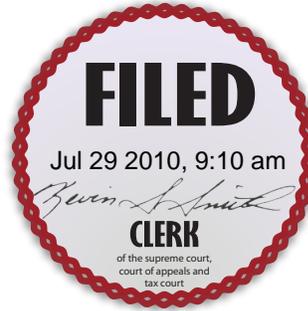


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ADAM N. BOCK,)
)
Appellant-Defendant,)
)
vs.) No. 17A03-1003-CR-134
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE DEKALB SUPERIOR COURT I(B)
The Honorable Kevin P. Wallace, Judge
Cause No. 17D01-0809-CM-701

July 29, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Adam N. Bock (Bock), appeals his conviction for operating a vehicle while intoxicated with an alcohol concentration equivalent to .08 or more, a Class C misdemeanor, Ind. Code § 9-30-5-1(a).

We affirm.

ISSUE

Bock raises one issue for our review, which we restate as: Whether the trial court erred when it admitted evidence obtained after Bock's vehicle was stopped.

FACTS AND PROCEDURAL HISTORY

On September 14, 2008, at approximately 3:30 a.m., Officer Stephen Brady (Officer Brady) of the Waterloo Marshal's Department was dispatched to the Shamrock Bar, where people had begun gathering outside in front of the bar. Upon arriving, Officer Brady was directed by people in the crowd to Bock and Douglas Stapleton (Stapleton), as being two of several people involved in a "verbal argument." (Transcript p. 143). Officer Brady approached Bock and Stapleton, who were standing next to a burnt red colored vehicle, and asked them for their identification. (Tr. p. 143). Stapleton retrieved his identification from inside the burnt red colored vehicle. Officer Brady then made contact with Bock, who was standing towards the rear of the vehicle. After Bock presented his identification, Officer Brady questioned the men to determine what had happened. The men told Officer Brady that there had been a verbal confrontation. While Bock and Stapleton were speaking, Officer Brady noticed a strong odor of alcohol emanating from their breath. Officer Brady also

observed that Bock and Stapleton had unsteady balance, slurred speech, and glassy, bloodshot eyes. However, Officer Brady released the men after determining that no crime had been committed. Bock and Stapleton said they wanted to go home, and Bock walked over to the driver's side of the burnt red colored vehicle as if he were going to get inside of it. Officer Brady believed that Bock was intoxicated and advised him not to drive and instead, to ask someone for a ride home. Bock stated that he would call someone for a ride.

Officer Brady was then dispatched to another disturbance at a tavern just to the north of the Shamrock Bar. Officer Brady was acting as back-up officer while other officers at the scene began questioning people at that location. Shortly after arriving at the scene, Officer Brady noticed several vehicles leaving the Shamrock Bar, including the burnt red colored vehicle. Officer Brady got into his marked patrol car and began to follow the vehicle. Believing it to be the same vehicle that Bock had approached earlier, Officer Brady ran a license plate check as he got closer to the vehicle. Officer Brady learned that the license plate belonged to an Oldsmobile; however, the vehicle Officer Brady was following was a Dodge. Officer Brady initiated a traffic stop, ordered the occupants to retrieve their identification and walk back towards Officer Brady's vehicle. Officer Brady observed that the driver of the car was Bock. As Bock walked towards Officer Brady's vehicle, Officer Brady noticed that Bock appeared to be unsteady as he was walking. Officer Brady placed handcuffs on Bock and advised him of his *Miranda* rights and the Implied Consent Law. Bock was then transported to jail, where he failed field sobriety tests. Bock also submitted to a breath test which indicated his blood alcohol content to be .10.

On September 18, 2008, the State filed an Information charging Bock with operating a vehicle while intoxicated with an alcohol concentration equivalent to .08 or more, a Class C misdemeanor, I.C. § 9-30-5-1(a). On September 16, 2009, Bock filed a motion to suppress evidence and a hearing was held on that motion on September 29, 2009. On October 7, 2009, the trial court denied Bock's motion. On October 21, 2009, a jury trial was held and Bock was found guilty of operating a vehicle with an unlawful alcohol concentration. That day, Bock was sentenced to 60 days in jail, with 40 days suspended in addition to probation for one year, and a suspension of his license for 180 days.

