

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.

ATTORNEY FOR APPELLANT:

NICOLE A. ZELIN
Greenfield, Indiana

ATTORNEYS FOR APPELLEE:

STEPHEN R. CARTER
Attorney General of Indiana
Indianapolis, Indiana

GEORGE P. SHERMAN
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

THOMAS M. MEREDITH,)

Appellant-Defendant,)

vs.)

No. 30A04-0704-CR-197

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE HANCOCK CIRCUIT COURT
The Honorable Richard D. Culver, Judge
Cause No. 30C01-0505-FC-92

DECEMBER 10, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Thomas M. Meredith appeals the trial court's partial denial of his motion to suppress and his conviction of operating a motor vehicle while privileges are forfeited for life, a Class C felony. We affirm.

ISSUES

Meredith raises three issues, which we restate as:

- I. Whether the investigating officer had a reasonable and articulable suspicion that warranted a traffic stop.
- II. Whether the trial court erred in denying Meredith's motion to suppress the admission he made to the investigating officer while Meredith was in custody.
- III. Whether the evidence presented was sufficient to establish that Meredith was the person driving the vehicle on the day of his arrest.

FACTS AND PROCEDURAL HISTORY

On May 13, 2005, Hancock County Sheriff's Deputy Patrick Lindsay observed a green Chevrolet Caprice with Marion County plates in a Hancock County location where "a lot of burglaries" had occurred. Two white males were in the vehicle. Later, Deputy Lindsay observed the same Caprice at an intersection, and he initiated a computer check of the vehicle's license plate. The check revealed that the license plate was registered to the Caprice and that the registered owner of the vehicle was a habitual traffic offender whose license had been forfeited for life.

While Deputy Lindsay was conducting the computer search, the Caprice proceeded to a residence and was parked in the driveway. Deputy Lindsay pulled into the

driveway and saw that the person that he had earlier observed in the passenger seat, Glen Caldwell, was still in the passenger seat, while the person who Deputy Lindsay had observed driving the Caprice was now out of the vehicle. Deputy Lindsay pulled into the driveway, exited his vehicle, and asked the driver, Meredith, for identification. Meredith gave him an Indiana ID card containing information that matched that of the registered owner of the Caprice. Deputy Lindsay then informed Meredith that he was under arrest for driving while suspended.¹

As Deputy Lindsay drove Meredith to jail, Meredith stated that he and Caldwell had gone to a Napa Auto Parts store and were on their way to the Hancock County town of New Palestine. Meredith also stated that he knew he shouldn't have been driving the vehicle.

Meredith was charged with operating a vehicle while driving privileges were forfeited for life. Meredith filed a motion to suppress evidence, and the hearing on his motion was combined with his bench trial. The trial court found Meredith guilty of the charged offense, and it ordered that he serve a two-year sentence. This appeal followed.

I. VALIDITY OF THE STOP

Meredith contends that the trial court abused its discretion in denying his motion to suppress any evidence obtained as a result of Officer Lindsay's illegal "stop" of Meredith's vehicle. Meredith argues that Officer Lindsay had no reasonable, articulable

¹ Deputy Lindsay asked Meredith whether he knew that his license was suspended for life, and Meredith answered that he did. The trial court sustained Meredith's objection to the admission of his answer and did not consider the answer in making its determination that Meredith was guilty of the charged offense.

suspicion that warranted the stop, and he cites *Wilkinson v. State*, 743 N.E.2d 1267 (Ind. Ct. App. 2001) in support of his argument.

In the present case, the trial court determined that Deputy Lindsay made a “stop” when he parked his vehicle behind Meredith’s vehicle, thus blocking Meredith from backing out of the driveway and apparently preventing Meredith from leaving the property. The trial court further determined Deputy Lindsay’s knowledge that the Caprice was owned by “a white male determined to be a habitual traffic violator” constituted a reasonable, articulable justification for the stop.²

The admission of evidence is within the sound discretion of the trial court, and a decision whether to admit evidence will not be reversed absent a showing of manifest abuse of discretion by the trial court resulting in the denial of a fair trial. *Johnson v. State*, 831 N.E.2d 163, 168-69 (Ind. Ct. App. 2005), *trans. denied*. For a decision to be an abuse of discretion, it must be clearly against the logic and effect of the facts and circumstances before the trial court. *Id.* at 169. If there is evidence of an objectively justifiable reason for the stop, then the stop is permissible. *Jackson v. State*, 785 N.E.2d 615, 619 (Ind. Ct. App. 2003), *trans. denied*.

