-5.

³ Ind. Code § 35-48-4-6(b).

⁴ Ind. Code § 35-48-4-11(a).

⁵ Ind. Code § 35-50-2-8.

We affirm.

Facts and Procedural History

[2] On May 30, 2021, Trooper Bryan Rumble of the Indiana State Police (“ISP”) was monitoring traffic on Interstate 69 in Huntington County. At approximately 10:25 p.m., Trooper Rumble observed a car traveling southbound on the interstate at a speed of 99 miles per hour in an area where the posted speed limit was 70 miles per hour. Trooper Rumble pulled out onto the interstate to follow the vehicle. The vehicle then began to speed up after Trooper Rumble pulled out, and Trooper Rumble estimated that the vehicle reached a top speed of 120 miles per hour before he caught up to it. Trooper Rumble saw the vehicle take the exit from the interstate onto US 224, and he turned on his lights and siren to initiate a traffic stop. The vehicle stopped about a mile west of the exit.

[3] When Trooper Rumble approached the vehicle, he found Robinson in the driver’s seat and Takeetha Woodson in the front passenger seat. Robinson told Trooper Rumble that he was traveling from Fort Wayne to Indianapolis, and Robinson explained that he exited the interstate to find a gas station. Trooper Rumble found Robinson’s explanation suspicious because Robinson had turned west onto US 224 even though a gas station was located nearby on the eastbound portion of US 224 and a sign on the exit ramp had indicated that two other gas stations were located further eastward on US 224. Trooper Rumble

also asked Robinson about his speed, and Robinson responded, “I’m just driving.” (Tr. Vol. II at 15.)

[4] Trooper Rumble took Robinson’s driver’s license and registration and checked his information in the department’s database. Trooper Rumble began writing a speeding ticket but then reapproached the vehicle. He thought that “because of the circumstances that lead up to this traffic stop [he] figured that there was a chance that there was more . . . than what had met the eye.” (*Id.* at 93.)

Trooper Rumble asked Robinson to exit the vehicle. He had Robinson stand between the back of Robinson’s car and the front of the police cruiser. Trooper Rumble then approached the passenger side of the vehicle and spoke with Woodson. He detected the odor of marijuana while speaking with Woodson. Trooper Rumble asked Robinson about the odor, and Robinson stated that he had been around people earlier in the day who were smoking marijuana. Trooper Rumble then began searching the driver’s side of the vehicle while Woodson remained seated in the front passenger seat. Trooper Rumble discovered a large amount of cash in the vehicle’s center console, and he radioed for assistance. A Huntington County Sheriff’s deputy arrived on the scene. Trooper Rumble asked Woodson to exit the vehicle, and the deputy watched Robinson and Woodson while Trooper Rumble continued his search.

[5] The vehicle’s glove box was locked, but Trooper Rumble was able to pull it open. Trooper Rumble found a mason jar in the glove box, and inside the jar, Trooper Rumble saw marijuana, plastic baggies containing white substances, and multi-colored pills. Trooper Rumble also searched the vehicle’s trunk and

found two additional mason jars with marijuana inside them and a loaded handgun. The deputy arrested Robinson and transported him to the jail. Another deputy arrived on the scene and drove Woodson to the nearby gas station, but the gas station was closed. The deputy then took Woodson to the ISP's Fort Wayne post where she was allowed to arrange for someone to pick her up.

[6] Trooper Rumble also went to the ISP Fort Wayne post and processed the evidence collected from Robinson's vehicle. The ISP laboratory tested the handgun found in Robinson's trunk and found Robinson's DNA present on the handgun's grip. The ISP laboratory also tested the items from the mason jars in Robinson's vehicle. The laboratory's analysis determined the evidence included over forty grams of methamphetamine, approximately seven grams of cocaine, and over sixty grams of marijuana.

