FILED
JAN 24 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
LINDA DIANE STOECKER,)
Defendant-Appellant.)

Filed January 24, 1984 164

3-436
83-594

Appeal from the Iowa District Court for Des Moines County - Thomas R. Brown, District Associate Judge.

Defendant appeals from her conviction for operating while intoxicated in violation of Iowa Code section 321.281. AFFIRMED.

Bruce J. Schulte of Dailey, Ruther, Bauer, Schulte & Hahn, Burlington, for defendant-appellant.

Thomas J. Miller, Attorney General, and Sherie Barnett, Assistant Attorney General, for plaintiff-appellee.

Heard by Donielson, P.J., and Hayden and Sackett, JJ.

DONIELSON, P.J.

Defendant appeals from her conviction of operating while intoxicated in violation of Iowa Code section 321.281. She claims there was no probable cause to arrest and, therefore, evidence obtained after her arrest should have been suppressed. We affirm.

Defendant was arrested when a police officer observed her unsuccessfully attempting to start a stalled vehicle in the middle of an intersection and suspected that she was under the influence of alcohol. The vehicle was not running and the officer did not know how long the vehicle had been stalled or who had been driving it when it stalled. Prior to and during trial, defendant unsuccessfully moved to suppress evidence of intoxication obtained subsequent to the arrest, asserting that the evidence that she had been operating the vehicle was insufficient to supply probable cause for the arrest. She was convicted and sentenced to two days in county jail and a $500 fine. This appeal followed.

The only issue raised in this case is whether the arresting officer had probable cause to arrest defendant for operating while intoxicated. Specifically, defendant claims that there was no probable cause to believe she was operating the vehicle; she does not claim that she was not intoxicated at the time. The controlling legal principles have been stated as follows:

> A valid arrest may be made without a warrant when an officer has probable cause to believe a crime has been committed and that defendant committed it. Probable cause consists of circumstances which would lead a reasonable person to believe defendant committed the crime.

State v. Shane, 255 N.W.2d 324, 326 (Iowa 1977). We determine probable cause on practical considerations and not on legal technicalities. State v. Freeman, 297 N.W.2d 363, 365 (Iowa 1980).

We believe the arresting officer had probable cause to believe that defendant had been operating the vehicle she was in while intoxicated. The officer saw a disabled vehicle in the middle of an intersection. He saw defendant

in the driver's seat trying unsuccessfully to start the engine. Defendant's companion told the officer that they were coming from an establishment known as the Nite Twain and that their vehicle had stalled in the intersection. The officer also noticed a strong odor of alcohol from within the vehicle. He also observed that the passenger appeared to be sober but defendant appeared to be intoxicated. Under these circumstances, *a reasonable person would be justified in believing* that defendant had driven the vehicle before it stalled and while she was in an intoxicated state. Because probable cause does not depend upon satisfying all of the precise legal elements of the offense but instead requires only the showing of a reasonable belief that defendant committed the offense, the trial court properly overruled defendant's objection based upon lack of probable cause. Defendant's conviction is affirmed.

AFFIRMED.