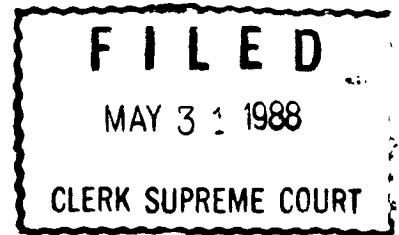


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,

)

Plaintiff-Appellee,

)

Filed May 31, 1988

299

vs.

)

JAMES B. ROBISON,

)

8-161
87-1115

Defendant-Appellant.

)

Appeal from the Iowa District Court for Black Hawk County (No. W7X009886), Joseph Moothart, Judge.

Defendant appeals his conviction of operating a motor vehicle while his license was suspended under the financial responsibility law in violation of Iowa Code section 321A.32. **AFFIRMED.**

Charles L. Harrington, Chief Appellate Defender, and James R. Huff, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Ann E. Brenden, Assistant Attorney General; and Molly Frazer, Assistant Black Hawk County Attorney, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

DONIELSON, J.

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Defendant appeals his conviction of operating a motor vehicle while his license was suspended under the financial responsibility law in violation of Iowa Code section 321A.32 (1987). We affirm.

Defendant's privilege to operate a motor vehicle was suspended from February 12, 1986, to May 13, 1986, when he was declared to be a habitual violator of motor vehicle laws. The suspension was to continue until defendant posted proof of financial responsibility with the Iowa Department of Transportation.

As of January 7, 1987, no such proof had been filed. On that day a police officer stopped a car being driven by the defendant because it was allegedly following the officer's car too closely. After a routine license check, the officer arrested the defendant for driving while his license was under suspension for failure to file a Statement of Financial Responsibility.

The defendant moved to suppress the fruits of the warrantless stop, alleging an unconstitutional search and seizure. The motion was overruled. The case was then tried to the court, which found the defendant guilty. Subsequent motions for a new trial and in arrest of judgment were also overruled. The court imposed a sentence of thirty days in the county jail, suspended that sentence, and placed the defendant on self-probation for one year.

On appeal, the defendant reiterates his claim that the officer stopped his car as a mere pretext and that the trial court erred in denying his motion to suppress. The defendant contends that the officer had no articulable reason to support a reasonable belief that criminal activity was afoot.

Because this issue is one of constitutional dimensions, we make a de novo review of the facts. State v. Lamp, 322 N.W.2d 48, 50 (Iowa 1982). The fourth amendment prohibition on unreasonable seizures applies to a vehicle stop. Id.

at 51. A vehicle stop is not constitutional unless the stopping officer has specific and articulable cause to support a reasonable belief that criminal activity may have occurred. Id. The State bears the burden to demonstrate that reasonable cause to stop the vehicle existed; if the State does not meet this burden, the evidence obtained as a result of the stop must be suppressed. Id.

Based upon the record, we agree with the district court that the State carried its burden of demonstrating that the police officer had reasonable cause to stop the defendant's car. The officer testified he stopped defendant because defendant was following his car too closely. "Following too closely" means more closely than is reasonable and prudent. Iowa Code § 321.307 (1987). The officer also testified that after he stopped the defendant, the defendant repeatedly told the officer he was in a hurry. Defendant's witness testified to the effect that defendant was not following too closely. In an effort to back off defendant's vehicle, the police officer tapped his brake pedal to stop his car. The officer testified the defendant locked his brakes and squealed his tires in order to prevent hitting the officer's car. Defendant's witness testified defendant brought his car to a stop several feet from the police car. Defendant's witness also testified defendant's car tires squealed.

The district court apparently found the officer's testimony more credible than the defendant's witness. We additionally note defendant's witness was a longtime friend of defendant's family. We give considerable deference to the district court's findings on credibility. State v. Farris, 359 N.W.2d 190, 192 (Iowa 1984).

We find the district court did not err in denying defendant's motion to suppress evidence. The officer's stop was supported by reasonable cause to satisfy the constitutional requirements. We therefore affirm the conviction.

AFFIRMED.