[7] On June 1, 2021, the State charged Robinson with Level 2 felony dealing in methamphetamine, Level 3 felony possession of methamphetamine,⁶ Level 4 felony unlawful possession of a firearm by a serious violent felon, Level 5 felony possession of cocaine, and Class B misdemeanor possession of marijuana.⁷ The State also filed an information alleging Robinson qualified for a habitual offender sentence enhancement. On July 18, 2022, Robinson filed a

⁶ Ind. Code § 35-48-4-6.1.

⁷ The State also charged Robinson with Level 2 felony dealing in a schedule I controlled substance, Indiana Code section 35-48-4-2(f), but the State dismissed the charge prior to trial.

motion to suppress all evidence obtained during the May 30, 2021, traffic stop. On December 12, 2022, the trial court conducted an evidentiary hearing on Robinson's motion to suppress. The trial court ordered each party to submit a post-hearing brief, and on January 13, 2023, the trial court issued an order summarily denying Robinson's motion to suppress.

[8] The trial court held Robinson's jury trial beginning on February 2, 2023. During the trial, Robinson reasserted his objection to admission of the evidence based on his argument that Trooper Rumple's search of his vehicle was unconstitutional, and the trial court overruled his objection. The jury found Robinson guilty as charged. Robinson waived his right to a jury trial on the habitual offender phase of his trial, and the trial court found Robinson qualified for a habitual offender sentence enhancement.

[9] The trial court sentenced Robinson on March 2, 2023. With respect to Robinson's conviction of Level 2 felony possession of methamphetamine with intent to deliver, the trial court sentenced Robinson to a term of twenty-five years, enhanced by an additional twenty years because of the habitual offender finding. The trial court then sentenced Robinson to a term of six years for Level 4 felony unlawful possession of a firearm by a serious violent felon, a term of four years for Level 5 felony possession of cocaine, and a term of 180 days for Class B misdemeanor possession of marijuana. The trial court did not enter a judgment of conviction of Level 3 felony possession of methamphetamine to avoid exposing Robinson to double jeopardy. The trial

court ordered Robinson to serve all the sentences concurrently for an aggregate term of forty-five years.

Discussion and Decision

1. Fourth Amendment

[10] Robinson asserts Trooper Rumble violated his rights under the Fourth Amendment to the United States Constitution⁸ by unconstitutionally prolonging the traffic stop and exceeding the scope of a lawful search. While Robinson presents his appeal as a challenge to the trial court’s denial of his motion to suppress, Robinson’s case proceeded to trial, and he renewed his objection to admission of the evidence at trial. Therefore, Robinson’s appeal is best framed as a challenge to the admission of the evidence at trial. *See Clark v. State*, 994 N.E.2d 252, 259 (Ind. 2013).

[11] We review a trial court’s decision to admit or exclude evidence at trial for an abuse of discretion. *Miller v. State*, 201 N.E.3d 683, 687 (Ind. Ct. App. 2022). “A trial court abuses its discretion if its decision is clearly against the logic and effect of the facts and circumstances before the court or if the court misapplies

⁸ The Fourth Amendment to the United States Constitution states:

The right of the 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 person or things to be seized.

the law.” *Mack v. State*, 23 N.E.3d 742, 750 (Ind. Ct. App. 2014), *trans. denied*. “However, when a party argues the admission of evidence constituted a constitutional violation, we apply a de novo standard of review.” *Miller*, 201 N.E.3d at 687.

1.1 Length of Traffic Stop

[12] Robinson argues Trooper Rumble unconstitutionally detained him by holding him for a longer period than was necessary to write him a ticket for speeding. Specifically, he asserts: “Trooper Rumble unreasonably prolonged the traffic stop to continue investigating on a hunch . . . and returned to investigate Robinson’s passenger without justification.” (Appellant’s Br. at 17.)

