

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2010-125941-001 DT

02/02/2012

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
K. Waldner
Deputy

STATE OF ARIZONA

ADAM M SUSSER

v.

DANIELLE LEEANN BELLITT (001)

CRAIG JACOB ROSENSTEIN

MESA JUSTICE CT-WEST
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

Lower Court Case Number TR 2010-125941.

Defendant-Appellant Danielle Leeann Bellitt (Defendant) was convicted in West Mesa Justice Court of driving under the influence. Defendant contends the trial court erred in denying her Motion To Suppress, which alleged the officer did not have reasonable suspicion to stop her vehicle. For the following reasons, this Court affirms the judgment and sentence imposed.

I. FACTUAL BACKGROUND.

On May 6, 2010, Defendant was cited for driving under the influence, A.R.S. § 28-1381(A)(1) & (A)(2); and a license plate lamp violation, A.R.S. § 28-925(C). Prior to trial, Defendant filed a Motion To Suppress alleging the officer did not have reasonable suspicion to stop her vehicle. At the hearing on that motion, Officer Morin of the Salt River Police Department testified he was on duty at Pima Road and Indian School Road at 3:00 a.m. (R.T. of Dec. 16, 2010, at 2.) The speed limit there was 40 mph, and he saw an SUV go through the intersection at approximately 50 mph and pass another vehicle. (*Id.* at 3-5, 7.) He testified he had training and experience in estimating the speed of a vehicle. (*Id.* at 7.) As the vehicle passed by Officer Morin approximately 10 to 12 feet away, he could not see the license plate because the light was not working properly. (*Id.* at 4-5, 8.) He decided to stop the vehicle to tell the driver about the license plate light. (*Id.* at 6.) After Officer Morin stopped the vehicle, he arrested Defendant for driving under the influence and cited her for the license plate light violation. (*Id.*)

Kevin Fedyski testified he was Defendant's uncle, and the next day he accompanied her when she went to get her vehicle from the impound lot. (R.T. of Dec. 16, 2010, at 9.) He said he found nothing wrong with any of the lights on the vehicle, including the license plate light. (*Id.* at 10-11.) Because it was during daylight hours when he checked the lights, he was not able to determine whether the license plate light was visible from 50 feet away. (*Id.* at 11.)

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At the end of the testimony the trial court (Clayton Hamblen) found the vehicle's speed of 50 mph in a 40 mph zone and passing another vehicle in the intersection was sufficient to give the officer reasonable suspicion to stop the vehicle. (R.T. of Dec. 16, 2010, at 12.) For the license plate light violation, Clayton Hamblen said, "Although I am going to find that there is nothing to support the state's position that the light was out, but there's also nothing to disprove the state's position that it could [not] be read from 50 feet." (*Id.* at 12–13.) The trial court therefore denied Defendant's Motion To Suppress.

Defendant later submitted the matter on the record. The trial court (Mark Richard Anderson) found Defendant guilty of the two DUI offenses, and responsible for the license plate light violation. (Docket Sheet at 4.) On June 14, 2010, the trial court imposed sentence. On June 23, 2010, Defendant filed a timely notice of appeal. This Court has jurisdiction pursuant to ARIZONA CONSTITUTION Art. 6, § 16, and A.R.S. § 12–124(A).

II. ISSUE: DID THE TRIAL COURT ABUSE ITS DISCRETION IN FINDING THE OFFICER HAD
REASONABLE SUSPICION TO STOP DEFENDANT'S VEHICLE.

Defendant contends the trial court abused its discretion in finding the officer had reasonable suspicion to stop her vehicle. In reviewing a trial court's ruling on a motion to suppress, an appellate court is to defer to the trial court's factual determinations, including findings based on a witness's credibility and the reasonableness of inferences the witness drew, but is to review de novo the trial court's legal conclusions. *State v. Gonzalez-Gutierrez*, 187 Ariz. 116, 118, 927 P.2d 776, 778 (1996); *State v. Olm*, 223 Ariz. 429, 224 P.3d 245, ¶ 7 (Ct. App. 2010). A police officer has reasonable suspicion to detain a person if there are articulable facts for the officer to suspect the person is involved in criminal activity or the commission of a traffic offense. *State v. Lawson*, 144 Ariz. 547, 551, 698 P.2d 1266, 1270 (1985). The Arizona statutes provide that a peace officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any traffic law committed in the officer's presence. A.R.S. § 28–1594; A.R.S. § 13–3883(B). In this context, the Arizona Supreme Court has said the following:

The fourth amendment to the United States Constitution guarantees the right to be secure against unreasonable search and seizure. This guarantee requires arrests to be based on probable cause and permits limited investigatory stops based only on an articulable reasonable suspicion of criminal activity. Such stops are permitted although they constitute seizures under the fourth amendment. Officer Hohn testified that he stopped Blake because Blake's car had been weaving in its lane, and he suspected the driver to be under the influence of alcohol. We find that Blake's weaving was a specific and articulable fact which justified an investigative stop.

