

Boris D. Mudd appeals his convictions of possession of marijuana and operating while intoxicated. The charges stemmed from a traffic stop, which Mudd argues was illegal. Therefore, he argues, the trial court should have granted his motion to suppress. We affirm.

FACTS AND PROCEDURAL HISTORY

Around 1:00 a.m. on November 24, 2007, Officer Michael McEachern saw Mudd driving a truck. Mudd made a very slow, wide turn and then accelerated at a very slow rate. Officer McEachern suspected Mudd was impaired, and he also noticed Mudd's license plate was not illuminated. Officer McEachern initiated a traffic stop. Mudd continued to drive for about a block and then pulled into the parking lot of a gas station.

Officer McEachern approached Mudd and asked for his license and registration. Mudd asked what he had done wrong, and Officer McEachern told him his license plate was not illuminated. Mudd did not believe him, and tried to exit his vehicle so he could see for himself. To prevent people from fleeing the scene, it is Officer McEachern's practice to complete the traffic stop before allowing the driver to view the alleged violation. Accordingly, Officer McEachern told Mudd to get back in his truck.

Officer McEachern noticed Mudd "had a strong odor of alcoholic beverage on his breath." (Tr. at 79.) His speech was "thick tongued and slurred." (*Id.*) He had difficulty retrieving his license from his wallet. Mudd "lost his train of thought a couple times," and Officer McEachern "had to keep reminding him to give me his registration." (*Id.* at 80.)

Because he believed Mudd was intoxicated, Officer McEachern requested an officer from the OWI patrol. Officer McEachern handcuffed Mudd and had him wait in his patrol car.

Officer Douglas Weaver performed an inventory search of Mudd's truck. He found a plastic baggie of marijuana under the floor mat on the driver's side. Officer John Krieger completed the OWI investigation. He smelled "a strong odor of an alcoholic beverage" emanating from Mudd. (*Id.* at 110.) Mudd's speech was "slurred" and "mumbled," and his eyes were watery. (*Id.*) Officer Krieger asked Mudd to step out of the patrol car, and Mudd swayed and stumbled as he exited the vehicle. Officer Krieger took Mudd to perform a certified breath test. Mudd was belligerent and argumentative, and he refused to take the test. Officer Krieger decided not to offer the "walk and turn" test or the "one leg stand" test because Mudd told him he had arthritis. Officer Krieger intended to perform the horizontal gaze nystagmus test, but Mudd refused to take off his glasses.

Mudd was charged with possession of marijuana, a Class D felony,¹ and operating a vehicle while intoxicated, a Class C misdemeanor.² On February 11, 2008, Mudd filed a motion to suppress. After a hearing on February 29, 2008, the trial court denied the motion, and the marijuana and portions of the officers' testimony were admitted at trial over Mudd's objection. He was found guilty of both offenses.

¹ Ind. Code § 35-48-4-11. This offense was charged in two parts. Part I, possession of marijuana, was submitted to the jury. After the jury found Mudd guilty, he admitted he had a prior conviction as alleged in Part II, therefore making the offense a Class D felony.

² Ind. Code § 9-30-5-2.

DISCUSSION AND DECISION

“A trial court has broad discretion in ruling on the admissibility of evidence. We will reverse a trial court’s ruling on the admissibility of evidence only when it has been shown that the trial court abused its discretion.” *Ransom v. State*, 741 N.E.2d 419, 421 (Ind. Ct. App. 2000) (citations omitted), *trans. denied* 753 N.E.2d 10 (Ind. 2001). We do not reweigh the evidence or judge the credibility of witnesses. *Id.* Instead, we consider the evidence favorable to the ruling, along with any uncontested evidence favorable to the defendant. *Id.*

Mudd argues the stop was illegal, emphasizing his own testimony that Officer McEachern told him the reason for the stop was the wide turn, which was not a traffic violation. Mudd also attempts to cast doubt on Officer McEachern’s testimony that Mudd’s license plate was not illuminated, noting that Officer McEachern would not allow Mudd to exit the vehicle to check the light himself. These are merely requests to reweigh the evidence, which we will not do. *See id.*

Officer McEachern testified he stopped Mudd because his license plate was not illuminated, as required by Ind. Code § 9-19-6-4(e). Violation of that section is a Class C infraction. Ind. Code § 9-19-6-24(b). A police officer may stop a vehicle when he observes a minor traffic violation. *Ransom*, 741 N.E.2d at 421. Soon after Officer McEachern initiated the stop, he observed signs of intoxication. Mudd does not appear to dispute that the officers developed probable cause to arrest him; in fact, his brief makes no mention of the evidence of his intoxication. Although he appears to question the necessity of impounding and searching his vehicle, he does not develop an argument that

the officers' conduct was unreasonable in the meaning of the Fourth Amendment or Article 1, Section 11.³

Affirmed.

BRADFORD, J., and FRIEDLANDER, J., concur.

³ Mudd argues the stop was pretextual. Although he acknowledges that pretextual stops are permissible, he contends it is a factor to be considered in determining whether the ensuing police investigation is reasonable. However, he does not demonstrate that any of the police conduct in his case was unreasonable.