

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Broderick Williams,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 30, 2022

Court of Appeals Case No.
22A-CR-113

Appeal from the Tippecanoe
Superior Court

The Honorable Randy J. Williams,
Judge

Trial Court Cause No.
79D01-2011-F2-65

Bailey, Judge.

Case Summary

[1] Broderick Williams appeals his convictions following a bench trial for dealing in a controlled substance, as a Level 2 felony;¹ carrying a handgun without a license, as a Level 5 felony;² and possession of methamphetamine, as a Level 5 felony;³ as well as his adjudication as a habitual offender.⁴ Williams raises one issue for our review, namely, whether the trial court erred when it admitted evidence that law enforcement officers had obtained following a traffic stop. We affirm.

Facts and Procedural History

[2] On October 28, 2020, Sergeant Robert Lucas with the Purdue University Police Department (“PUPD”) observed a white pickup truck with “no license plate light on the vehicle.” Tr. at 8. It was dark outside, and Sergeant Lucas was “unable to read the license plate,” so he conducted a traffic stop of the vehicle. *Id.* When he approached the car, Sergeant Lucas observed that the driver, later identified as Williams, “might have been chewing on something,” and he saw “a bunch of loose tobacco leaves all over the ground.” *Id.* at 9. In Sergeant Lucas’ experience, loose tobacco leaves are “a common indicator there may be

¹ Ind. Code § 35-48-4-2 (2021).

² I.C. § 35-47-2-1.

³ I.C. § 35-48-4-6.1.

⁴ I.C. § 35-50-2-8.

marijuana in the car because people typically take the tobacco leaves out of cigars and refill the cigars with marijuana.” *Id.* At that point, Sergeant Lucas asked Williams for his driver’s license, which Williams provided. Williams’ license had been issued by the State of Florida.

[3] On his way back to his vehicle, at 10:44 p.m., Sergeant Lucas called for a certified narcotics dog based on the loose tobacco leaves he had observed in Williams’ car. Once he returned to his car, Sergeant Lucas ran Williams’ license. Because it had been issued by another state, Sergeant Lucas ran the license through dispatch. Approximately three minutes after Sergeant Lucas had called for the narcotics dog, and before he had received a response from dispatch, PUPD Sergeant Anthony Sandifer arrived with his K-9 partner, Paco. The officers then asked Williams and his passenger to exit the vehicle, and Paco conducted a “free air sniff” around Williams’ car. *Id.* at 34. At 10:51 p.m., Paco “alert[ed].” *Id.* at 35. Sergeant Lucas ultimately received a response from dispatch, which revealed that Williams’ license “check[ed] out.” *Id.* at 23.

[4] Based on Paco’s alert, Officers searched the interior of Williams’ vehicle. Sergeant Lucas found a cigar containing marijuana and a .22-caliber handgun. And another officer located “several bags of synthetic marijuana.” *Id.* at 45. As a result, Sergeant Lucas placed Williams in handcuffs and searched his person. Sergeant Lucas found two .22-caliber rounds in Williams’ pocket.

[5] Sergeant Lucas noticed that Williams began “sweating profusely” even though it was “very cold outside.” *Id.* at 14. Williams “started slurring,” and he had

“thick saliva around his mouth.” *Id.* Sergeant Lucas became “extremely concerned” for Williams’ well-being and thought Williams “had taken something that he maybe shouldn’t have,” so Sergeant Lucas called for a medic. *Id.* at 14. An ambulance arrived and took Williams, with Sergeant Lucas, to a hospital.

[6] At the hospital, Williams was checked into a room, and Sergeant Lucas handcuffed him to a bed. After Williams was examined and cleared, Sergeant Lucas transported Williams to the jail. About ten to fifteen minutes after they had left, a nurse found “a small bag of what looked to be like drugs.” *Id.* at 67. Hospital staff contacted officers, and Sergeant Lucas returned to collect the item. Officers later confirmed that the bag contained methamphetamine.

[7] The State charged Williams with dealing in a controlled substance, as a Level 2 felony (Count I); possession of a controlled substance, as a Level 6 felony (Count II);⁵ carrying a handgun without a license, as a Class A misdemeanor (Count III);⁶ carrying a handgun without a license, as a Level 5 felony (Count IV); and possession of methamphetamine, as a Level 5 felony (Count V). The State additionally alleged that he was a habitual offender.

[8] Prior to his trial, Williams filed a motion to suppress the evidence officers had obtained following the traffic stop. In particular, while Williams “concede[d]”

⁵ I.C. § 35-48-4-7.

⁶ I.C. § 35-47-2-1.

that the traffic stop was “valid,” he asserted that there was “no reasonable suspicion” for the dog sniff and that the dog sniff “prolonged the traffic stop” such that the officers had searched his car “without lawful authority” and in violation of his Fourth Amendment rights. Appellant’s App. Vol. 2 at 24-25.

