

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 112849
 v. :
 :
 ROBERT KANCLER, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: REVERSED AND REMANDED
RELEASED AND JOURNALIZED: January 4, 2024

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-22-675076-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Kyle Dillon, Assistant Prosecuting Attorney, *for appellee.*

Susan J. Moran, *for appellant.*

MARY EILEEN KILBANE, J.:

{¶ 1} Defendant-appellant Robert Kancler (“Kancler”) appeals the trial court’s denial of his motion to suppress. For the following reasons, we reverse and remand.

Factual and Procedural History

{¶ 2} On October 11, 2022, Jacob Davis (“Officer Davis”), who had been employed for two and one-half years as a patrol officer with the Strongsville Police Department, initiated a traffic stop on Pearl Road in Strongsville, Ohio because Kancler was allegedly driving without his headlights. Pursuant to that traffic stop, Officer Davis searched Kancler’s vehicle and found crack cocaine.

{¶ 3} On October 12, 2022, Kancler was charged in Berea M.C. Nos. 22CRA01264 and 22TRD04613, respectively, for possession of drugs in violation of R.C. 2925.11(C) and inoperable headlights in violation of Strongsville Codified Ordinances 438.03.¹ Berea M.C. No. 22CRA01264 was bound over to the Cuyahoga County Court of Common Pleas. On December 20, 2022, in Cuyahoga C.P. No. CR-22-675076-A, the Cuyahoga County Grand Jury indicted Kancler on one count of drug possession in violation of R.C. 2925.11(A), a felony of the fourth degree.

{¶ 4} On January 10, 2023, Kancler pleaded not guilty. On March 7, 2023, Kancler filed a motion to suppress the drugs discovered when his vehicle was searched. On May 16, 2023, the trial court conducted a hearing on the motion to suppress where Kancler was represented by counsel and testimony was presented by Officer Davis. Officer Davis’s body camera recorded the traffic stop and subsequent search of Kancler’s vehicle. The recording, which includes both video and audio footage, was played for the trial court and admitted into evidence. The

¹ Strongsville Codified Ordinances 438.03 reads that “[e]very motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.”

recording includes a timer that indicates the duration of the traffic stop, starting at the time Officer Davis initiated his flashing lights. Officer Davis's testimony references the timespan of the traffic stop as reflected by the body-camera timer.

{¶ 5} Officer Davis testified that on the evening of October 11, 2022, he conducted a traffic stop of Kancler because one of Kancler's vehicle's headlights was not working. Officer Davis was alone in his patrol car.

{¶ 6} Officer Davis and Kancler pulled over to the side of the road, and Officer Davis approached the passenger side of Kancler's vehicle. Officer Davis informed Kancler that he pulled him over because both headlights were extinguished. Officer Davis then walked to the front of the car, observed the headlights, and stated the headlight fluttered for a second and it was dull. In response, Kancler stated water was entering the lights and he needed a new wheel well. The body-camera footage depicted both headlights were illuminated at the time of the traffic stop.

{¶ 7} Officer Davis requested Kancler's driver's license, which was promptly provided along with a "sheriff's badge" or "courtesy badge." Officer Davis testified that drivers obtain a "courtesy badge" if they are friendly with a police officer or sheriff and the badge is provided in hopes that the investigating police officer will show some consideration. Officer Davis testified that Kancler was shaking when he provided his license and "courtesy badge." Upon receipt of Kancler's identification papers, Officer Davis communicated the driver's license number to dispatch and received confirmation that Kancler had a valid license.

{¶ 8} At approximately two minutes into the traffic stop, Officer Davis informed Kancler that he had arrested Kancler for drugs, on the same street, the prior year. Kancler denied that he had drugs in his car and refused a search of his vehicle. Officer Davis informed Kancler that he was going to return to his patrol car and likely issue him a warning. Immediately upon stepping away from Kancler's vehicle, Officer Davis requested from dispatch a K-9 unit to perform a drug sniff of Kancler's vehicle.