[13] “A traffic stop is a seizure for purposes of the Fourth Amendment, one that seizes both the driver and any passengers in the vehicle.” *Kenny v. State*, 210 N.E.3d 321, 327 (Ind. Ct. App. 2023), *trans. denied*. An officer may initiate a traffic stop whenever the officer has reasonable suspicion to believe the driver committed a traffic infraction. *Marshall v. State*, 117 N.E.3d 1254, 1259 (Ind. 2019), *cert. denied*, 140 S. Ct. 113 (2019). As part of the traffic stop, the officer is entitled to make “ordinary inquiries incident to the traffic stop.” *Curry v. State*, 90 N.E.3d 677, 684 (Ind. Ct. App. 2017), *trans. denied*. These “typically include checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” *Id.* A traffic stop becomes an unlawful detention, however, “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.” *Austin v. State*, 997 N.E.2d 1027, 1034 (Ind. 2013). “Reasonable suspicion exists where the facts known to the officer and the reasonable inferences therefrom would cause an ordinarily prudent person to believe that criminal activity has or is about to occur.” *Bridgewater v. State*, 793 N.E.2d 1097, 1099 (Ind. Ct. App. 2003), *trans. denied*.

[14] Here, Trooper Rumble had probable cause to pull Robinson over for speeding when he observed him traveling almost thirty miles per hour above the posted speed limit. Robinson’s behavior only further increased Trooper Rumble’s suspicions of criminal activity when Robinson accelerated to approximately 120 miles per hour after Trooper Rumble began following him. Robinson also continued driving for approximately a mile after Trooper Rumble turned on his lights and siren, and when Trooper Rumble approached Robinson, Robinson’s explanation that he exited the highway to get gas did not make sense because Robinson drove westbound on US 224 even though three gas stations were located near the exit in the opposite direction. Thus, Robinson’s behavior gave rise to a reasonable suspicion of criminal activity above and beyond his initial act of speeding. *See, e.g., Finger v. State*, 799 N.E.2d 528, 535 (Ind. 2003) (holding motorist’s inconsistent responses, improbable explanations, and nervousness gave rise to reasonable suspicion, justifying officer’s investigative stop); *State v. Belcher*, 735 N.E.2d 92, 95 (Ind. Ct. App. 2000) (holding a defendant’s flight from officers is part of the totality of circumstances giving rise to reasonable suspicion of criminal activity), *reh’g denied, trans. denied*.

Consequently, Trooper Rumble was justified in speaking with Woodson separately from Robinson to try “to figure out if they were going to give the same answer or not.” (Tr. Vol. II at 94.) Trooper Rumble’s decision to do so did not transform his traffic stop of Robinson into an unlawful detention. *See, e.g., U.S. v. Yang*, 39 F. 4th 893, 903 (7th Cir. 2022) (holding reasonable suspicion existed that vehicle’s occupants were engaged in criminal activity and officers did not unlawfully extend duration of traffic stop by questioning the occupants), *cert. denied*, 143 S. Ct. 754 (2023).

1.2 Scope of Search

[15] Robinson also asserts that “[t]he search of Robinson’s vehicle was unlawful because it did not fall within the scope of a search incident to lawful arrest.” (Appellant’s Br. at 18) (emphasis removed). However, Trooper Rumble’s search of Robinson’s vehicle was not conducted pursuant to the search incident to arrest exception to the Fourth Amendment because Robinson was not under arrest until drugs were found in his car. Rather, the search was conducted pursuant to the automobile exception.

[16] The Fourth Amendment generally prohibits warrantless searches subject to several well-delineated exceptions. *Moore v. State*, 211 N.E.3d 574, 579 (Ind. Ct. App. 2023). One such exception is the automobile exception. *Id.* “[T]he automobile exception allows police to search a vehicle without obtaining a warrant if they have probable cause to believe evidence of a crime will be found there.” *Id.* This “exception is based not only on ready mobility but also on the lesser expectation of privacy with respect to automobiles, so that even where an

