



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-15-00472-CR

CHRISTOPHER HILL KING

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 432ND DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 1397415D

OPINION

I. INTRODUCTION

After the denial of his motion to suppress, Appellant Christopher Hill King pleaded guilty to possession of a controlled substance of an amount more than four grams but less than two hundred grams and pleaded true to the repeat offender notice. See Tex. Health & Safety Code Ann. § 481.115(a), (d) (West 2010). Following a sentencing hearing, the trial court sentenced King to twelve

years' confinement. In two issues, King argues that the trial court erred by denying his motion to suppress. We will affirm.

II. FACTUAL AND PROCEDURAL BACKGROUND

At approximately 1:00 a.m. on January 4, 2015, Officer Kristopher Taylor and Sergeant Daniel Hunt of the Blue Mound Police Department noticed a vehicle traveling without a functioning right brake light. The officers initiated a traffic stop. Jennifer Dowling was driving the vehicle, and King was a passenger. The vehicle was owned by King. Neither Dowling nor King had their driver's licenses with them, but they gave officers other identifying information. Officer Taylor went to his squad car to check on the status of the respective driver's licenses and to check for warrants. During the approximate fifteen minutes it took for Officer Taylor to run searches on the driver's licenses and check for warrants, Sergeant Hunt remained posted outside the front passenger door while King waited in the front passenger seat. Officer Taylor discovered that neither Dowling nor King possessed a valid driver's license and that neither Dowling nor King could produce proof of insurance. Officer Taylor arrested Dowling for driving without a valid driver's license.

After Dowling was arrested, Officer Taylor asked King to exit the vehicle because the officers were going to impound the vehicle.¹ According to Officer

¹Officer Taylor testified that the vehicle needed to be impounded because neither Dowling nor King had a valid driver's license or proof of insurance, and the vehicle could not be left overnight.

Taylor, King acted nervously when he exited the vehicle and walked “very abnormal[ly] . . . taking very small steps.” After exiting the vehicle, King asked, “Can I call my wife or something, or is there somebody that can come drive me away?” Officer Taylor responded, “Um, no, here’s—do you have anything in your pockets?” Officer Taylor then asked King if he minded turning out his pockets, and King willingly turned out his pockets, handing Officer Taylor a pocketknife.

Officer Taylor then asked if he could perform a pat-down on King, and King indicated that Officer Taylor could perform the pat-down. During the pat-down, Officer Taylor had King place his hands on the top of his head, interlock his fingers, and spread his feet. Officer Taylor testified that at first King spread his feet “very minimally,” so Officer Taylor kicked King’s feet so they would be spread further apart. Officer Taylor noticed a white cylinder-shaped container fall out of King’s pants during the pat-down.² King eventually admitted to Officer Taylor that the container contained methamphetamine.

King and Dowling were placed in the back of the officers’ squad car while the officers waited for a tow truck to impound the vehicle. While King and Dowling were alone in the squad car, the following discussion took place:

King: Where’s that pipe?

Dowling: I don’t know.

²Officer Taylor discovered a second container—found inside of King’s pant leg—after a subsequent pat-down following King’s arrest.

King: I don't know either. It doesn't matter now; they found all that on me. They found all the dope.^[3]

King also asked Dowling, "Why did I have that on me," and "Why didn't I stash that somewhere?"

King filed a motion to suppress all tangible evidence seized without a warrant, including the seized methamphetamine and his admissions to Dowling. At the suppression hearing, the State argued that King's motion should be denied because King consented to the pat-down and, alternatively, because the pat-down was justified because of officer-safety concerns. The trial court ultimately denied King's motion to suppress, finding that the interaction between King and the officers was a "consensual encounter." After his motion to suppress was denied, King entered his guilty plea.

III. KING'S MOTION TO SUPPRESS

In two issues, King argues that the trial court should have granted his motion to suppress because the purpose of the traffic stop had ended prior to the consensual encounter and because officer-safety concerns did not justify his extended detention. The State counters that the purpose of the traffic stop had not ended prior to the consensual encounter and that, in any event, officer-safety concerns justified any extended detention.

³This discussion can be heard on the recording from the squad car's dash camera.

A. Standard of Review

We review a trial court's ruling on a motion to suppress evidence under a bifurcated standard of review. *Amador v. State*, 221 S.W.3d 666, 673 (Tex. Crim. App. 2007); *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). We give almost total deference to a trial court's rulings on questions of historical fact and application-of-law-to-fact questions that turn on an evaluation of credibility and demeanor, but we review de novo application-of-law-to-fact questions that do not turn on credibility and demeanor. *Amador*, 221 S.W.3d at 673; *Estrada v. State*, 154 S.W.3d 604, 607 (Tex. Crim. App. 2005); *Johnson v. State*, 68 S.W.3d 644, 652–53 (Tex. Crim. App. 2002).

