

IN THE COURT OF APPEALS OF THE STATE OF NEVADA


DENNIS JAMES SCOTT, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88222-COA

FILED

JUL 23 2025

ORDER OF AFFIRMANCE

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

Dennis James Scott, Jr., appeals from a judgment of conviction, entered pursuant to a conditional guilty plea, of possession of a firearm by a prohibited person. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

In August 2022, Deputy Aaron Lynch of the Washoe County Sherriff's Office interdiction task force pulled Scott over for speeding on I-580 near Reno. While talking with Scott at the passenger-side window, Deputy Lynch smelled the odor of marijuana coming from the car and asked Scott to step out of the vehicle. After Scott admitted to possessing a legal amount of marijuana and consented to a search of the passenger area of his vehicle, Deputy Lynch discovered a scale dusted with a white powdery substance as well as 24 grams of illegal narcotics hidden in the vehicle's steering column. Scott was arrested and prosecuted for two counts of possession and one count of sell, transport, give, or attempt to sell, transport, or give a schedule I or II controlled substance. From jail, Scott made a recorded phone call to his girlfriend wherein he stated that the

police did not find the “flame” that he had on him. Deputy Lynch believed this to be a reference to overlooked contraband.

In December 2022, Deputy Lynch encountered Scott driving the same vehicle eastbound on I-80, around 5:00 p.m. After observing Scott following too closely, failing to maintain his lane of travel, and changing lanes without using his signal, Deputy Lynch initiated the traffic stop that is at issue in the present case. Shortly after Deputy Lynch pulled Scott over, two other officers and a K-9 unit arrived at the scene of the stop to provide cover.

As before, Deputy Lynch initially spoke with Scott at his passenger-side window. Scott indicated that he was returning from Sacramento where he had picked up his grandson, who was in the back seat of the car. However, Scott was unable to describe exactly where in Sacramento he had been. When Deputy Lynch asked Scott how long he had been in Sacramento, Scott responded, “three hours.” Deputy Lynch advised Scott he would be giving him a warning citation and asked Scott to exit the vehicle.

Outside the vehicle, Deputy Lynch asked if Scott had any weapons on him, and Scott responded in the negative. Deputy Lynch then asked Scott, “Do you care if I pat you down?” and Scott said “Yeah.” Deputy Lynch clarified whether Scott was consenting to a search, and Scott said, “you can pat me down.” At this point, another police officer, Deputy Jason Grulli, took Scott’s identification documents from Deputy Lynch to conduct a warrants check. Deputy Lynch conducted a pat-down search for weapons and asked Scott if he had any warrants or anything “from the last time.” At that point, Scott recognized Deputy Lynch as the officer who had pulled him over back in August and he asked Deputy Lynch, “How’s it going?” After

briefly exchanging pleasantries, Scott mentioned that he was "trying to take care of all this bullshit still." When Deputy Lynch asked him what was "going on with that," Scott mentioned that he was in a "drug program right now."

Deputy Lynch asked Scott to confirm that he had "nothing else in the car right now" and Scott denied having anything in his car. Deputy Lynch then specifically asked Scott if he had any marijuana in the car, and Scott said that he did not. Deputy Lynch again asked if Scott had any drugs at all, and Scott again responded in the negative.

Deputy Lynch asked Scott if he would consent to a search of his vehicle, and Scott evaded the question. Scott mentioned that he was trying to get home and that he had to submit to a urine test "at the program right now." When Deputy Lynch asked again, Scott refused consent to search his vehicle.

Next, Sergeant Ned Nemeth approached with a Brazos¹ and handed it to Deputy Lynch. Immediately thereafter, Deputy Lynch delegated the duty of documenting and issuing the warning citation to Sergeant Nemeth. Deputy Lynch then advised Scott that they would be conducting a K-9 free air sniff of the vehicle. At this point, Scott retracted his earlier statements and admitted to having "a little bit of weed" in the vehicle but he had "nothing serious."

The officers removed Scott's grandson from the vehicle to conduct the free air sniff.² Deputy Lynch asked Scott if they would find

¹A Brazos is a device used to document warning citations.