automobile is not immediately mobile, a warrantless search may still be justified.” *Myers v. State*, 839 N.E.2d 1146, 1151 (Ind. 2005). “The automobile exception allows law enforcement to search not only the vehicle itself but also any containers inside it that may contain evidence. The authority to search containers found in a vehicle extends to *locked* containers.” *Wertz v. State*, 41 N.E.3d 276, 280 (Ind. Ct. App. 2015) (emphasis in original) (internal citation omitted). Trooper Rumpel smelled the odor of marijuana while speaking with Woodson, and thus, he had probable cause to believe there was marijuana inside the car. *See, e.g., Clark v. State*, 994 N.E.2d 252, 260 (Ind. 2013) (holding that the smell of burnt marijuana emanating from motorist’s windows provided officer with probable cause to justify search of car). Therefore, pursuant to the automobile exception, Trooper Rumpel was justified in searching the areas of Robinson’s vehicle where marijuana could be found. *See, e.g., Moore*, 211 N.E.3d at 581 (holding the automobile exception to the warrant requirement authorized the officer’s search of defendant’s trunk after officer smelled strong odor of marijuana).

2. Indiana Constitution

2.1 Waiver

[17] While Robinson also contends that Trooper Rumpel’s traffic stop and search of his vehicle violated his rights under the Indiana Constitution, the State asserts Robinson waived any argument pursuant to the Indiana Constitution because he did not provide an independent analysis in his brief of the seizure and search under the Indiana Constitution. The State directs us to our decision in

Hansbrough v. State, 49 N.E.3d 1112 (Ind. Ct. App. 2016), *trans. denied*. In *Hansbrough*, we held that although Hansbrough cited both the Fourth Amendment and Article 1, Section 11 of the Indiana Constitution in his brief, he waived his argument under the Indiana Constitution by failing to provide an independent argument or analysis of his claim under the Indiana Constitution. *Id.* at 1114 n.3. Like the defendant in *Hansbrough*, Robinson failed to include an independent analysis of his claim under the Indiana Constitution, and therefore, we hold Robinson has waived his arguments pursuant to the Indiana Constitution.

2.2 Merits

[18] Waiver notwithstanding, any argument under the Indiana Constitution would also fail. Although the language of Article 1, Section 11 of the Indiana Constitution mirrors the Fourth Amendment, we interpret Article 1, Section 11 independently. *Richey v. State*, 210 N.E.3d 329, 338 (Ind. Ct. App. 2023), *reh'g denied*. We assess the reasonableness of a search or seizure under the Indiana Constitution by looking at the totality of the circumstances. *Id.* This is principally done by balancing 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.” *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005).

[19] Trooper Rumble’s degree of concern, suspicion, or knowledge that a traffic violation occurred was high after he observed Robinson traveling about thirty

miles per hour above the posted speed limit. His degree of suspicion only increased when Robinson sped up after he began following Robinson. Robinson's failure to stop for one mile after Trooper Rumpel activated his lights and siren and Robinson's suspicious explanation for exiting the interstate also heightened the degree of law enforcement concern. Moreover, the degree of law enforcement concern or suspicion that the vehicle contained drugs increased when Trooper Rumpel smelled the odor of marijuana while speaking with Woodson. *See, e.g., Moore*, 211 N.E.3d at 581 (holding officer properly stopped vehicle for having an expired license plate and the strong odor of marijuana "increased exponentially" the officer's degree of suspicion of criminal activity).

[20] The degree of intrusion into Robinson's activity was minimal as he had already been lawfully stopped and the search did not require much time. *See, e.g., McKinney v. State*, 212 N.E.3d 697, 707-08 (Ind. Ct. App. 2023) (holding degree of intrusion minimal when defendant was lawfully detained as the result of traffic violation and search was not overly long and related to positive dog sniff alert), *reh'g denied, trans. denied*. Finally, the extent of law enforcement needs in enforcing the traffic code and combating illegal drugs was high. *See id.* at 708 ("The needs of law enforcement to find evidence of drug activity is obviously high."). Therefore, the totality of the circumstances indicates Trooper Rumpel's detention of Robinson and the search of his vehicle was reasonable under the Indiana Constitution.

Conclusion

[21] Trooper Rumble did not violate Robinson's Fourth Amendment rights by stopping and searching his vehicle. In addition, although Robinson waived any argument that the stop and search of his vehicle violated his rights under the Indiana Constitution, the stop and search were nonetheless reasonable. Therefore, we affirm the trial court.

[22] Affirmed.

Bailey, J., and Felix, J., concur.