B. The Law regarding Detentions Following a Traffic Stop

A lawful roadside stop begins when a vehicle is pulled over for investigation of a traffic violation. *Arizona v. Johnson*, 555 U.S. 323, 333, 129 S. Ct. 781, 788 (2009). The temporary seizure of a driver and passengers ordinarily continues, and remains reasonable, for the duration of the traffic stop. *Id.*, 129 S. Ct. at 788. A traffic stop ends “when the police have no further need to control the scene.” *Id.*, 129 S. Ct. at 788. An officer's inquiries into matters unrelated to the justification for the traffic stop do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop. *Id.*, 129 S. Ct. at 788.

Stops that exceed the time needed to handle the matter for which the stop was made violate the Constitution's shield against unreasonable seizures.

Rodriguez v. United States, 135 S. Ct. 1609, 1612 (2015). A seizure that is justified only by a police-observed traffic violation, therefore, “become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission” of issuing a traffic ticket. *Id.* (quoting *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S. Ct. 834, 837 (2005)). An officer’s mission includes ordinary inquiries incident to the traffic stop, such as checking the status of driver’s licenses, determining whether there are outstanding warrants, and inspecting the automobile’s registration and proof of insurance. *Id.* at 1615. Authority for the seizure ends when tasks tied to the traffic infraction are, or reasonably should have been, completed. *Id.* at 1614. For the duration of the traffic stop, a police officer effectively seizes everyone in the vehicle, including the driver and all passengers. *Johnson*, 555 U.S. at 327, 129 S. Ct. at 784.

C. Application of the Law to the Facts

Here, King was pulled over pursuant to a lawful traffic stop because his vehicle was traveling without a functioning right brake light.⁴ See Tex. Transp. Code Ann. § 547.323 (West 2011). The officers checked on the status of Dowling and King’s driver’s licenses and attempted to confirm that the vehicle was covered by insurance, and the officers discovered that neither Dowling nor King possessed a valid driver’s license, nor could they produce proof of insurance. See *Rodriguez*, 135 S. Ct. at 1615 (holding officer’s mission includes

⁴King does not dispute that he was pulled over pursuant to a lawful traffic stop.

ordinary inquiries incident to the traffic stop). Officers decided to impound the vehicle because it could not be left overnight and because neither Dowling nor King had a valid driver's license or proof of insurance. See *Palacios v. State*, 319 S.W.3d 68, 74 (Tex. App.—San Antonio 2010, pet. ref'd) (“When Deputy Ainsworth determined that neither Palacios nor the passenger had a valid driver's license and that neither could produce insurance for the vehicle, Deputy Ainsworth had the legal authority to impound the vehicle.”); see also *Benavides v. State*, 600 S.W.2d 809, 811 (Tex. Crim. App. 1980) (“[A]n automobile may be impounded if the driver is removed from his automobile and placed under custodial arrest and no other alternatives are available other than impoundment to insure the protection of the vehicle.”).

Dowling was arrested for driving without a valid driver's license. King argues that the mission of the traffic stop ended once Dowling was arrested and, therefore, his consent to the pat-down was ineffectual because the stop was improperly extended. The State counters that the stop was not improperly extended and, therefore, King's consent was valid. See *Meekins v. State*, 340 S.W.3d 454, 458 (Tex. Crim. App. 2011) (noting that one of the exceptions to the search warrant requirement is a search conducted with the person's voluntary consent). We agree with the State that the stop was not improperly extended.

The United States Supreme Court has made several holdings in recent years regarding when a traffic stop ends and when it is improperly extended. As noted in *Johnson*, a traffic stop “ends when the police have no further need to

control the scene.” 555 U.S. at 325, 129 S. Ct. at 783. As noted in *Rodriguez*, the seizure of drivers and passengers “ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.” 135 S. Ct. at 1614. Here, officers still had need to control the scene when Officer Taylor asked for King’s consent to the pat-down. Namely, the officers were waiting for a tow truck to impound King’s vehicle. Similarly, the impoundment of the vehicle was a task tied to the traffic infraction, and King makes no argument that that task should have reasonably been completed at the time Officer Taylor asked for his consent to the pat-down.⁵

We therefore hold that the traffic stop was not improperly extended, and we overrule King’s first issue. Because we overrule King’s first issue relating to his consent to the pat-down, we need not decide King’s second issue concerning whether officer-safety concerns justified the pat-down. See Tex. R. App. P. 47.1.

IV. CONCLUSION

Having overruled King’s first issue, we affirm the trial court’s judgment.

/s/ Sue Walker
SUE WALKER
JUSTICE

PANEL: WALKER, MEIER, and SUDDERTH, JJ.

⁵We note that Officer Taylor requested consent to perform the pat-down less than two minutes after Dowling was placed in the back of the officer’s squad car. The tow truck arrived on the scene approximately twenty-seven minutes after Dowling was placed in the back of the officer’s squad car.

SUDDERTH, J., concurs without opinion.

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