



12/05/95 STATE MINNESOTA v. GINA LAUREEN REISEWITZ

1995 | Cited 0 times | Court of Appeals of Minnesota | December 5, 1995

DAVIES, Judge

This appeal is from a judgment of conviction for gross misdemeanor DWI under Minn. Stat. § 169.121, subds. 1(e), 3(c)(1) (1994). Appellant Gina Reisewitz argues that the investigative stop was not supported by articulable suspicion and that this prosecution is barred by double jeopardy. We affirm.

FACTS

Reisewitz was stopped at about 1:30 a.m. by an officer who saw her vehicle coming towards him as it approached a stop sign. The officer testified:

As the vehicle neared the stop sign, I heard this loud screeching of brakes. I observed the vehicle's front end dip substantially, and then observed the vehicle come to a stop near that intersection.

The officer made a U-turn to pursue and stop Reisewitz's car. Reisewitz was arrested and charged with DWI. The officer testified that he stopped the car because he felt there might be an equipment violation that would pose a hazard to other vehicles. He testified on cross-examination that he had a basis to suspect the driver of DWI.

Because Reisewitz had had a prior implied consent or DWI revocation within five years, her driver's license was revoked for 180 days. That implied consent revocation was later rescinded. Reisewitz filed a motion to dismiss the DWI prosecution on double jeopardy grounds. The trial court denied that motion and found that the stop was valid.

DECISION

I.

The basis required for an investigative stop is minimal. The officer

must be able to point to specific and articulable facts which, together with reasonable inferences from those facts, reasonably warrant the invasion of a citizen's personal security.

State v. Engholm, 290 N.W.2d 780, 783 (Minn. 1980). "All that is required is that the stop be not the product of mere whim, caprice, or idle curiosity." Marben v. State, Dep't of Pub. Safety, 294 N.W.2d



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697, 699 (Minn. 1980) (quoting *People v. Ingle*, 36 N.Y.2d 413, 330 N.E.2d 39, 44, 369 N.Y.S.2d 67 (N.Y. 1975)). "An actual violation of the [traffic laws] need not be detectable." *Id.*

The officers may make their assessment on the basis of all the circumstances, and may draw inferences and make deductions which might elude an untrained person.

Holm v. Commissioner of Pub. Safety, 416 N.W.2d 473, 474 (Minn. App. 1987). Because the facts in this case are not significantly in dispute, the standard of review requires this court

to simply analyze the testimony of the officers and determine if, as a matter of law, the officers were justified under the cases in doing what they did.

State v. Storvick, 428 N.W.2d 55, 58 n.1 (Minn. 1988).

Reisewitz's sudden stop could have endangered anyone following her. See generally Minn. Stat. § 169.13, subd. 2 (1994) (driver who "halts" car in manner likely to endanger others is guilty of careless driving). In addition, the officer reasonably suspected that Reisewitz's brakes might be faulty. Such a defect would have posed more of a risk to other drivers than other equipment violations that have been held to justify an investigative stop. See, e.g., *State v. Barber*, 308 Minn. 204, 206, 241 N.W.2d 476, 477 (1976) (holding that officer was justified in stopping car whose license plate was wired rather than bolted on).

The officer also would have been justified, based on his experience, to infer that Reisewitz came to a screeching halt at the stop sign because she had seen his squad car and knew she was intoxicated and driving illegally. See *Holm*, 416 N.W.2d at 474 (based on their experience, officers may draw inferences that would escape other persons).

Possible justifications for Reisewitz's sudden braking do not preclude it from being the basis for the stop. The officer needed only reasonable, articulable suspicion, not proof that some violation occurred. Here, he had three alternative grounds for the stop: Reisewitz's equipment, her inattentive driving, and her concern about his presence. Moreover, the fact that he did not tag Reisewitz for faulty brakes does not negate that basis for the stop. 416 N.W.2d at 475 ("failure to issue a citation [for conduct justifying stop] is not determinative of the validity of the stop").

Reisewitz relies on two cases of this court finding articulable suspicion lacking, namely *State v. Bender*, 381 N.W.2d 896 (Minn. App. 1986), and *Larson v. Commissioner of Pub. Safety*, 358 N.W.2d 154 (Minn. App. 1984). Each of these cases involves different circumstances and in each case this court heavily deferred to the trial court's decision that the stop was illegal. *Bender*, 389 N.W.2d at 898; *Larson*, 358 N.W.2d at 155. These decisions were also issued before the standard of review was clarified by the supreme court in *Storvick*, 428 N.W.2d at 58 n.1.



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II.

Reisewitz argues that her implied consent driver's license revocation constituted "punishment" for her impaired driving and that under the Double Jeopardy Clause she cannot be subjected to multiple punishments by being sentenced in the criminal DWI proceeding. Reisewitz's driver's license was revoked for 180 days (although the revocation was rescinded after she suffered an undetermined period of administrative revocation). This court has rejected the argument that a 180-day implied consent revocation constitutes "punishment" for purposes of the Double Jeopardy Clause. *State v. Parker*, 538 N.W.2d 141, 144 (Minn. App. Sept. 26, 1995).

Affirmed.

Judge Jack Davies

November 27, 1995