Bock now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. Standard of Review

Bock argues that the trial court erred in denying his motion to suppress the evidence found during the traffic stop. However, because Bock is appealing following his conviction and not appealing the trial court's interlocutory order denying his motion to suppress, the question is properly framed as whether the trial court erred in the admission of the evidence in question. *Shell v. State*, 927 N.E.2d 413, 418 (Ind. Ct. App. 2010). But whether the challenge is made by a pre-trial motion to suppress or by a trial objection, our standard of review of rulings on the admissibility of evidence is essentially the same. *Id.* We do not reweigh the evidence, and we consider conflicting evidence most favorable to the trial court's ruling, but we also consider the uncontested evidence favorable to the defendant. *Id.*

II. *The Stop*

Bock contends that the stop was unreasonable and amounted to a violation of Article 1, Section 11 of the Indiana Constitution.¹ Specifically, he argues that Officer Brady did not have reasonable belief to suspect that criminal activity had occurred or was about to occur. Article 1, Section 11 of the Indiana Constitution provides, “[t]he right of people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated” A police stop and a brief detention of a motorist is reasonable and permitted under Article 1, Section 11 of the Indiana Constitution if the officer reasonably suspects that the motorist is engaged in, or about to engage in, illegal activity. *State v. Ritter*, 801 N.E.2d 689, 691 (Ind. Ct. App. 2004), *trans. denied*. When police conduct is challenged as violating this section, the burden is on the State to show that the search was reasonable under the totality of the circumstances. *State v. Washington*, 898 N.E.2d 1200, 1206 (Ind. 2008).

It is well settled that a police officer may briefly detain a person whom the officer believes has committed an infraction or an ordinance violation. *Peete v. State*, 678 N.E.2d 415, 419 (Ind. Ct. App. 1997); I.C. § 34-28-5-3. A stop is lawful if there is an objectively justifiable reason for it, and the stop may be justified on less than probable cause. *Ranson v. State*, 741 N.E.2d 419, 421 (Ind. Ct. App. 2000), *trans. denied*. If there is an objectively justifiable reason for the stop, then the stop is valid whether or not the police officer would

¹ Although Bock mentions the Fourth Amendment of the United States Constitution in his brief, he does not develop a separate argument under that provision. Therefore, his argument is waived. *See Evans v. State*, 855 N.E.2d 378, 384 n.3 (Ind. Ct. App. 2006), *trans. denied*.

have otherwise made the stop but for ulterior suspicions or motives. *See Smith v. State*, 713 N.E.2d 338, 342 (Ind. Ct. App. 1999), *trans. denied* (holding that upon conducting a license plate check and finding that the registration did not match the description of the vehicle, the police officer had reasonable suspicion to believe that Smith’s vehicle could have been stolen or retagged, thereby warranting traffic stop).

Indiana Code section 9-18-2-16 (b)(2) provides that when registering a vehicle, the application must contain the following information, in relevant part: the name of the manufacturer of the vehicle; the vehicle identification number; the type of body of the vehicle; and the model year. “A person who violates this chapter commits a Class C infraction.” I.C. § 9-18-2-40.

Here, Officer Brady testified that when he initially encountered Bock and Stapleton, he had reason to believe that the men were intoxicated. Officer Brady observed that Bock and Stapleton had unsteady balance, slurred speech, and glassy, bloodshot eyes. Additionally, he could smell alcohol on their breath. After being released from questioning, Bock stated that he wanted to go home and walked over to the driver’s side of a distinctively colored vehicle as if he was going to get inside and drive. Officer Brady advised him to call someone for a ride home. Shortly after Officer Brady left the Shamrock Bar he saw the burnt red colored vehicle leave the parking lot. Believing the driver of this vehicle to be Bock, Officer Brady followed the vehicle and ran a license plate check. The check revealed a traffic infraction—the registration did not match the vehicle. In sum, Officer Brady prudently followed Bock’s vehicle after believing the driver to be intoxicated, and once he

discovered that the license plate registration did not match the vehicle, Officer Brady conducted a valid a traffic stop based on Bock's violation of I.C. § 9-18-2-16.

CONCLUSION

Based on the foregoing, we conclude that the trial court properly admitted evidence obtained after Bock's vehicle was stopped because Officer Brady had probable cause to initiate a traffic stop.

Affirmed.

KIRSCH, J., and BAILEY, J., concur.