

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

SIER LAONE WHITE,

Defendant-Appellee.

UNPUBLISHED

February 21, 2006

No. 256804

Ingham Circuit Court

LC No. 03-000451-FH

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

PER CURIAM.

Plaintiff appeals by delayed leave granted from the circuit court's orders granting defendant's motions to suppress evidence and to quash the information and dismiss the case. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On October 20, 2002, at approximately 3:30 a.m., three police officers responded to a call reporting two or three suspicious males looking in cars in a particular parking lot at Michigan State University that was known to have been the site of previous overnight break-ins. After three to five minutes of surveillance, one of the officers observed a vehicle back out of a parking space and proceed through the parking lot without its headlights on. The other two officers, who were surveilling the lot from a different location, observed the vehicle attempt to make a left-hand turn where none was possible and then turn right, all without headlights on. These officers stopped the vehicle, which was driven by defendant. One of the officers saw a detached stereo in plain view resting on the front seat between defendant and the front-seat passenger.

Meanwhile, the officer who had initially observed defendant's vehicle went to the area where he had first seen the vehicle pull out; he noticed a screwdriver in the roadway that had not been there before. A nearby vehicle had been ransacked and its stereo had been removed from the dashboard. Another nearby vehicle, a Chevrolet Caprice, had a window broken out, and the dashboard was torn apart. It appeared that a stereo had been in the car, but the officer could not locate it. A registration receipt and an owner's manual for a JVC stereo were on the floor. The officer returned to the scene of the traffic stop, where he observed a JVC stereo unit, with wires loose in the back of the unit, sitting on the front seat between defendant and the passenger. The

owner of the Chevrolet Caprice testified that the car had been broken into and damaged and that the stereo had been stolen.

Defendant was charged with larceny from a motor vehicle in violation of MCL 750.356a. At the beginning of defendant's preliminary examination, defense counsel moved to suppress all evidence stemming from the traffic stop on the ground that the stop was illegal. After receiving testimony that the vehicle was being driven without its lights on at night, the district court refused to permit either the assistant prosecutor or defense counsel to ask any additional questions about the reason for the stop; the district court opined that it was a traffic violation to drive in the parking lot at night without illuminated headlights and that the stop was therefore proper.

On bindover to the circuit court, defendant filed motions to suppress and to quash the information and dismiss the case. Defendant argued that no ordinance or state law proscribed the operation of a vehicle without the use of headlights in a parking lot and that the stop was therefore an illegal investigatory stop. Relying solely on the preliminary examination transcript and refusing plaintiff's request for an evidentiary hearing to elicit further testimony concerning the basis for the stop, the circuit court granted defendant's motions and dismissed the case.

A trial court's findings of fact in a suppression hearing are reviewed for clear error. *People v Williams*, 472 Mich 308, 313; 696 NW2d 636 (2005). However, to the extent that a decision on a motion to suppress involves an interpretation of the law or the application of a constitutional standard, a trial court is not entitled to the same level of deference, and therefore the trial court's ultimate ruling on the motion to suppress is reviewed de novo. *Id.* A trial court's decision on a motion to quash information is reviewed for an abuse of discretion. *People v Fletcher*, 260 Mich App 531, 551-552; 679 NW2d 127 (2004); *People v Hamblin*, 224 Mich App 87, 91; 568 NW2d 339 (1997).

“[T]he reasonableness of a search or seizure depends on ‘whether the officer’s action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.’” *Williams, supra* at 314, quoting *Terry v Ohio*, 392 US 1, 20; 88 S Ct 1868; 20 L Ed 2d 889 (1968). In the absence of traffic or equipment violations, “the constitution requires an ‘individualized, articulable suspicion’ for a [vehicular] stop.” *People v Burrell*, 417 Mich 439, 450; 339 NW2d 403 (1983) (citations omitted). However, “[f]ewer foundation facts are necessary to support a finding of reasonableness when moving vehicles are involved, than if a house or a home were involved.” *People v Peebles*, 216 Mich App 661, 665; 550 NW2d 589 (1996), quoting *People v Christie (On Remand)*, 206 Mich App 304, 308-309; 520 NW2d 647 (1994).

“[I]n determining whether the totality of the circumstances provide reasonable suspicion to support an investigatory stop, those circumstances must be viewed ‘as understood and interpreted by law enforcement officers, not legal scholars’” *People v Oliver*, 464 Mich 184, 192; 627 NW2d 297 (2001), quoting *People v Nelson*, 443 Mich 626, 632; 505 NW2d 266 (1993). “Common sense and everyday life experiences predominate over uncompromising standards.” *Nelson, supra* at 635-636. Moreover, “‘the fact that (an) officer does not have the state of mind which is hypothecated by the reasons which provide the legal justification for the officer’s action does not invalidate the action taken as long as the circumstances, viewed

objectively, justify that action. . . . Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.” *Ohio v Robinette*, 519 US 33, 38; 117 S Ct 417; 136 L Ed 2d 347 (1996), quoting *Whren v United States*, 517 US 806, 813; 116 S Ct 1769; 135 L Ed 2d 89 (1996) (citation omitted).

We hold that the stop of defendant’s vehicle was based on a reasonable suspicion and that the circuit court therefore erred in granting defendant’s motion to suppress and in quashing the information and dismissing the case. Defendant’s operation of a vehicle very early in the morning before sunrise without illuminated headlights would raise, in an objective observer, a particularized suspicion of theft, *Peebles, supra* at 665, particularly where the police had received a tip that suspicious persons were looking in car windows in a parking lot that was known by them to be a problematic site for overnight vehicle break-ins. Moreover, defendant’s operation of the vehicle without illuminated headlights in the dark would give rise to a reasonable suspicion of careless driving in violation of MCL 257.626b.¹ *Peebles, supra* at 665. “A reasonable suspicion of either theft or careless driving would have provided a legitimate basis for stopping defendant.” *Id.* at 665-666. It is of no moment whether any of the officers believed, correctly or not, that simply driving without illuminated headlights in a parking lot in the pre-dawn hours constituted a moving traffic violation. *Id.* at 666. The officers’ actions are to be evaluated on the basis of whether the *objective* facts and circumstances permit an inference of Fourth Amendment propriety; their subjective intentions or beliefs are not relevant. *Robinette, supra* at 38; *Williams, supra* at 314 n 7.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette

¹ MCL 257.626b provides:

A person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public *including an area designated for the parking of vehicles* in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, is responsible for a civil infraction. [Emphasis added.]