The reasonable suspicion required for a stop need not rise to the level of suspicion necessary for probable cause. *State v. Belcher*, 725 N.E.2d 92, 94 (Ind. Ct. App. 2000), *trans. denied*. We have previously held that an officer may stop a vehicle when a license plate check reveals that the vehicle is registered to a person whose license is suspended.

² For purposes of this opinion, we will assume that the trial court was correct in determining that a stop occurred.

See State v. Ritter, 801 N.E.2d 689, 692-93 (Ind. Ct. App. 2004), *trans. denied*; *Wilkinson, id.*; *Kenworthy v. State*, 738 N.E.2d 329, 330-31 (Ind. Ct. App. 2000), *trans. denied*.

Meredith relies upon *Wilkinson* to argue that before making the stop Deputy Lindsay was required to determine that the driver of the Caprice matched the identifiers listed for the vehicle's registered owner. In other words, Meredith argues that an officer's knowledge that the *owner* of a particular vehicle has forfeited his driving privileges is not sufficient, standing alone, to give the officer reasonable suspicion that the *driver* of that vehicle has forfeited his privileges.

In *Wilkinson*, an officer ran a random computer check on the license plate number of a truck parked at a store parking lot and learned that the vehicle was registered to Wilkinson, who was a habitual traffic violator. *Wilkinson*, 743 N.E.2d at 1270. The computer check provided a physical description of Wilkinson, and the officer observed that the person who left the store and began driving the truck matched that description. *Id.* Although he did not witness any traffic violations, the officer stopped the truck and arrested Wilkinson. On appeal, Wilkinson contended that the evidence should be suppressed because the stop was the result of a random license plate check that was not based upon reasonable suspicion. Citing two cases from other states, the *Wilkinson* court noted that random license plate checks were not searches. *Id.* (citing *People v. Brand*, 71 Ill.App.3d 698, 390 N.E.2d 65 (1979); *State v. Donis*, 157 N.J. 44, 723 A.2d 35 (1998)). The *Wilkinson* court held that the police officer had reasonable suspicion to stop

Wilkinson because the license check disclosed both his suspended license and his description. *Id.* In a footnote, the court further observed:

We note that had the officer not obtained a physical description or other information indicating Wilkinson was the driver of the [truck], we would find the stop impermissible for the same reason as did the court in *People v. Brand*. *Cf. Smith[v. State]*, 713 N.E.2d 338 (Ind. Ct. App. 1999), *trans. denied*], where the violation was a license plate that did not match the car. There, our supreme court found the stop valid even though the officer apparently did not know who was driving the car. Here, by contrast, the violation did not involve irregularities in the registration or licensure of the vehicle, but of the driver.

Id. at 1271, n. 2. It is this footnote that Meredith now relies on as the authority for suppressing the evidence obtained during his encounter with Deputy Lindsay.

In *Ritter*, 801 N.E.2d at 692-93, a panel of this court observed that the *Wilkinson* footnote conflicts with *Kenworthy*.³ In *Kenworthy*, as in *Ritter*, the police officer knew that the registered owner of the vehicle in question had a suspended license. Both cases hold that even though the officer could not see the person driving the vehicle, and thus could not verify whether the driver matched the description obtained through the computer check, the officer had reasonable suspicion to make a stop. We concur with the holdings in *Kenworthy* and *Ritter*, and we hold that Deputy Lindsay had reasonable suspicion to make the stop.

II. SUPPRESSION OF STATEMENTS

³ The *Wilkinson* case does not cite or refer to *Kenworthy*.

Meredith contends that the trial court abused its discretion in not suppressing all incriminating statements made by Meredith to Deputy Lindsay at the arrest scene or during the time Deputy Lindsay was transporting Meredith to the jail. Meredith points out that Deputy Lindsay did not give *Miranda* warnings, and he emphasizes that statements obtained in violation of *Miranda* are generally inadmissible.

Our examination of the transcript discloses that at the arrest scene Deputy Lindsay asked Meredith to identify himself and to admit that he was driving the vehicle. The trial court determined that Meredith was in custody at the time of the questioning, and the court overruled Meredith's objection to Deputy Lindsay's testimony related to Meredith's identity and sustained Meredith's objection to Deputy Lindsay's testimony that Meredith admitted to driving the Caprice.