²According to testimony at the hearing below, this is a standard safety precaution as the free air sniff of a vehicle cannot be conducted while a person is inside that vehicle.

anything else hidden in his car, and Scott replied that they would not. Scott then attempted to place a phone call. When Deputy Lynch asked Scott who he was calling, Scott said he was calling his girlfriend because he was supposed to be "coming to meet her" to go to the movies. Scott quickly added that he was meeting her in "three hours." Scott assured Deputy Lynch he would not find anything other than the "little tiny weed" in the vehicle.

When the dog gave a positive alert, the police searched Scott's vehicle and found a legal amount of marijuana as well as two firearms hidden behind the car's steering column. Scott was arrested and charged with one count of possession of a firearm by a prohibited person.

Scott moved to suppress the firearms. He argued that Deputy Lynch unlawfully stopped Scott's vehicle, that the detention was illegally prolonged, and that the use of the K-9 was an unlawful search because of Nevada's legalization of recreational marijuana. Scott also contended that the totality of the circumstances did not provide the police officers probable cause to conduct a vehicle search. In opposition, the State argued that the stop was lawful because of the observed traffic violations, that the stop was not prolonged because the alleged prolongation occurred while in the process of writing Scott's warning citation, and that officers had probable cause to search Scott's vehicle prior to deploying the K-9.

This motion proceeded to a two-day evidentiary hearing. At the hearing, Deputy Lynch testified that he suspected Scott of drug trafficking because Scott was returning from Sacramento after a brief, three-hour trip and because Scott evaded several of his questions. Deputy Lynch opined that in his training and experience, these quick trips on I-80 could potentially indicate drug trafficking, as I-80 was a well-known drug-trafficking corridor. Deputy Lynch specifically noted Scott's uncertainty

regarding what parts of town Scott was in while in Sacramento. Deputy Lynch further acknowledged that Scott changed his story by first stating that he was heading to check into a drug program but then claiming that he was supposed to meet up with his girlfriend at the movies. Deputy Lynch explained that during the August 2022 stop, Scott initially admitted only having marijuana but was hiding 24 grams of illegal narcotics in his vehicle's steering column. He further clarified that a typical traffic stop takes about 10 to 15 minutes to issue a warning citation.

Following the hearing, the district court issued an order denying Scott's motion to suppress. In that order, the district court found that Deputy Lynch observed Scott commit various traffic violations, so the stop, itself, was not illegal. The district court's order also recounted Deputy Lynch's familiarity with Scott based on their prior interaction in August 2022. The court acknowledged that Deputy Lynch again encountered Scott on I-80, which was a "well known drug trafficking route." The order further stated that Scott "changed his story regarding drugs in the car" by first denying having any contraband but later admitting to having marijuana in the car. The order pointed out that Scott also changed his story about his travel plans, first telling Deputy Lynch he was on his way to get drug tested, and then claiming he was going to the movies with his girlfriend. As for the free air sniff, the district court found that "[t]he sniff test of the vehicle was not a search for Fourth Amendment purposes and was conducted while Scott was lawfully detained for the traffic violation, [and] therefore, did not constitute a seizure." Based on these circumstances, the district court found probable cause for both the traffic stop and the search of the vehicle. The court also found the stop was reasonable in length of time.

Thereafter, Scott entered a conditional guilty plea wherein he retained his right to appeal the district court's order denying his motion to suppress. Scott was later sentenced to 24 to 60 months in prison, to run consecutive to his sentence in his case related to the August 2022 stop.³ This appeal followed.

On appeal, Scott argues the district court erred in denying his motion to suppress. Specifically, Scott contends that Deputy Lynch lacked reasonable suspicion to conduct the traffic stop, that Scott's detention was unconstitutionally prolonged, and that the vehicle search was not supported by probable cause. Upon review, we disagree and thus affirm the judgment of conviction.

Suppression issues involve mixed questions of law and fact. *State v. Beckman*, 129 Nev. 481, 485, 305 P.3d 912, 916 (2013). "This court reviews findings of fact for clear error, but the legal consequences of those facts involve questions of law that we review de novo." *Id.* at 486, 305 P.3d at 916. Both the United States and Nevada Constitutions guarantee "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV; Nev. Const. art. 1 § 18.