{¶ 9} Officer Davis returned to his patrol car and made phone calls to two K-9 units informing them that he wanted a canine sniff because he had arrested Kancler the previous year for drugs and Kancler now refused to allow a search of his vehicle.

{¶ 10} Upon arrival of a K-9 unit, Officer Davis approached Kancler and asked him to exit his vehicle. Officer Davis completed a pat down of Kancler. Officer Davis and Kancler stepped to the sidewalk, and Officer Davis informed him that the K-9 unit would examine the exterior of his car "because of our history and things like that * * * you know * * * it seems like a pretty fair way to go about it."

{¶ 11} Pursuant to the dog sniff, the K-9 unit informed Officer Davis of a positive alert for drugs. Officer Davis testified that he had probable cause to search the vehicle based upon the K-9 unit's positive alert.

{¶ 12} Officer Davis performed a search of Kancler's vehicle, starting with the driver's side and continuing to the front passenger side of the car. Officer Davis found a velvet bag in the passenger glove box that contained crack cocaine. Officer

Davis handcuffed Kancler and read Kancler his Miranda rights. Additional cocaine was found in Kancler's pants pocket. Field tests were positive for crack cocaine.

{¶ 13} Following the hearing on Kancler's motion to suppress, the trial court verbally denied the motion. Pursuant to the trial court's ruling, Kancler withdrew his former plea and pleaded no contest to the indictment. The trial court found Kancler guilty of drug possession in violation of R.C. 2925.11(A) and sentenced him to five years of community control subject to a number of conditions.

{¶ 14} On June 12, 2023, Kancler filed a timely appeal, presenting this sole assignment of error for our review: "The trial court erred in denying appellant's motion to suppress evidence."

Legal Analysis

{¶ 15} Kancler argues that the police's reasonable suspicion to conduct a traffic stop ended when Officer Davis observed Kancler's functioning headlights. Kancler argues that Officer Davis did not work diligently to issue a warning citation but purposely extended the length of the traffic stop to allow for the appearance of a drug-sniffing dog. Kancler further argues that there was no justification to prolong the traffic stop to allow for a drug sniff of his vehicle. The state contends that Officer Davis had reasonable suspicion to conduct the traffic stop. The state contends that the traffic stop was not prolonged where the drug sniff occurred ten minutes after the police initiated the traffic stop. Alternatively, the state argues that even if Officer Davis extended the traffic stop to allow for a dog sniff, he was justified in doing so.

We find Kancler's arguments about the initial traffic stop are dispositive of this appeal.

{¶ 16} The Ohio Supreme Court set forth the standard of review for a motion to suppress:

Appellate review of a motion to suppress presents a mixed question of law and fact. When considering a motion to suppress, the trial court assumes the role of trier of fact and is therefore in the best position to resolve factual questions and evaluate the credibility of witnesses. *State v. Mills* (1992), 62 Ohio St.3d 357, 366, 582 N.E.2d 972. Consequently, an appellate court must accept the trial court's findings of fact if they are supported by competent, credible evidence. *State v. Fanning* (1982), 1 Ohio St.3d 19, 1 OBR 57, 437 N.E.2d 583. Accepting these facts as true, the appellate court must then independently determine, without deference to the conclusion of the trial court, whether the facts satisfy the applicable legal standard. *State v. McNamara* (1997), 124 Ohio App.3d 706, 707 N.E.2d 539.

State v. Burnside, 100 Ohio St.3d 152, 2003-Ohio-5372, 797 N.E.2d 71, ¶ 8.

{¶ 17} This court has also stated that

at a hearing on a motion to suppress, the state bears the burden of establishing the validity of a traffic stop. *See State v. Foster*, Lake App. No. 2003-L-039, 2004 Ohio 1438, ¶6. Likewise, once a warrantless search is established, it is the state's burden to show the validity of the search. *Xenia v. Wallace* (1988), 37 Ohio St.3d 216, 218, 524 N.E.2d 889.

Lakewood v. Shelton, 8th Dist. Cuyahoga No. 95746, 2011-Ohio-4408, ¶ 13.