State v. Superior Court (Blake), 149 Ariz. 269, 273, 718 P.2d 171, 175 (1986) (citations omitted). Thus, in order for a trial court to find that an officer was legally justified in stopping a suspect, it must find the officer (1) knew of articulable facts that (2) raised a reasonable suspicion of criminal activity or a traffic violation.

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Defendant contends the trial court erred because it based its finding of reasonable suspicion on the vehicle's speed above the posted speed limit, while the officer said his reason for stopping the vehicle was the license plate light was not working properly. The United States Supreme Court has said the following:

[T]he fact that the officer does not have the state of mind which is hypothesized by the reasons which provide the legal justification for the officer's action does not invalidate the action taken as long as the circumstances, viewed objectively, justify that action.

Scott v. United States, 436 U.S. 128, 138 (1978). Or, to state this in another way:

[R]egardless of whether a police officer subjectively believes that the occupants of an automobile may be engaging in some other illegal behavior, a traffic stop is permissible as long as a reasonable officer in the same circumstances *could have* stopped the car for the suspected traffic violation.

United State v. Whren, 53 F.3d 371, 375 (D.C. Cir. 1995) (emphasis original), *aff'd*, *Whren v. United States*, 517 U.S. 806 (1996). The Arizona Court of Appeals has held a traffic violation provides sufficient grounds to stop a vehicle. *State v. Orendain*, 185 Ariz. 348, 352, 916 P.2d 1064, 1068 (Ct. App. 1996). It has further stated:

It is uncontestable that traveling at any speed over the posted speed limit is a traffic offense and a trooper is justified in stopping a vehicle for the offense.

State v. Acosta, 166 Ariz. 254, 257, 801 P.2d 489, 492 (Ct. App. 1990), *quoting United States v. Garcia*, 897 F.2d 1413, 1419 (7th Cir. 1990).

Although the court of appeals stated that "any speed over the posted speed limit is a traffic offense," that is not actually true. The law in Arizona is a person must drive at a speed that is reasonable and prudent. A.R.S. § 28-701(A). If a person is driving in excess of certain statutory speed limits or in excess of a posted speed limit determined and altered pursuant to A.R.S. § 28-701(C) and § 28-703(A)-(D), that is prima facie evidence the speed is too great and therefore unreasonable. § 28-701(B). Thus, because Defendant was driving 50 mph in a 40 mph zone, that was prima facie evidence her speed was too great and therefore unreasonable, and the officer therefore had the legal authority to stop her vehicle.

The officer did not cite Defendant for violating A.R.S. § 28-701(A) and therefore the trial court never had to determine whether Defendant had in fact violated that statute. That does not, however, affect the legal issue whether the officer had reasonable suspicion to stop Defendant:

Moreover, when the police make an arrest based upon probable cause, it is not material that the person arrested may turn out to be innocent, and the arresting officer is not required to conduct a trial before determining whether or not to make the arrest.

Cullison v. City of Peoria, 120 Ariz. 165, 168, 584 P.2d 1156, 1159 (1978).

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Further, an appellate court is obligated to affirm the trial court when any reasonable view of the facts and law might support the judgment of the trial court, even when the trial court has reached the right result for a different reason. *State v. Canez*, 202 Ariz. 133, 42 P.3d 564, ¶ 51 (2002) (“[W]e are obliged to uphold the trial court’s ruling if legally correct for any reason”); *State v. LaGrand*, 153 Ariz. 21, 29, 734 P.2d 563, 571 (1987) (“It is our duty to affirm a trial court’s ruling provided the result is legally correct.”); *State v. Perez*, 141 Ariz. 459, 464, 687 P.2d 1214, 1219 (1984) (“The fact that the trial judge came to the proper conclusion for the wrong reason is irrelevant. We are obliged to affirm the trial court’s ruling if the result was legally correct for any reason.”); *State v. Chavez*, 225 Ariz. 442, 239 P.3d 761, ¶ 5 (Ct. App. 2010) (“We are obliged to affirm the trial court’s ruling if the result was legally correct for any reason.”); *State v. Rumsey*, 225 Ariz. 374, 238 P.3d 642, ¶ 4 (Ct. App. 2010) (“And we will affirm the trial court if it is correct for any reason.”); *State v. Childress*, 222 Ariz. 334, 214 P.3d 422, ¶ 9 (Ct. App. 2009) (“We will uphold the court’s ruling if legally correct for any reason supported by the record.”); *State v. Waicelunas*, 138 Ariz. 16, 20, 672 P.2d 968, 972 (Ct. App. 1983) (“We will affirm the trial court when it reaches the right result for the wrong reason.”). In the present case, the trial court (Mark Richard Anderson) found Defendant responsible for the license plate light violation. Because Defendant committed that traffic violation, Officer Morin had the legal authority to stop her vehicle for that license plate light violation.

III. CONCLUSION.

Based on the foregoing, this Court concludes the trial court correctly denied Defendant’s Motion To Suppress.

IT IS THEREFORE ORDERED affirming the judgment and sentence of the West Mesa Justice Court.

IT IS FURTHER ORDERED remanding this matter to the West Mesa Justice Court for all further appropriate proceedings.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen
THE HON. CRANE MCCLENNEN
JUDGE OF THE SUPERIOR COURT

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