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IN THE
COURT OF APPEALS OF INDIANA

TOMMIE RIVERS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1011-CR-763
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-1006-CM-048995

JUNE 21, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

After a bench trial Tommie Rivers was convicted of possession of marijuana, a Class A misdemeanor, Indiana Code section 35-48-4-11 (1983), and driving while suspended, a Class A misdemeanor, Indiana Code section 9-24-19-2 (2000). In this appeal he contends that his convictions should be reversed because the court abused its discretion in admitting evidence that was seized following a traffic stop.

On the afternoon of June 28, 2010, police officer Jason Zotz was driving southbound on Dr. Martin Luther King Jr. Street in Indianapolis. In front of him was a white Tahoe SUV, later determined to be driven by Rivers. Zotz observed that the tinting on the windows of the SUV was such that he could not discern the occupants of the vehicle. Neither could he see any license plate on the vehicle.

Zotz initiated a traffic stop. When he approached the vehicle, Rivers unrolled the driver's window, and Zotz detected a very strong odor of marijuana from the vehicle. A check of Rivers' identifying information revealed that there was an arrest warrant outstanding for Rivers. Zotz then took Rivers into custody. Zotz searched the area of the SUV that had been within Rivers' reach and discovered four baggies of suspected marijuana. Later tests confirmed that the substance was marijuana. Further investigation also revealed that Rivers' driver's license was suspended.

Indiana Code section 9-19-19-4(c) (2003) provides:

A person may not drive a motor vehicle that has a:

(1) windshield;
(2) side wing;
(3) side window that is part of a front door; or

(4) rear back window;

> that is covered by or treated with sunscreening material or is tinted to the extent or manufactured in a way that the occupants of the vehicle cannot be easily identified or recognized through that window from outside the vehicle. However, it is a defense if the sunscreening material applied to those windows has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and light transmittance of at least thirty percent (30%) in the visible light range.

In addition, Indiana Code section 9-18-2-26 (2007) provides that a license plate shall be displayed on the rear of a vehicle in a place and position that are "clearly visible."

It is well established that police may conduct a traffic stop after observing a driver commit a minor traffic infraction. *Jackson v. State*, 785 N.E.2d 615, 619 (Ind. Ct. App. 2003), *trans. denied* (citing *Smith v. State*, 713 N.E.2d 338, 342 (Ind. Ct. App. 1999), *trans. denied*). Moreover, we have already held that an officer may properly stop a vehicle for an apparent violation of Indiana Code section 9-19-19-4(c). *Wilkerson v. State*, 933 N.E.2d 891, 893 (Ind. Ct. App. 2010).

In the present case, Zotz testified that he could not see the occupants in the SUV because of the tinting in the windows. He also stated that he was unable to see the temporary license plate that was affixed to the inside of the SUV's rear window. His testimony supports the stop. No evidence was adduced at the trial concerning the solar reflectance defense.

Our review is limited to ascertaining whether the evidence favorable to the court's ruling constitutes substantial evidence of probative value to support the ruling. *Griffith v.*

State, 788 N.E.2d 835, 839-40 (Ind. 2003). Based on the evidence presented at trial, the traffic stop was valid, and the court did not err in admitting the evidence resulting from the stop. *See Wilkerson*, 933 N.E.2d at 893 (affirming the denial of the defendant's motion to suppress where the officers had probable cause to stop the defendant's vehicle for excessive window tint).

Affirmed.

FRIEDLANDER, J., and MAY, J., concur.