Validity and Duration of the Traffic Stop

{¶ 18} In the instant case, Officer Davis initiated a traffic stop because either Kancler's headlight or headlights were allegedly extinguished. Kancler argues that there was no reasonable suspicion to pull him over for the alleged traffic violation

and the traffic stop should have ended once the investigating officer determined Kancler's headlights were illuminated.

{¶ 19} The Fourth Amendment of the United States Constitution, which is enforceable against the states through the Due Process Clause of the Fourteenth Amendment, provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause.” *See Mapp v. Ohio*, 367 U.S. 643, 655, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961). Article I, Section 14 of the Ohio Constitution provides similar protections against unreasonable searches and seizures. *State v. Robinette*, 80 Ohio St.3d 234, 235, 685 N.E.2d 762 (1997).

{¶ 20} An officer conducting a traffic stop must comply with the reasonableness requirements of the Fourth Amendment. *State v. McDonald*, 8th Dist. Cuyahoga No. 111724, 2023-Ohio-464, ¶ 24, citing *Whren v. United States*, 517 U.S. 806, 810, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996).

{¶ 21} As stated by this court in *State v. Byrd*, 2022-Ohio-4635, 204 N.E.3d 681 (8th Dist.):

“[A] traffic stop is constitutionally valid if an officer has a reasonable and articulable suspicion that a motorist has committed, is committing, or is about to commit a crime.” *State v. Mays*, 119 Ohio St.3d 406, 2008-Ohio-4539, 894 N.E.2d 1204, ¶ 7. “[I]f an officer’s decision to stop a motorist for a criminal violation, including a traffic violation, is prompted by a reasonable and articulable suspicion considering all the surrounding circumstances, then the stop is constitutionally valid.” *Id.* at ¶ 8. This court has found a traffic stop lawful even if the traffic violations are minor, or “de minimis.” *State v. White*, 8th Dist. Cuyahoga No. 100624, 2014-Ohio-4202, ¶ 14.

Byrd at ¶ 16.

{¶ 22} Where an officer stops a motorist on the reasonable suspicion that the motorist committed a traffic violation, the “officer may detain the motorist only long enough to issue a warning or citation.” *State v. Jones*, 8th Dist. Cuyahoga No. 100300, 2014-Ohio-2763, ¶ 21, citing *State v. French*, 104 Ohio App.3d 740, 747, 663 N.E.2d 367 (12th Dist.1995). If the circumstances attendant to the traffic stop create a reasonable suspicion of other illegal activity, the officer may detain the motorist so long as the new articulable and reasonable suspicion continues. *Id.* The existence of reasonable suspicion is determined by evaluating the totality of the circumstances ““through the eyes of the reasonable and prudent police officer on the scene who must react to events as they unfold.”” *State v. Heard*, 2d Dist. Montgomery No. 19323, 2003-Ohio-1047, ¶ 14, quoting *State v. White*, 2d Dist. Montgomery No. 18731, 2002 Ohio App. LEXIS 145, 5 (Jan. 18, 2002), quoting *State v. Andrews*, 57 Ohio St.3d 86, 87-88, 565 N.E.2d 1271 (1991).

{¶ 23} The record supports that Officer Davis’s initial traffic stop was valid where Officer Davis had an objectively reasonable belief, based upon the circumstances known to him at the time of the stop, that there was an equipment failure — an inoperable headlight. Based upon his belief, Officer Davis conducted a valid traffic stop.