Deputy Lynch had reasonable suspicion to conduct a traffic stop

Scott first argues that Deputy Lynch unlawfully stopped his vehicle. Scott questions the veracity of Deputy Lynch's testimony because of the lack of video evidence showing the traffic violations and contends that the purported reasons for the traffic stop were merely pretextual. In

³In his other case, Scott was sentenced to 19 to 48 months in prison. *Scott v. State*, No. 88225-COA, 2024 WL 4798851, at *1 (Nev. Ct. App. Nov. 14, 2024) (Order of Affirmance).

response, the State argues that Deputy Lynch's testimony was sufficient to show that he had a reasonable suspicion that Scott was committing a crime, and that the stop was thus justified. We agree with the State.

"In order for a traffic stop to comply with the Fourth Amendment, there must be, at a minimum, reasonable suspicion to justify the intrusion." *State v. Rincon*, 122 Nev. 1170, 1173, 147 P.3d 233, 235 (2006). "A law enforcement officer has a reasonable suspicion justifying an investigative stop if there are specific, articulable facts supporting an inference of criminal activity." *Id.*

Here, Deputy Lynch testified that he observed Scott commit several traffic violations, including following too closely, failing to maintain his lane, and merging without using a turn signal. Despite Scott's arguments that there was no video evidence memorializing these violations, the district court implicitly found Deputy Lynch's testimony credible, and this court will not "evaluate the credibility of witnesses because that is the responsibility of the trier of fact." *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). Under these circumstances, a reasonable officer could have stopped Scott for these violations, regardless of his or her subjective intentions. *See Gama v. State*, 112 Nev. 833, 836-37, 920 P.2d 1010, 1012-13 (1996) (adopting the United States Supreme Court's "could have" test to resolve pretextual claims under the Fourth Amendment); *see also Doyle v. State*, 116 Nev. 148, 155, 995 P.2d 465, 469-70 (2000) (stating "subjective intentions play no role in ordinary probable-cause Fourth Amendment analysis"). We therefore conclude that Scott's stop was supported by reasonable suspicion and thus did not violate Scott's constitutional rights.

Even if Scott's detention was prolonged, it was not prolonged in violation of his constitutional rights

Scott argues that his detention was unlawfully prolonged beyond the time reasonably needed to complete the traffic stop. Scott specifically contends that “[r]emoving [him] from the vehicle, conducting a pat search, questioning him about his other case, his travels, drugs, and the request to search the vehicle were all fundamental shifts from the mission of the stop, and added unnecessary time to the stop.” In response, the State argues that the stop was not prolonged because the officers initiated and worked on the traffic warning citation contemporaneously with Deputy Lynch’s conversation with Scott and the free air sniff. We conclude that Scott is not entitled to relief.

“[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop, and attend to related safety concerns.” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (internal citation omitted). Generally, a stop that is prolonged beyond the time reasonably necessary to complete the traffic stop’s mission violates one’s Fourth Amendment rights “unless there was independent reasonable suspicion justifying each prolongation.” *United States v. Evans*, 786 F.3d 779, 786 (9th Cir. 2015); *see also Beckman*, 129 Nev. at 488, 305 P.3d at 917 (“A prolonged stop may be reasonable in three limited circumstances: when the extension of the stop was consensual, the delay was de minimis, or the officer lawfully receives information during the traffic stop that creates a reasonable suspicion of criminal conduct.”).

Here, the district court determined that “[t]his stop was reasonable in length of time.” In so concluding, the district court impliedly determined that the stop was not unconstitutionally prolonged. *See*

Beckman, 129 Nev. at 488, 305 P.3d at 917 (recognizing a prolonged stop does not violate the Fourth Amendment if it is reasonable). Upon review, we conclude that this determination is supported by the record.