[9] The court held a combined hearing on Williams’ motion to suppress and bench trial at which Sergeant Lucas testified regarding the traffic stop and subsequent search of Williams’ car.⁷ Following the trial, both parties submitted supplemental briefs regarding the search of Williams’ car. Williams again reiterated that there was “no reasonable suspicion” to search his car. *Id.* at 29. And he maintained that the “sniff was unwarranted and not part of the traffic stop ‘mission’ for citing [him] for failing to properly light his license plate” such that the search violated his Fourth Amendment rights. *Id.* at 30. The State responded and asserted that the “K9 deployment, free air sniff of the vehicle, and subsequent search [were] all valid activities” because the “mission of the traffic stop was still in progress[.]” *Id.* at 36. Accordingly, the State contended that Williams’ vehicle “was lawfully searched.” *Id.*

[10] The trial court determined that, at the time Officer Sandifer and Paco were conducting the sniff, Officer Lucas “had not received a return from central dispatch” regarding Williams and, therefore, “the mission of the traffic stop was still in progress.” *Id.* at 43. Accordingly, the court denied Williams’ motion to

⁷ Williams again moved to suppress “any evidence in the car,” which motion the court took under advisement pending supplemental briefs by the parties. Tr. at 12.

suppress and found him guilty of Counts I, II, III, and V. Thereafter, Williams admitted that he was a habitual offender, and he pleaded guilty to Count IV. Due to double jeopardy concerns, the court entered judgment of conviction against Williams on Counts I, IV, V, and the habitual offender adjudication and sentenced him to an aggregate term of twenty-six years. This appeal ensued.

Discussion and Decision

[11] Williams contends that the court erred under the Fourth Amendment when it admitted as evidence items that law enforcement officers had seized during and following the search of his car.⁸ As this Court has previously stated:

The trial court has broad discretion to rule on the admissibility of evidence. Generally, evidentiary rulings are reviewed for an abuse of discretion and reversed when admission is clearly against the logic and effect of the facts and circumstances. However, when a challenge to an evidentiary ruling is predicated on the constitutionality of a search or seizure of evidence, it raises a question of law that is reviewed *de novo*. The State has the burden to demonstrate that the measures it used to seize information or evidence were constitutional.

⁸ Williams also contends that the search of his car violated his rights under the Indiana Constitution. But Williams does not develop a separate argument under Article 1, Section 11 of the Indiana Constitution and has, thus, waived any purported argument on that issue. *See Wilkins v. State*, 946 N.E.2d 1144, 1147 (Ind. 2011) (“Because he provides no authority or independent analysis supporting a separate standard under the state constitution, any state constitutional claim is waived.”).

Curry v. State, 90 N.E.3d 677, 683 (Ind. Ct. App. 2017) (internal citations omitted).

[12] On appeal, Williams does not challenge the validity of the initial traffic stop based on his failure to have a working light on his license plate. Rather, he contends that the stop became unlawful because Sergeant Lucas “did not have reasonable suspicion to call for a K-9 search” and because “the purpose of the original stop was complete.” Appellant’s Br. at 18-19. Therefore, he argues that the subsequent search of his vehicle was invalid and the evidence obtained was inadmissible. We cannot agree.

[13] “It is unequivocal under our jurisprudence that even a minor traffic violation is sufficient to give an officer probable cause to stop the driver of a vehicle.” *Austin v. State*, 997 N.E.2d 1027, 1034 (Ind. 2013). Moreover, a dog sniff is not a search protected by the Fourth Amendment. *State v. Hobbs*, 933 N.E.2d 1281, 1286 (Ind. 2010). Therefore, “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.* A narcotics dog sweep “is 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.” *Austin*, 997 N.E.2d at 1034.

[14] Here, we need not determine whether Sergeant Lucas had reasonable suspicion that Williams was engaged in criminal activity because the record reveals that

the purpose of the stop was still ongoing when the dog sniff began. In *Rodriguez v. United States*, the Supreme Court held that “a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution’s shield against unreasonable seizures.” 575 U.S. 348, 350 (2015). Specifically, the Court held that a “seizure justified only by a police-observed traffic violation, therefore, ‘become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission’ of issuing a ticket for the violation.” *Id.* at 350-51 (quoting *Illinois v. Caballes*, 543 U.S. 405, 407 (2005) (alterations original to *Rodriguez*)).

[15] The Court explained that, beyond determining whether to issue a traffic ticket, an officer’s mission includes ordinary inquiries incident to the traffic stop such as “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.* at 355. The critical question is not whether the sniff occurs before or after the officers issues a ticket, but whether conducting the sniff prolongs or adds time to the stop. *See id.* at 357. The burden is on the State to show 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*.

[16] Here, the facts and inferences indicate that the dog sniff of Williams’ vehicle was conducted while the valid traffic stop was still ongoing. Sergeant Lucas approached Williams’ car, observed loose tobacco leaves on the ground, and asked Williams for his license. After he received Williams’ license, he started to walk back to his car and, at 10:44 p.m., called for a narcotics dog. Sergeant

Lucas then ran Williams' license through dispatch because it had been issued by a different state. Approximately three minutes after Sergeant Lucas had called for the dog, and before he received a response from dispatch, Sergeant Standifer arrived with Paco. And, at 10:51 p.m., only seven minutes after Sergeant Lucas had called for a dog and a mere four minutes after Sergeant Standifer arrived, Paco alerted.

- [17] In other words, the dog sniff occurred before the traffic stop was completed. Under these circumstances, the subsequent search of Williams' vehicle was valid, and the trial court did not abuse its discretion when it admitted evidence officers had obtained during and after the search. *See Hansbrough v. State*, 49 N.E.3d 1112, 1115 (Ind. Ct. App. 2016) (holding a search of a car following a dog sniff that occurred sixteen minutes after the start of the traffic stop when the officer had not completed his paperwork and was still checking for outstanding warrants when the canine arrived was valid).

Conclusion

- [18] Because the purpose of the stop was still ongoing at the time of the dog sniff, the search of Williams' car did not violate his Fourth Amendment rights. We therefore affirm Williams' convictions.

- [19] Affirmed.

Bradford, C.J., and Pyle, J., concur.