

IN THE COURT OF APPEALS OF IOWA

FILED

APR 23 1986

CLERK SUPREME COURT

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

WAYNE LEROY GUNTER,)

Defendant-Appellant.)

Filed April 23, 1986

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5-714
85-646

Appeal from the Iowa District Court for Black Hawk County (No. 07X001863),
L.D. Lybbert and Roger F. Peterson, Judges.

Defendant appeals from his conviction of operating a motor vehicle while
intoxicated. **AFFIRMED.**

Charles Harrington, Chief Appellate Defender, and Linda Del Gallo, Assistant
Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Elizabeth E. Ciebell, Assistant Attorney
General; and Sue Albright, Assistant Black Hawk County Attorney, for
plaintiff-appellee.

Considered by Oxberger, C.J., Hayden, and Sackett, JJ.

OXBERGER, C.J.

Appellant Gunter appeals from his conviction of operating a motor vehicle while intoxicated, third offense. We affirm.

Gunter attacks his conviction solely on the ground that the arresting officers had no probable cause to stop his vehicle on the night of the arrest. In Terry v. Ohio, 392 U.S. 1, 16-19 (1968), the U.S. Supreme Court held that certain seizures satisfy the fourth amendment restrictions if officers hold an "articulable suspicion" that a person has committed or is committing a crime. When a defendant challenges the constitutionality of an investigatory stop based on absence of reasonable cause, 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. Schubert, 346 N.W.2d 30 32 (Iowa 1984); State v. Lamp, 3222 N.W.2d 48, 51 (Iowa 1982); State v. Aschenbrenner, 289 N.W.2d 618, 619 (Iowa 1980). Reasonable cause exists when an officer observes unusual conduct leading the officer to conclude that criminal activity may be afoot. State v. Donnell, 239 N.W.2d 575, 577-78 (Iowa 1976). Here the officers observed the truck being driven by Gunter slide through a red light, stop in the intersection, and then back up behind the light. The officers immediately pulled up beside Gunter's truck and observed that the driver of the truck had bloodshot, watery eyes. On further investigation, the officers detected the smell of alcohol in Gunter's vehicle. Following several field sobriety tests, Gunter was arrested for OWI.

Police observation of a vehicle sliding through a red light establishes sufficient cause to form a "reasonable suspicion" that criminal activity is afoot. This reasonable suspicion justifies the police action in stopping the vehicle to investigate further. This investigation allowed police to perform the field sobriety tests that resulted in a proper arrest.

In the original suppression hearing, Gunter and the arresting officer offered diametrically opposed testimony regarding the Gunter truck's sliding into the intersection. The trial court found the officer to be more credible than Gunter. The trial court was in the best position to make this assessment of credibility. It did not err in its denial of Gunter's motion to suppress evidence.

AFFIRMED.