{¶ 24} However, our inquiry does not end with determining a valid traffic stop occurred. An officer’s reasonable suspicion that a traffic violation occurred terminates when the officer recognizes the grounds for effectuating the stop are no

longer valid. In *State v. Chatton*, 11 Ohio St.3d 59, 463 N.E.2d 1237 (1984), a police officer detained a driver whose vehicle displayed neither front nor rear license plates. Upon stopping the driver, the officer observed a temporary license resting on the rear deck of the vehicle, directly beneath the rear window. While the officer was justified in the initial traffic stop, the officer no longer had a reasonable suspicion that the vehicle was not properly licensed or registered when he viewed the temporary license and, therefore, had no continuing justification to request the motorist's driver's license or to detain him further. *Chatton* at 63. In other words, once an officer has no reason to suspect the driver was committing a traffic violation, the officer does not maintain authority to further detain the driver absent some specific and articulable facts that continued detention is reasonable. *See also Shelton*, 8th Dist. Cuyahoga No. 95746, 2011-Ohio-4408 (An officer who initiated a traffic stop because he could not read the vehicle's snow-covered license plate was not justified in continued detention of the driver after he was able to read the license plate.); *State v. Brentlinger*, 5th Dist. Delaware No. 19 CAC 05 0032, 2019-Ohio-4989, ¶ 14 (Officer initiated a traffic stop because owner of vehicle was a female with suspended license but upon observing the driver was male, the officer did not have a reasonable suspicion or independent basis to extend the detention by asking for the driver's identification.).

{¶ 25} Here, at the start of the traffic stop, Officer Davis exited his patrol car and approached Kancler's front passenger side window. Officer Davis stated he stopped Kancler because both of his headlights were extinguished. Kancler

responded with what sounded like disbelief when he stated, “What?” Officer Davis then walked to the front of Kancler’s vehicle, looked at the headlights, and stated, “It’s fluttering man. Well, this one’s cracked but it’s very * * * it’s very dull. Now it’s kind of on. But it was fluttering for a second.” Kancler did not concede that his headlights were inoperable or fluttering but responded that water was seeping into his lights and he needed a new water well. This exchange, as well as a clear view of the headlights, was recorded on the officer’s body-camera footage and presented at the motion to suppress hearing.

{¶ 26} At the suppression hearing, Officer Davis testified that he stopped Kancler because he observed one headlight was extinguished. Officer Davis testified that he incorrectly told Kancler at the traffic stop that both headlights were inoperable. Officer Davis initially testified that the body-camera footage demonstrated that Kancler’s headlights were flickering. Upon replaying the video footage, Officer Davis conceded the footage showed both headlights were illuminated at the time of the traffic stop. However, Officer Davis testified that as he approached the front of Kancler’s vehicle from the passenger side door, he observed a change in the headlight but admitted no such change was captured on the video. The following testimony was also provided at the suppression hearing:

THE COURT: The defendant’s vehicle would have been in motion when you first observed it. Is that so?

OFFICER DAVIS: Yes.

THE COURT: Is it your best recollection at that time that one or more of the headlights was out entirely or fluttering at that point?

OFFICER DAVIS: For me to conduct a traffic stop, one of the headlights has to be completely out.

THE COURT: What, as you recall, was the case in this situation?

OFFICER DAVIS: His right headlight was completely out.

DEFENSE COUNSEL: And in your experience, wouldn't it be abnormal for a headlight to be dead and then to be illuminated later?

ASSISTANT PROSECUTING ATTORNEY: Objection.

OFFICER DAVIS: Yes.

THE COURT: Overruled.

DEFENSE COUNSEL: Yes, that's unusual, correct?

OFFICER DAVIS: That's abnormal.

DEFENSE COUNSEL: So normally a headlight is out because it's burned out. You would agree?

OFFICER DAVIS: Correct.

THE COURT: Or damaged perhaps.

DEFENSE COUNSEL: Or perhaps damaged. But it was not illuminating, and usually when they're out, they're out. You would agree with that?

OFFICER DAVIS: Yes.

DEFENSE COUNSEL: And in this case, we didn't see either of those headlights out; isn't that true?

OFFICER DAVIS: It is not captured on the video.

Tr. 48-49.

{¶ 27} In determining that Kancler's motion to suppress was not well-taken, the trial court made the following comment about the traffic stop:

It is not unreasonable and it is lawful for motorists to be briefly detained when an officer observes headlights out or malfunctioning, especially at night. It is not especially unusual in the Court's experience for malfunctioning headlights to flicker or appear even intermittently out entirely [sic] as they apparently did for Officer Davis.

