2018 IL App (2d) 160685-U
No. 2-16-0685
Order filed September 13, 2018

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of De Kalb County.
Plaintiff-Appellee,	)	
v.	)	Nos. 14-DT-499 14-TR-15461
TIFFANY K. KLEINSCHMIDT,	)	Honorable William P. Brady,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly granted the State a directed finding on defendant's motion to quash and suppress: at the hearing on the motion, defendant did not specifically contest the arresting officer's sworn statement that defendant crossed the center line, and in any event the stipulated evidence at trial, which we could consider, included only the officer's testimony that she crossed the line.

¶ 2 Defendant, Tiffany K. Kleinschmidt, appeals from a ruling of the circuit court of De Kalb County granting the State's motion for a directed finding and denying her motion to quash her arrest and suppress evidence. Because the record supports the trial court's ruling, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged by traffic complaint with improper lane usage (625 ILCS 5/11-709(a) (West 2014)) and driving while under the influence (DUI) (625 ILCS 5/11-501(a)(1), (a)(2) (West 2014)). Defendant filed a petition to rescind her summary suspension and a motion to quash arrest and suppress evidence.

¶ 5 The following facts were established at the combined hearing on the petition to rescind and the motion to quash and suppress. When asked if she had committed any traffic offenses before being stopped, defendant answered no. On cross-examination, the State asked defendant what the arresting officer told her when he stopped her. Defendant responded that he told her that he stopped her "for riding a line for between *** 50 and 75 feet." When asked if she told the officer that she had not "touched the line," defendant responded that she could not recall. Also in the court file was the arresting officer's sworn report, stating that he "observed [defendant] cross over [the] dotted white lines."

¶ 6 Defendant rested, and the State moved for a directed finding as to both the petition to rescind and the motion to quash and suppress. The trial court found that defendant had not established a *prima facie* case that the stop was unlawful, granted the motion for a directed finding, and denied both the petition to rescind and the motion to quash and suppress.

¶ 7 Following the denial of defendant's motion to reconsider, the trial court conducted a stipulated bench trial. The parties stipulated that the arresting officer would testify that on November 27, 2014, he observed defendant's vehicle "cross over a solid yellow line." After the officer stopped defendant, he smelled the odor of an alcoholic beverage. After defendant failed the field sobriety tests, the officer concluded that she was under the influence. A subsequent breath test showed that defendant's blood-alcohol level was 0.14. The court found defendant

guilty of DUI and improper lane usage. In finding defendant guilty of improper lane usage, the court noted the officer's testimony.

¶ 8 Defendant was sentenced to 18 months' conditional discharge, which was stayed pending appeal. Defendant, in turn, filed a timely notice of appeal.

¶ 9 II. ANALYSIS

¶ 10 On appeal, defendant challenges only the denial of her motion to quash and suppress. She contends that the trial court erred in granting the State's motion for a directed finding, because her testimony as to what the officer told her did not constitute evidence that she had committed a traffic offense before being stopped.

¶ 11 A defendant has the burden of persuasion on a motion to suppress. *People v. Mott*, 389 Ill. App. 3d 539, 542 (2009). If the defendant makes a *prima facie* case of an unlawful search or seizure, the burden shifts to the State to introduce evidence justifying the search or seizure. *Mott*, 389 Ill. App. 3d at 542.

¶ 12 When ruling on a motion to suppress, we defer to the trial court's factual findings and reverse those findings only if they are against the manifest weight of the evidence. *People v. Harris*, 228 Ill. 2d 222, 230 (2008). However, we review *de novo* the ultimate ruling on a motion to suppress. *Harris*, 228 Ill. 2d at 230. We may consider the entire record, including any trial evidence. *People v. Robinson*, 391 Ill. App. 3d 822, 830 (2009).

¶ 13 In this case, in light of the entire record, the trial court did not err in granting the motion for a directed finding and denying defendant's motion to quash and suppress. Defendant testified that she did not commit any traffic offenses and that the officer told her that she had merely driven on the center line. Although the parties dispute whether driving on the center line, as opposed to crossing it, constituted improper lane usage, we need not resolve that question. As

noted, the arresting officer's sworn report was in the court file when the trial court conducted the combined hearing, which included consideration of defendant's petition to rescind her summary suspension. Because the report stated that the arresting officer saw defendant cross the center line, it provided a reasonable basis for the stop, as crossing a center line constitutes reasonable suspicion of improper lane usage. *People v. Hackett*, 2012 IL 111781, ¶¶ 28-29; *People v. Flint*, 2012 IL App (3d) 110165, ¶ 17; see also *People v. Davis*, 352 Ill. App. 3d 576, 580 (2004) (reasonable belief that a defendant committed a traffic violation provides a valid basis for a traffic stop). Absent a specific denial by defendant that she had crossed the center line, the sworn report precluded her from establishing a *prima facie* case that there was no lawful basis for the traffic stop. Thus, the trial court properly granted the motion for a directed finding and denied the motion to quash and suppress.

¶ 14 In any event, we note that the stipulated trial evidence included only the arresting officer's testimony that he observed defendant cross the center line. That testimony provides a further basis to affirm the trial court's ruling. See *Robinson*, 391 Ill. App. 3d at 830.

¶ 15 III. CONCLUSION

¶ 16 For the reasons stated, we affirm the judgment of the circuit court of De Kalb County. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 17 Affirmed.