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Criminal law -- Driving while license suspended -- Search and seizure -- Vehicle stop -- Officer who determined from computer check on vehicle tag that registered owner of vehicle had suspended license had reasonable suspicion for investigatory stop -- Officer was not required to establish that driver of vehicle fit description of registered owner prior to stop -- Error to grant motion to suppress post-stop evidence

STATE OF FLORIDA, Appellant, v. WILLIE SCOTT, Appellee. Circuit Court, 17th Judicial Circuit (Appellate) in and for Broward County. Case No. 13-98AC10A. L.T. Case No. 13-19799TC10A. January 12, 2015. Diaz, Judge. Counsel: Tamara L. Curtis, Assistant Public Defender, Fort Lauderdale, for Appellee.

OPINION OF THE COURT

(LEVENSON, Judge.) THIS CAUSE came before the Court, sitting in its appellate capacity, upon Appellant's timely appeal of the trial court's order granting Appellee's motion to suppress. Having considered the briefs of the parties, the record on appeal, and the applicable law, this Court finds as follows:

Appellee, Willie Scott, was charged, by traffic citation, with one count of Driving while License Suspended, contrary to § 322.34(2), Florida Statutes. On October 11, 2013, Appellee filed a motion to suppress all post-stop evidence on the ground that he was stopped without reasonable suspicion or lawful justification. On November 7, 2013, a pretrial hearing was held, at which time Appellee's motion to suppress was granted.

At the hearing on the motion to suppress, Corporal Louis Bautista of the Broward Sheriff's Office testified that on April 8, 2013, while on routine patrol, he observed Appellee driving a vehicle and performed a computer check on its license plate. The check revealed that the registered owner of the vehicle had a suspended license, and upon receiving that information, he performed a traffic stop. Bautista testified that he effected the stop to determine if the car's registered owner, who had a suspended license, was driving the car. He testified that he could not remember if Appellee was the registered owner of the vehicle **or if he matched the owner's description**, however, **since he made no notations reflecting otherwise, the officer testified that he believed the driver was the registered owner**. At the hearing, Appellee argued that there was no lawful justification for the stop because the officer did not know, prior to the stop, if the registered owner was currently driving the vehicle and there was, therefore, no reasonable suspicion of criminal activity to justify the stop.

The trial court found that the officer **did not look at the description of the registered owner** prior to stopping Appellee and obtaining his identification, and found that the officer could not recall whether the driver was the owner or not. The court reasoned that by performing a computer check on the vehicle's tag, being notified that the registered owner had a suspended driver's license, and then pulling the vehicle over on the assumption that the driver may be the owner of the vehicle, the officer lacked reasonable suspicion for the stop. The court thereby granted Appellee's motion to suppress.

In its initial brief, Appellant claims that the trial court erred reversibly in granting the motion to suppress because the stopping officer was justifiably investigating the vehicle whose registered owner was shown by computer check to have had a suspended license. Appellee, in his answer brief, alleges that the trial court's ruling on the motion to suppress was correct, since the officer did not know if the registered owner was driving the vehicle or whether the driver matched the owner's description prior to the stop and, therefore, had no founded or reasonable suspicion to stop the vehicle.

When reviewing a trial court's order on a motion to suppress, the reviewing court must give great deference to the trial court's findings of fact. *Connor v. State*, 803 So. 2d 598, 606 (Fla. 2001) [26 Fla. L. Weekly S579a]. However, questions of law are reviewed de novo. *Id.* The question before this Court is whether the trial court erred in granting Appellee's motion to suppress.

The officer testified that he stopped Appellee because the computer check revealed that the registered owner of the car had a suspended license and he was investigating whether the owner was driving the vehicle. **Law enforcement may conduct traffic stops based on information gathered from computer checks on license plates.** *See Bratcher v. State*, 727 So. 2d 1114 (Fla. 5th DCA 1999) [24 Fla. L. Weekly D676b]. Where circumstances reasonably indicate that a person has committed, is committing, or is about to commit a crime, a police officer "may temporarily detain a person for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person's presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense." § 901.151(2), Florida Statutes. In *Stevens v. State*, 354 So. 2d 1244, 1247 (Fla. 4th DCA 1978) the Court explained:

Circumstances can "reasonably indicate" that a person "has committed, is committing or is about to commit" a violation of criminal laws or ordinances without necessarily indicating that high probability of guilt which is implied by the term "probable cause." *State v. Payton*, 344 So. 2d 648 (Fla. 2d DCA 1977). **To justify temporary detention, only "founded suspicion" in the mind of the detaining officer is required.** *Lewis v. State*, 337 So. 2d 1031 (Fla. 2d DCA 1976); *State v. Othen*, 300 So. 2d 732 (Fla. 2d DCA 1974); *State v. Ebert*, 251 So. 2d 38 (Fla. 2d DCA 1971). A "founded suspicion" is a suspicion which has some factual foundation in the circumstances observed by the officer, when those circumstances are interpreted in the light of the officer's knowledge.

The facts of the instant case are analogous to those of *Bratcher*. In *Bratcher*, a patrolling officer ran a computer check on a vehicle's tag and learned that the vehicle's registered owner had a warrant out for her arrest. *Bratcher*, 727 So. 2d at 1115. The officer effected a traffic stop, intending to arrest the owner if she was in the car. *Id.* **Although the owner of the vehicle was not in the car, the Fifth District Court of Appeal found that the facts established a lawful investigatory stop.** *Id.* at 1116. The Court reasoned that a founded suspicion existed for the stop, as the deputy possessed a reasonable belief that the vehicle contained the person for whom an

outstanding warrant existed. *Id.*

This issue was also addressed, under factually similar circumstances, in *Smith v. State*, 574 So. 2d 300 (Fla. 5th DCA 1991). In *Smith*, a police officer stopped a driver in response to a license tag check which showed the owner had no valid driver's license. *Id.* The driver, who was not the owner, moved to suppress certain post-stop evidence on the grounds that the initial stop had no lawful justification because the officer had no right to assume the owner of the car was the driver. *Id.* The Fifth District Court of Appeal affirmed the trial court's denial of the defendant's motion to suppress, holding that "an officer's investigatory detention of a vehicle's driver is supported by a well founded suspicion of unlawful activity when the officer first determines that the vehicle's registered owner does not possess a valid driver's license." *Id.* at 301. The court stated that "[i]n such an instance, the officer's conduct is not dictated by personal whim or capriciousness. The detention is neither arbitrary nor directed to any particular individual demonstrating an intention to harass that person." *Id.*

In *Hoover v. State*, 880 So. 2d 710, 712 (Fla. 5th DCA 2004) [29 Fla. L. Weekly D1059a] the Fifth District Court of Appeal again implicitly approved of a similar investigatory stop stating that "we agree that [the officer's] initial stop of Hoover was valid" and went on to state that the purpose of the stop was only concluded after the stopping officer verified that the driver, who was not the registered owner, had a valid driver's license.

In the instant case, the officer discovered, as a result of the computer check on the vehicle's tag, that the registered owner had a suspended license and effected a traffic stop of the vehicle without knowing who was driving. Upon justifiably investigating the identity of the driver, the officer discovered that Appellee, who was driving, had a suspended license. As the facts are analogous to those in *Bratcher* and *Smith*, this Court finds no factual or legal basis requiring a different result here. The Court finds that the officer did have lawful justification to perform the investigatory stop carried out in this case, as it was supported by a well-founded suspicion of unlawful activity.

The trial court erred in granting Appellee's motion to suppress.

Accordingly, it is:

ORDERED AND ADJUDGED that the trial court's order granting the Appellee's motion to suppress is hereby REVERSED.

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