The trial court did not abuse its discretion in allowing identifying information, as Indiana courts have held that a police officer may ask for routine identification information without giving *Miranda* warnings. *See Hatcher v. State*, 274 Ind. 230, 410 N.E.2d 1187, 1189 (1980) (holding that statements made by defendant in response to police officer's inquiry as to defendant's date of birth, name and identification, and cause of his gunshot wound, made while defendant was clothed in a hospital gown awaiting treatment, did not require *Miranda* warnings); *Green v. State*, 753 N.E.2d 52, 58 (Ind. Ct. App. 2001), *trans. denied* (holding that an officer may ask routine questions for the purpose of obtaining basic identifying information without the need for *Miranda* warnings).

Our examination of the transcript discloses some confusion about the circumstances surrounding Meredith's statement that he knew he should not have been driving, an admission made to Deputy Lindsay as he transported Meredith to jail. On appeal, Meredith contends that at the time he made the admission he was under arrest, was being interrogated, and had been asked whether he had been driving the Caprice. However, the transcript shows that the trial court denied Meredith's objection to the admission of his statement on the basis that the statement was not made in response to any question posed by Deputy Lindsay, a basis that Meredith did not challenge. Thus, Meredith volunteered the statement, and such volunteered statements are admissible absent *Miranda* warnings. *See Hopkins v. State*, 582 N.E.2d 345, 348 (Ind. 1991). Moreover, any error in admitting Meredith's statement would be harmless, as the statement was cumulative of Deputy Lindsay's testimony that he observed Meredith driving the Caprice. *See Fuller v. State*, 674 N.E.2d 576, 578 (Ind. Ct. App. 1996) (holding that any error in admitting evidence is harmless where the evidence is merely cumulative).

III. SUFFICIENCY OF THE EVIDENCE

Meredith contends that the State failed to present sufficient evidence to support his conviction. Specifically, Meredith argues that the State failed to prove that he was the one driving the Caprice.

When reviewing the sufficiency of evidence to support a conviction, an appellate court considers only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). Courts of review must be

careful not to impinge on the fact-finder's authority to assess witness credibility and to weigh the evidence. *Id.* We will affirm the conviction unless “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* (quoting *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000)).

To convict Meredith of the Class C felony of operating a vehicle while his privileges are forfeited for life, the State was required to prove beyond a reasonable doubt that Meredith operated a motor vehicle after his driving privileges were forfeited for life under Ind. Code § 9-30-10-16. *See* Ind. Code § 9-30-10-17.

Here, Meredith contends that Deputy Lindsay, the State's lone witness, was confused as to the identity of the driver; thus, he argues that the evidence is insufficient. Meredith emphasizes Deputy Lindsay described the passenger, Caldwell, as clean-shaven and taller than Meredith. Meredith further emphasizes that Caldwell had facial hair and was the same height as Meredith.

Deputy Lindsay testified that he saw the driver of the Caprice twice before he drove to where the vehicle was parked. Deputy Lindsay further testified that the person he had observed driving the Caprice was outside the vehicle when Deputy Lindsay arrived at the scene, and Deputy Lindsay identified that person as Meredith. Deputy Lindsay testified that he did not specifically remember what the passenger, Caldwell, looked like; however, he testified that Caldwell identified himself as the Caprice's passenger. Indeed, it was defense counsel who suggested that Caldwell was clean-shaven, an observation to which Deputy Lindsay only tentatively agreed because of the time lapse between the time of the incident and the hearing thereon. Furthermore,

Meredith, while being transported to jail, voluntarily admitted that he should not have been driving the Caprice. Under these facts, a reasonable fact-finder could have concluded that Caldwell was the passenger and Meredith was the driver. Thus, the conviction is supported by sufficient evidence.

CONCLUSION

The trial court did not err either in determining that Deputy Lindsay had a reasonable, articulable suspicion that warranted a traffic stop or in denying Meredith's motion to suppress the voluntary admission made to Deputy Lindsay while Meredith was in custody. Furthermore, the evidence was sufficient to support Meredith's conviction.

Affirmed.

BRADFORD, J., concurs.

ROBB, J., concurring in result.