Tr. 72-73. The trial court's statement is not evidence. If the trial court's statement was meant to be a finding of fact, we do not find that it was supported by competent, credible evidence.

{¶ 28} While Officer Davis testified that Kancler's headlight was inoperable when he observed Kancler driving, the body-camera footage does not show a headlight was extinguished at the time of the traffic stop. The footage shows both headlights fully functioning as confirmed by Officer Davis's testimony. Officer Davis's statement that the headlights were dull does not demonstrate a traffic violation. Additionally, Officer Davis testified that an extinguished headlight does not typically flicker off and on.

{¶ 29} Officer Davis's reasonable suspicion and probable cause ceased upon his examination of the functioning headlight. At the time Officer Davis observed Kancler's headlights were operating, the basis for the traffic stop was over.

{¶ 30} Further, there were no specific and articulable facts that reasonably justified Kancler's continued detention. After observing the headlights, Officer Davis returned to the passenger driver's side door and asked Kancler for his driver's license. Officer Davis testified that he detected Kancler was shaking when he handed

over his identification. Officer Davis called dispatch to verify the validity of Kancler's driver's license. At one minute and 50 seconds into the traffic stop, while waiting for a response from dispatch, Officer Davis told Kancler that he had arrested him for drugs on the same busy street one year earlier. At two minutes, five seconds into the stop, dispatch informed Officer Davis that Kancler held a valid driver's license. Officer Davis told Kancler he would likely write him a citation and as he walked towards his patrol car, the officer immediately called for a K-9 unit.

{¶ 31} Any alleged suspicion held by Officer Davis was based upon the arrest of Kancler one year earlier and Kancler's nervousness.

[This observation] at best support[s] an inchoate and unparticularized hunch that criminal activity might be afoot. However, [it does] not constitute specific facts to support a reasonable suspicion justifying an officer extending a traffic stop so that a canine could confirm or dispel the officer's suspicion about illegal drug or gun activity. *State v. Byczkowski*, 2d Dist. Greene No. 2001 CA 31, 2001 Ohio App. LEXIS 5145 (Nov. 16, 2001) (evidence must be suppressed because, while the trooper thought something was amiss, he never articulated what that something was; the facts articulated by the trooper supported a hunch that the vehicle contained contraband but did not support a reasonable articulable suspicion to justify continued detention for a canine sniff after the traffic matter had been completed).

State v. Byrd, 2022-Ohio-4635, 204 N.E.3d 681, ¶ 27 (8th Dist.). Kancler should not have been detained further or subjected to a search of his vehicle.

{¶ 32} The record does not demonstrate any suspicious activity by Kancler, but it is difficult not to question Officer Davis's intentions. Officer Davis testified he initiated the traffic stop because one headlight was inoperable. Yet, the body-camera footage demonstrated both headlights were fully illuminated and Officer

Davis testified it would be abnormal for a headlight to be fully extinguished — as he claimed — and subsequently illuminated. It seems debatable that Officer Davis initiated the traffic stop due to an extinguished headlight rather than somehow recognizing Kancler's license plate and car as one he previously stopped and cited for drug violations.

{¶ 33} Kancler was polite and cooperative in his exchanges with the officer, and Officer Davis did not testify that he observed drugs in Kancler's vehicle or smelled drugs or alcohol on Kancler. Officer Davis obtained Kancler's driver's license, and Officer Davis testified that he would typically carry the license with him when he returned to his patrol car. But Officer Davis did not retain the license when he returned to his patrol car to allegedly write a citation. The body-camera footage clearly depicts the driver's license resting on the passenger seat where it remained from the time Officer Davis first called dispatch through the search of the vehicle, again raising a question as the officer's intentions.