The parties do not dispute that the entire duration of the stop was less than 15 minutes, which is the amount of time Deputy Lynch testified was typical. Moreover, to the extent Scott argues that his detention was prolonged by his removal from the vehicle, asking a driver to exit the vehicle during a traffic stop does not alone offend the Fourth Amendment. *See Pennsylvania v. Mimms*, 434 U.S. 106, 111 (1977) (stating a police officer's command that a driver exit a car after lawfully detaining the driver constitutes a de minimis intrusion into the driver's personal liberty). Similarly, Scott consented to a pat-down search for weapons and thus any prolongation by the frisk was not unreasonable. *See Beckman*, 129 Nev. at 488, 305 P.3d at 917; *cf. United States v. Russell*, 664 F.3d 1279, 1282-83 (9th Cir. 2012) (holding that a pat-down search was reasonable given the suspect's consent to the same).

We also disagree with Scott's contention that the stop was unconstitutionally prolonged by Deputy Lynch's questioning about his travels and his prior case. "During the course of a lawful traffic stop, officers may . . . inquire about the occupants' destination, route, and purpose." *Beckman*, 129 Nev. at 486, 305 P.3d at 916. Therefore, Deputy Lynch did not unconstitutionally prolong the stop by inquiring into Scott's travel from Sacramento and his subsequent destinations. Additionally, the discussions regarding Scott's prior case occurred shortly after Scott exited the vehicle, were in response to comments that Scott himself made, and were contemporaneous to the ongoing traffic stop. These brief inquiries did not measurably prolong the traffic stop and therefore did not violate Scott's

constitutional rights. *See Arizona v. Johnson*, 555 U.S. 323, 333 (2009) (“An officer’s inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop.”).

We similarly conclude that Deputy Lynch’s inquiries into whether Scott possessed contraband and whether he could search Scott’s vehicle did not measurably prolong the stop. On appeal, Scott focuses primarily on whether Deputy Lynch’s questioning on these matters was unrelated to the mission of the stop. However, Scott does not explain how this questioning temporally extended his detention. Accepting as true that these were unrelated inquiries, our review of the officers’ body-worn camera footage reveals that Deputy Lynch asked Scott about these matters contemporaneously with Deputy Grulli conducting a warrants check. Warrants checks are, undoubtedly, related to traffic stops. *See Beckman*, 129 Nev. at 486, 305 P.3d at 916 (“During the course of a lawful traffic stop, officers may . . . ask for a driver’s license and vehicle registration, run a computer check, and issue a ticket.”). Therefore, any such questioning did not measurably prolong the stop. *See Johnson*, 555 U.S. at 333.

Moreover, our review of the record indicates that at this time, the officers with the Washoe County Sherriff’s Office utilized a Brazos to document warning citations. The body-worn camera footage shows, and the hearing testimony confirms, that Deputy Lynch did not possess a Brazos until he was given one by Sergeant Nemeth approximately three minutes into the traffic stop. Deputy Lynch immediately returned the Brazos to Sergeant Nemeth and delegated the duty of issuing the warning citation to him. Scott’s argument that the stop should have concluded after 2 minutes

when Deputy Lynch advised Scott that he would be issuing a warning citation is unavailing, particularly in light of the fact that Deputy Lynch did not even appear to have a device that would allow him to document the warning citation until about 3 minutes into the stop and Deputy Lynch's testimony that typical traffic stops take about 15 minutes.

As to the K-9, the district court found that the free air sniff occurred during the traffic stop, and the record reflects that, at the time of the sniff test, the officers were still in the process of issuing Scott's warning citation. Thus, the officers did not prolong Scott's stop beyond the time necessary to complete the stop's purpose. *See Illinois v. Caballes*, 543 U.S. 405, 406-09 (2005) (accepting a state court's conclusion that a dog sniff conducted while an officer is in the process of writing a warning ticket did not prolong the duration of the stop); *see also Gama*, 112 Nev. at 838, 920 P.2d at 1013-14 (concluding a traffic stop was not unreasonably lengthy or intrusive where a dog sniff was conducted while the defendant was lawfully detained for traffic violations).

Last, the physical search of the vehicle necessarily could not have unconstitutionally prolonged the search because, as discussed in further detail below, Deputy Lynch obtained probable cause of independent criminal activity to conduct a warrantless search of the vehicle. *See Beckman*, 129 Nev. at 488, 305 P.3d at 917. In light of the foregoing, we conclude the district court did not err in determining that the length of the traffic stop was reasonable under the Fourth Amendment.

