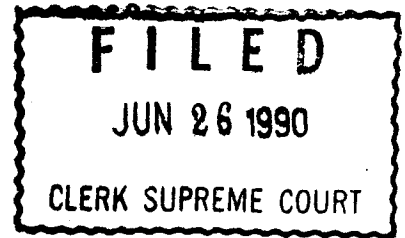


IN THE COURT OF APPEALS OF IOWA

No. 0-169 / 89-1153



STATE OF IOWA,

Appellee,

vs.

RICKY LEE CLAEYS,

Appellant.

326

Appeal from the Iowa District Court for Iowa County,
William R. Eads and Paul J. Kilburg, Judges.

The defendant appeals his conviction, following a bench trial, for driving while barred as a habitual offender in violation of Iowa Code section 321.560. **AFFIRMED.**

Steven E. Howes, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, Kenneth Martens, County Attorney, and Fred Stiefel, Assistant County Attorney, for appellee.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

OXBERGER, C.J.

327

The defendant, Ricky Lee Claeys, appeals from his conviction for driving while barred as a habitual offender. He claims that the trooper only learned about the status of his license as a result of an invalid vehicle stop. We affirm.

A trooper stopped Claeys' vehicle after observing the vehicle appeared to be speeding. Claeys contends the stop of his vehicle was invalid because the trooper had no reasonable cause to believe a crime was being committed. Claeys notes the trooper was not using radar to determine speed, and he argues the trooper had inadequate opportunity to determine his speed by visual observation.

The trooper testified he was at right angles from Claeys when he observed Claeys' vehicle proceeding fast. Claeys' vehicle was .2 miles from the trooper. The two vehicles reached the intersection about the same time.

On appeal, Claeys claims the trial court erred in applying a preponderance of evidence standard instead of a reasonable doubt standard to the motion to suppress issue. Iowa courts, like the federal courts, apply the preponderance of evidence standard to preliminary fact issues in determining admissibility of evidence. State v. Florie, 411 N.W.2d 689, 695 (Iowa 1987). The trial court did not err on this issue.

Claeys urges us to reverse the trial court's ruling on the motion to suppress. He says there was insufficient

evidence from which the trial court could find reasonable cause for the trooper to seize Claeys' vehicle. Specifically, in his brief he says:

The sole "fact" to show the Defendant was violating the law was a few seconds visual observation by the trooper. The Defendant would submit that such an observation does not allow an investigatory stop in light of . . . [recent cases].

Claeys did not object at trial to the trooper expressing his opinion that Claeys was violating the speed limit. Issues not raised at trial may not be raised for the first time on appeal. State v. Shearon, 449 N.W.2d 86, 88 (Iowa App. 1989).

Defendant has not challenged the admissibility of the trooper's opinion, only the value assigned to the evidence. Inadmissible evidence received without objection is accorded the same value as admissible evidence. Tamm, Inc. v. Pildis, 249 N.W.2d 823, 833 (Iowa 1976) (evidence received without objection becomes part of the evidence in the case to extent of its rational persuasiveness); Sallee v. Routson, 78 N.W.2d 516, 517 (Iowa 1956) (evidence received without objection that is otherwise inadmissible can be considered for all purposes and is entitled to its full and natural probative effect). Claeys having failed to object to the trooper's speed opinion cannot now claim the trial court did not have evidence to support its finding of reasonable cause for the trooper's seizure of Claeys' vehicle.

The trial court is affirmed.

AFFIRMED.