{¶ 34} For the foregoing reasons, the trial court erred when it denied Kancler's motion for suppression. Kancler's assignment of error is sustained, and the judgment is reversed and remanded.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, JUDGE

EMANUELLA D. GROVES, J., CONCURS (WITH SEPARATE OPINION);
MICHELLE J. SHEEHAN, P.J., CONCURS IN JUDGMENT ONLY (WITH SEPARATE OPINION)

EMANUELLA D. GROVES, J., CONCURRING:

{¶ 35} I concur with the majority opinion that held given the evidence, the officer had probable cause to stop Mr. Kancler but the delayed traffic stop to effectuate a canine sniff of his vehicle was illegal.

{¶ 36} The majority notes at ¶ 29, “Officer Davis’s reasonable suspicion and probable cause ceased upon his examination of the functioning headlight. At the time Officer Davis observed Kancler’s headlights were operating, the basis for the traffic stop was over.” Nonetheless, the officer continued to detain Mr. Kancler in violation of his United States and Ohio constitutional right against unreasonable searches of his person and seizure of his property.

{¶ 37} “The Fourth Amendment to the Constitution of the United States and Section 14, Article, I, of the Constitution of Ohio, prohibit unreasonable searches of persons and seizure of their property. Evidence obtained by the state in violation of that prohibition must be suppressed from use by the state in its criminal prosecution of the person from whom it was seized.” *State v. Baker*, 8th Dist. Cuyahoga No. 88665, 2007-Ohio-5450, ¶ 12.

{¶ 38} Confirmation of the commission of an alleged criminal act by the detained person should not overshadow the purpose of suppression. “The purpose of suppression is not to vindicate the rights of the accused person, who may very well have engaged in illegal conduct, but to deter the state from such acts in the future.” *Id.*

{¶ 39} Undeniably, there are instances when unknown law-abiding travelers are stopped by law enforcement officers, delayed at the side of the roads, ordered by officers to exit their cars, patted down, and placed in the back of police cars. Further, these travelers are left unreasonably delayed without probable cause and no evidence of a crime uncovered. Upon release they are told to, “have a nice day,” while leaving behind pieces of their dignity and humanity, wondering, “what did I do wrong to be treated like this?” Basically, these individuals have no recourse for their infringed-upon rights since no crime was committed and the stop will not be reviewed by a trial court.

{¶ 40} So, in instances when the stop is reviewed, it is the court’s duty “to protect the integrity of the court and its proceedings.” *Baker*, 2007-Ohio-5450, at ¶ 12. Courts accomplish this by eliminating illegally obtained evidence from consideration in criminal court proceedings. As here, the integrity of the court and its proceedings have been protected because the evidence illegally secured has been suppressed.

{¶ 41} This suppression should serve as a deterrent from such acts in the future.

MICHELLE J. SHEEHAN, P.J., CONCURRING IN JUDGMENT ONLY:

{¶ 42} Respectfully, I concur in judgment only with the majority opinion reversing the trial court’s denial of Kancler’s motion to suppress but disagree with the analysis employed within the majority opinion. I would not find that the reason for the traffic stop ended when Officer Davis saw the vehicle’s headlights functioning. Rather, I would find that Officer Davis could continue the traffic stop in order to write a warning but that the traffic stop was unnecessarily prolonged to await the arrival of the K-9 unit.

{¶ 43} Officer Davis testified that he stopped Kancler because the headlights on Kancler’s vehicle were not functioning properly. From Officer Davis’s body camera, it can be seen that the headlights on the car were functioning. Officer Davis told Kancler the lights were “fluttering,” and Kancler tacitly admitted there was a problem with water seeping into the headlights stating, “water was getting up there.” Officer Davis then told Kancler that he would issue a written warning.