Under these circumstances, the search of Scott's vehicle was supported by probable cause, even absent the K-9's positive alert

Scott argues that the K-9 sniff and the subsequent search of his vehicle were unconstitutional searches under the Fourth Amendment. The State contends that the police had probable cause to search Scott's vehicle

even prior to deploying the drug-detecting K-9. On these facts, we agree with the State and conclude that Scott has not shown a basis for relief.⁴

“Warrantless searches are *per se* unreasonable under the Fourth Amendment subject only to a few specifically established and well delineated exceptions.” *Camacho v. State*, 119 Nev. 395, 399, 75 P.3d 370, 373 (2003) (quoting *Hughes v. State*, 119 Nev. 975, 979, 12 P.3d 948, 951 (2000)). One such exception is the automobile exception, which permits the search of an inherently mobile vehicle if the police officer has “probable cause to believe the vehicle contains contraband or evidence of a crime.” *State v. Lloyd*, 129 Nev. 739, 749, 312 P.3d 467, 473 (2013). Probable cause is a “flexible, common-sense standard” that requires a “fair probability that contraband or evidence of a crime will be found in a particular place.” *Illinois v. Gates*, 462 U.S. 213, 238-39 (1983); see *United States v. Cervantes*, 703 F.3d 1135, 1139 (9th Cir. 2012). Probable cause determinations are evaluated under the totality of the circumstances. See *United States v. Scott*, 705 F.3d 410, 417 (9th Cir. 2012); see also *Keese v. State*, 110 Nev. 997, 1002, 879 P.2d 63, 67 (1994).

⁴Scott contends that the K-9 sniff constituted a search under the Fourth Amendment because the sniff could detect marijuana, which is now legal in Nevada. As a result, Scott posits that either probable cause or a warrant are required before police can utilize a K-9 sniff. Since we agree that the State had probable cause to conduct a warrantless search of Scott’s vehicle prior to conducting the K-9 sniff, we need not address this argument. See *Palmer v. State*, 140 Nev., Adv. Op. 41 n.7, 553 P.3d 447, 456 n.7 (Ct. App. 2024) (recognizing that this court need not address constitutional arguments that are unnecessary to resolve the case at bar); see also *W. Cab Co. v. Eighth Jud. Dist. Ct.*, 133 Nev. 65, 67, 390 P.3d 662, 667 (2017) (“As a general principle, we practice judicial restraint, avoiding legal and constitutional issues if unnecessary to resolve the case at hand.”).

Here, the totality of the circumstances demonstrates that, even before conducting the K-9 sniff, Deputy Lynch had probable cause to believe that Scott's vehicle contained evidence of a crime. As the district court found, Deputy Lynch was familiar with Scott's prior involvement in transporting drugs on the interstate, as he had recently searched Scott's same vehicle and found both marijuana *and* illegal narcotics therein. See *Brinegar v. United States*, 338 U.S. 160, 177 (1949) (affirming a determination of probable cause based on the fact that the law enforcement officer had personal knowledge of the defendant's criminal history). During this subsequent traffic stop, Scott lied to Deputy Lynch numerous times, claiming that he did not have any drugs in his vehicle before admitting to having marijuana in the car. Additionally, Scott's story about his travel plans shifted over the course of his discussions with Deputy Lynch—first he claimed he was on his way to submit to a drug test “right now,” then he claimed was on his way to meet his girlfriend to go to the movies. Finally, Deputy Lynch also relied on his training and experience as a police officer to suspect Scott of transporting contraband because of his quick trip to Sacramento along a common trafficking route as well as Scott's ambiguous answers regarding where he had been in Sacramento.


Scott attempts to challenge the district court's probable cause finding by attacking each of the individual grounds for probable cause cited by the State. But even if each individual factor would not suffice by itself to establish probable cause, when considering them together, the totality of these circumstances showed a fair probability that Scott was concealing contraband, and thus Deputy Lynch had probable cause to search the vehicle. Because the officers had probable cause to search Scott's vehicle,

even before the K-9 alert, we conclude that the district court did not err in denying Scott's motion to suppress.⁵

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

⁵Insofar as Scott has raised other arguments not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.