IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

447

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	
vs.	)	
ROOSEVELT KUYKENDALL,	)	9-23 / 88-777
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Black Hawk County(No. W7X013626), Walter W. Rothschild, District Associate Judge.

Defendant appeals from his conviction, following a bench trial, for operating while intoxicated, in violation of Iowa Code section 321J.2. **REVERSED.**

William L. Wegman, State Public Defender, and Shari Barron, Assistant Public Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney General; and Linda Hall and Thomas Bower, Assistant County Attorneys, for plaintiff-appellee.

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

DONIELSON, P.J. 448

A police officer stopped the defendant's car after the defendant had made a left turn from an intersection without using a turn signal. After stopping the car, the officer saw evidence that the defendant was intoxicated. The officer eventually arrested the defendant for operating while intoxicated. A breath test showed an alcohol concentration of .231. Defendant moved to suppress all evidence obtained as a result of the stop, alleging the stop was illegal and without good cause. The trial court overruled defendant's motion, and, after a bench trial, he was convicted of operating while intoxicated in violation of Iowa Code section 321J.2. Defendant appeals, contending the district court erred in refusing to suppress the evidence resulting from the stop of his car. He contends he was not statutorily required to use his turn signal under the circumstances then existing and therefore the arresting officer had no reasonable cause to stop his car.

The issue on appeal is whether the trial court erred in denying defendant's motion to suppress evidence obtained as a result of a Terry stop. We recently set forth the constitutional principles governing this issue

> The fourth amendment requires reasonable cause to stop a vehicle for investigatory purposes. Terry v. Ohio, 392 U.S. 1, 21, 88 S. Ct. 1868, 1880, 20 L. Ed. 2d 899, 906 (1968). When a stop is challenged on the basis that reasonable cause did not exist, the State must show that the stopping officer had "specific and articulable cause to support a reasonable belief that criminal activity may have occurred." State v. Lamp, 322 N.W.2d 48,

> 51 (Iowa 1982) (quoting State v. Aschenbrenner, 289 N.W.2d 618, 619 (Iowa 1980)). The officer is bound by the true reason or reasons for making the stop; the officer may not rely on reasons that he or she could have had but did not actually have. Aschenbrenner, 289 N.W.2d at 619.

State v. Hardy, No. 8-627, slip op. at 3 (Iowa App. April 25, 1989). If the State fails to sustain its burden, evidence taken as a result must be suppressed. State v. Aschenbrenner, 289 N.W.2d at 619. Defendant challenges the constitutionality of the stop, and thus our review of the facts is de novo. State v. Lamp, 322 N.W.2d 48, 50 (Iowa 1981).

The facts in this case are undisputed. Defendant Kuykendall approached an intersection controlled by a four-way stop sign on January 3, 1988, at about 9:30 P.M. Kuykendall stopped at the stop sign. The only other vehicle in sight was a police car, which was driving directly behind Kuykendall. Defendant made a left-hand turn at the stop sign without using a signal. The officer also made the left-hand turn and stopped defendant's car for failing to use a turn signal. He was subsequently arrested for OWI. The arresting officer testified he stopped Kuykendall for failure to use a turn signal.

The State argues the defendant's failure to use a turn signal constituted a traffic violation and therefore the officer had reasonable cause to stop the defendant. The defendant contends under the circumstances he was not required to use a turn signal.

The arresting officer testified that defendant did nothing illegal other than failing to use the turn signal in violation of state statute. Iowa Code section 321.314, entitled "When signal required," states:

> No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety and then only after giving a clearly audible signal by sounding the horn if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement. (Emphasis added.)

Iowa Code section 321.315, entitled "Signal Continuous," further requires:

> A signal of intention to turn right or left shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning when the speed limit is forty-five miles per hour or less and a continuous signal during not less than the last three hundred feet when the speed limit is in excess of forty-five miles per hour.

The trial court determined the police officer had reasonable cause to stop defendant's car for violating section 321.315 because the requirements of this section do not depend upon whether any other vehicle may be affected by the turn.

Section 321.314 does not require a driver to use a turn signal in all instances; only in the event another vehicle may be affected. Section 321.315 does not, upon literal interpretation, depend upon whether another vehicle will be affected. Defendant asserts that section 321.314

designates when a driver is required to use a turn signal, while section 321.314 tells how a driver must signal once the duty to signal has arisen under section 321.314. We agree.

The rule in Iowa regarding statutory interpretation is that where the language of a statute is plain, unambiguous, and consistent with related statutory provisions, there is no room for interpretation. State v. Baker, 293 N.W.2d 568, 572 (Iowa 1980). Here, although the language is plain, the meaning of section 321.315 is ambiguous as it relates to section 321.314. In interpreting statutory language, our ultimate goal is to ascertain and give effect to legislative intent. State v. Foster, 356 N.W.2d 548, 550 (Iowa 1984). We consider all parts of the statute together, without attributing undue importance to any single or isolated portion. Iowa Southern Utilities Co. v. Iowa State Commerce Comm., 372 N.W.2d 274, 278 (Iowa 1985). We must avoid construction which renders part of a statute superfluous; it is presumed the legislature intended every part of a statute to have a purpose. State v. Luppes, 358 N.W.2d 322, 324 (Iowa App. 1984).

When read together, we construe section 321.314 to designate when a turn signal must be used, and section 321.315 to designate how long the signal must be given once a duty to use it arises under section 321.314. Any other construction would make the language in section 321.314,

"in the event any other vehicle may be affected by such movement," superfluous because section 321.315 would impose a duty to signal at all turns.

Defendant was not required to signal his left turn unless another vehicle was affected by the turn. We find that since the police officer was required to stop at the four-way stop sign after defendant, defendant's turn did not affect the officer's vehicle. Thus, defendant was not required to use a signal. Consequently, Kuykendall did not violate a statute and the officer had no reasonable grounds to stop his vehicle.

The State asserts that the officer need only have a belief an offense was committed. Since the officer believed defendant violated the law, the State argues, the stop was reasonable. We do not agree. When the facts giving rise to an arrest do not constitute an offense, no reasonable cause exists to stop the defendant. See State v. Baldwin, 396 N.W.2d 192, 195 (Iowa 1986). Because the police officer had no reasonable cause to arrest defendant, any evidence of his intoxication obtained as a result of the stop should have properly been suppressed. The trial court erred in failing to do so.

REVERSED.