{¶ 44} At the suppression hearing, there was no evidence that intermittent functioning of the vehicle’s headlights did not, or could not, occur. Further, it is not beyond our collective and common experience that electrical systems can at times function intermittently, especially in wet conditions. Because of this, I would not find the cases cited by the majority opinion at ¶ 24 controlling. In these cases, the reason for the traffic stop was readily verifiable; a license plate was or was not displayed, a license plate was or was not readable, the owner of the car was or was not driving it. *See State v. Chatton*, 11 Ohio St.3d 59, 463 N.E.2d 1237 (1984) (Traffic

stop was for failure to display a license plate that ended when officer saw a license plate.); *State v. Shelton*, 8th Dist. Cuyahoga No. 95746, 2011-Ohio-4408 (Traffic stop because officer could not read license plate covered by snow ended when officer could read plate.); *State v. Brentlinger*, 5th Dist. Delaware No. 19 CAC 05 0032, 2019-Ohio-4989 (Officer stopped car because registered owner had suspended license and driver of car was not registered owner.). In contrast to these cases, the issue of whether the headlights functioned properly does not present a similar binary outcome. Accordingly, I would find that even after seeing the headlights functioning, Officer Davis could continue the traffic stop and detain Kancler for the purpose of writing a citation or warning.

{¶ 45} Even having found that the traffic stop could continue, I would, however, find the stop was unnecessarily prolonged. “Police officers are permitted to conduct a canine sniff during the time that it takes to issue a traffic citation provided the duration of the traffic stop is not extended beyond what is reasonably necessary to resolve the traffic violation matter.” *State v. Byrd*, 2022-Ohio-4635, 204 N.E.3d 681, ¶ 22 (8th Dist.), citing *In re \$75,000.00 United States Currency*, 2017-Ohio-9158, 101 N.E.3d 1209, ¶ 28 (8th Dist.).

{¶ 46} In denying the motion to suppress, the trial court focused on the overall length of the stop, not Officer Davis’s actions.² Although the overall length

² When denying the motion to suppress, the trial court stated:

[T]he K-9 unit arrived at the 7:40 mark and the dog began a search of the vehicle with the assistance of Officer Miller at the 10-minute mark. I’m aware of the case law in which the deployment of K-9 drug-sniffing dogs has taken

of a traffic stop is relevant in determining if a traffic stop is prolonged, a court's inquiry should not be to simply assess whether the overall length of time was reasonable, but whether the time taken was reasonable to affect the purpose of the stop. *See Rodriguez v. United States*, 575 U.S. 348, 357, 135 S.Ct. 1609, 191 L.Ed.2d 492 (2015); *State v. Byrd*, 2022-Ohio-4635, 204 N.E.3d 681, ¶ 19 (8th Dist.), citing *State v. Batchili*, 113 Ohio St.3d 403, 2007-Ohio-2204, 865 N.E.2d 1282, ¶ 12 (“When a police officer detains a motorist for a traffic violation, the officer may delay the motorist for a time period sufficient to issue a ticket or a warning and this measure includes the time sufficient to run a computer check on the driver's license, registration, and vehicle plates.”); *State v. Brown*, 183 Ohio App.3d 337, 2009-Ohio-3804, 916 N.E.2d 1138, ¶ 22 (6th Dist.), quoting *State v. Beltran*, 12th Dist. Preble No. CA2004-11-015, 2005-Ohio-4194, ¶ 16 (“When conducting the stop of a motor vehicle for a traffic violation, an officer may detain the vehicle for a time sufficient to investigate the reasonable, articulable suspicion for which the vehicle was initially stopped.”)

{¶ 47} Officer Davis testified that after speaking with Kancler, he intended to issue a written warning. Thereafter, the evidence presented at the hearing does not reflect that he acted diligently to write the warning and deliver it to Kancler. As

anywhere from half an hour to 40 minutes, as I recall, and it appears to me that the officers of the Strongsville Police Department acted expeditiously under the circumstances.

Officers would certainly be abusing their authority if they kept the defendant waiting needlessly for hours just to mess with him, or due to their own slowness or unprofessionalism, but that is not this case.

such, I would find that even though the K-9 unit arrived at the traffic stop in a reasonable amount of time, the stop was prolonged to allow for that K-9 unit to arrive. Having determined that the stop was unnecessarily prolonged, I would find based upon the facts as recited in ¶ 33 of the majority opinion that Officer Davis did not have a reasonable suspicion of criminal activity that would allow him to prolong the traffic stop until the K-9 unit arrived.