

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38169

STATE OF IDAHO,	)	2011 Unpublished Opinion No. 668
	)	
<b>Plaintiff-Respondent,</b>	)	<b>Filed: October 20, 2011</b>
	)	
v.	)	<b>Stephen W. Kenyon, Clerk</b>
	)	
TERIANN JENKINS,	)	<b>THIS IS AN UNPUBLISHED</b>
	)	<b>OPINION AND SHALL NOT</b>
<b>Defendant-Appellant.</b>	)	<b>BE CITED AS AUTHORITY</b>
	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Judgment of conviction for possession of a controlled substance, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Russell J. Spencer, Deputy Attorney General, Boise, for respondent.

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MELANSON, Judge

Teriann Jenkins appeals from her judgment of conviction following her conditional plea of guilty to possession of a controlled substance. Specifically, she asserts that the district court erred by denying her motion to suppress evidence. For the reasons set forth below, we affirm.

The following facts were revealed through testimony at the hearing on Jenkins’ motion to suppress. At approximately 3:23 in the morning, a Twin Falls police officer observed a vehicle driving slowly down an alleyway. The officer followed the vehicle for a time as it entered a street and turned onto another street. The officer radioed dispatch and requested a check on the vehicle’s license plate number. The officer was informed by dispatch that the vehicle was registered to Jenkins with an address in Wendell. The officer knew Jenkins from contacts in 2003, 2004, and 2005 and knew that Jenkins resided in the area during that time. The officer recognized Jenkins as the person driving the vehicle. The officer then asked dispatch to run a check on Jenkins’ driver’s license. Dispatch informed the officer that Jenkins’ Idaho driver’s

license had expired in 2004. The officer turned on his overhead lights and stopped Jenkins' vehicle. After the stop, Jenkins informed the officer that she had a valid license from Michigan but she could not find it at that moment. The officer asked a second officer, who had arrived to assist, to run a check for a Michigan driver's license issued to Jenkins. While the second officer was contacting dispatch, Jenkins consented to a search of her vehicle. The search revealed a small amount of methamphetamine and a syringe. At some point, dispatch informed the officers that there was no Michigan driver's license status for Jenkins. Jenkins did not provide the officer with a Michigan driver's license.

Jenkins filed a motion to suppress, asserting that the officer lacked the requisite reasonable suspicion to support the traffic stop and that the officer should have determined whether she was properly licensed in a state other than Idaho prior to stopping her. Jenkins alleged that she did, in fact, have a valid Michigan chauffeur's license and that, under Michigan law, she was permitted to drive in a personal as well as a professional capacity. Attached to her motion (but not admitted in evidence) was what she asserted to be a copy of her Michigan chauffeur's license as well as a copy of the relevant Michigan statute. The district court denied the motion to suppress. Jenkins entered a conditional guilty plea, reserving her right to appeal.

The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, we accept the trial court's findings of fact that are supported by substantial evidence, but we freely review the application of constitutional principles to the facts as found. *State v. Atkinson*, 128 Idaho 559, 561, 916 P.2d 1284, 1286 (Ct. App. 1996). At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court. *State v. Valdez-Molina*, 127 Idaho 102, 106, 897 P.2d 993, 997 (1995); *State v. Schevers*, 132 Idaho 786, 789, 979 P.2d 659, 662 (Ct. App. 1999).

A traffic stop by an officer constitutes a seizure of the vehicle's occupants and implicates the Fourth Amendment's prohibition against unreasonable searches and seizures. *Delaware v. Prouse*, 440 U.S. 648, 653 (1979); *Atkinson*, 128 Idaho at 561, 916 P.2d at 1286. Under the Fourth Amendment, an officer may stop a vehicle to investigate possible criminal behavior if there is a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws. *United States v. Cortez*, 449 U.S. 411, 417 (1981); *State v. Flowers*, 131 Idaho 205, 208, 953 P.2d 645, 648 (Ct. App. 1998). The reasonableness of the suspicion must be evaluated upon

the totality of the circumstances at the time of the stop. *State v. Ferreira*, 133 Idaho 474, 483, 988 P.2d 700, 709 (Ct. App. 1999). The reasonable suspicion standard requires less than probable cause but more than mere speculation or instinct on the part of the officer. *Id.* An officer may draw reasonable inferences from the facts in his or her possession, and those inferences may be drawn from the officer's experience and law enforcement training. *State v. Montague*, 114 Idaho 319, 321, 756 P.2d 1083, 1085 (Ct. App. 1988). Suspicion will not be found to be justified if the conduct observed by the officer fell within the broad range of what can be described as normal driving behavior. *Atkinson*, 128 Idaho at 561, 916 P.2d at 1286.

We first note that the question of whether Jenkins did, in fact, have a valid Michigan driver's license is not relevant to a decision on her motion to suppress. There is no requirement that the person stopped be actually guilty. All that is required is that the officer has a reasonable articulable suspicion based upon the totality of the circumstances at the time of the stop that the vehicle is being operated contrary to traffic laws. *See State v. Hollon*, 136 Idaho 499, 502, 36 P.3d 1287, 1290 (Ct. App. 2001) (legality of arrest not dependent upon finding of guilt). Here, Jenkins was driving a vehicle with an Idaho license plate and a valid Idaho registration in her name with an Idaho address. The officer had numerous prior contacts with Jenkins in Idaho and, before the stop, the officer recognized Jenkins from previous contacts. The officer had no reason to believe that Jenkins no longer resided in Idaho and no reason to believe she resided in Michigan. The officer testified, and the district court found, that it was not possible for the officer to make a nationwide driver's license check because such checks must be performed one state at a time. On these facts at the time of the stop, the officer had a reasonable suspicion that Jenkins had violated I.C. § 49-301 which requires drivers in Idaho to have in their possession a valid Idaho driver's license.<sup>1</sup> Accordingly, the district court did not err in denying Jenkins' motion to suppress. Therefore, Jenkins' judgment of conviction for possession of a controlled substance is affirmed.

Chief Judge GRATTON and Judge GUTIERREZ, **CONCUR.**

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<sup>1</sup> Idaho Code Section 49-302 provides an exception for nonresidents who have in their possession a valid license from their home state or country. However, until after the stop, the officer had no reason to believe that Jenkins was not an Idaho resident.