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IN THE
COURT OF APPEALS OF INDIANA

CHARLES THOMAS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A03-0906-CR-258
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable Jane Woodward Miller, Judge
Cause No. 71D01-0812-FC-377

September 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Charles Thomas appeals his conviction for operating a motor vehicle while privileges are forfeited for life, a class C felony. We affirm.

Shortly after 10:00 a.m. on December 18, 2008, Officer Richard Andrysiak of the Mishawaka Police Department was on routine patrol when he observed a black Jeep Wagoneer traveling at a speed which appeared to be "a little bit higher" than the posted speed limit of thirty miles per hour. Tr. at 6. Officer Andrysiak established a distance of four to six car lengths behind the vehicle. As he maintained that distance, he observed his own speedometer which allowed him to determine that the vehicle was traveling approximately forty-five miles per hour. Officer Andrysiak followed the vehicle at that speed for two to three additional blocks and then initiated a traffic stop. After the stop, Officer Andrysiak determined that Thomas was the driver of the vehicle and that Thomas's driver's license had been suspended for life due to his history as a habitual traffic violator. Thomas was arrested at the scene.

Prior to trial, Thomas filed a motion to suppress all evidence obtained as a result of the traffic stop. Following a hearing, the trial court denied the motion. A jury trial was held on March 17, 2009. Thomas again objected to the admission of evidence obtained as a result of the stop. The trial court denied that objection. The jury found Thomas guilty as charged.

Thomas's sole contention on appeal is that the trial court erred when it denied his motion to suppress. Specifically, Thomas argues that there was no valid basis for the initial traffic stop and, thus, evidence of his subsequent identification as the driver of the vehicle and as a habitual traffic violator should have been suppressed. Because Thomas appeals after

a completed trial, the question of whether the trial court erred in denying his motion to suppress is no longer viable. *Kelley v. State*, 825 N.E.2d 420, 424 (Ind. Ct. App. 2005). The issue is more appropriately framed as whether the trial court abused its discretion when it admitted the evidence at trial. *Washington v. State*, 784 N.E.2d 584, 586 (Ind. Ct. App. 2003). An abuse of discretion occurs when a decision is clearly against the logic and effect of the facts and circumstances before the court. *Id*. at 587.

Thomas argues that the traffic stop was invalid because there were insufficient facts to support the stop. It is well settled that police officers may stop a vehicle when they observe minor traffic violations. *State v. Quirk*, 842 N.E.2d 334, 340 (Ind. 2006); *see also* Ind. Code § 34-28-5-3. Indeed, a lawful stop for a bona fide traffic violation, even if pretextual, does not convert the stop to an unconstitutional search and seizure. *Lashley v. State*, 745 N.E.2d 254, 258 (Ind. Ct. App. 2001), *trans. denied*. If there is an objectively justifiable reason for the stop, then the stop is valid whether or not the police officer would have otherwise made the stop but for ulterior suspicions or motives. *Id*. at 259.

Here, Officer Andrysiak testified that he observed Thomas traveling at what he believed to be a speed in excess of the thirty-mile-per-hour posted speed limit. Officer Andrysiak then established and maintained a distance behind Thomas's vehicle for an additional two to three blocks and, based upon his own speed of forty-five miles per hour, he determined that Thomas was exceeding the speed limit. Officer Andrysiak testified that he had used this pacing method often and exclusively to determine speeding violations during his sixteen-year tenure as a police officer. The record establishes that Officer Andrysiak had

an objectively justifiable reason to stop Thomas's vehicle.

Thomas makes no assertion that Officer Andrysiak had any motive for stopping his vehicle other than for a speed limit violation. Instead, Thomas argues that the pacing method used by Officer Andrysiak was improper.[1] As noted by the State, the pacing method has been used to support an officer's good-faith belief that a driver has violated the speed limit. *See Lashley*, 745 N.E.2d at 258; *see also Disbro v. State*, 791 N.E.2d 774, 775 (Ind. Ct. App. 2003) (initial traffic stop for speeding violation based upon pacing method) *trans. denied*; *State v. Voit*, 679 N.E.2d 1360, 1362-63 (Ind. Ct. App. 1997) (pacing method used to support officers' stop of vehicle for speeding violation). The trial court did not abuse its discretion when it admitted evidence obtained during the valid traffic stop.

Affirmed.

MAY, J., and BROWN, J., concur.

[1] Thomas maintains that the State failed to establish the accuracy of Officer Andrysiak's speedometer. Thomas did not object on this ground in his motion to suppress or at trial and, thus, has waived this argument. A party may not vary the bases of his objection to the admission of evidence at the appellate level from that asserted at trial. *State v. Covell*, 580 N.E.2d 704, 707 (Ind. Ct. App. 1991).