

STATE V. WILLIAMS

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STATE OF NEW MEXICO,
Plaintiff-Appellant,
v.
JEFFERY WILLIAMS,
Defendant-Appellee.

No. 33,023

COURT OF APPEALS OF NEW MEXICO

December 2, 2013

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY, Steven L. Bell,
District Judge

COUNSEL

Gary K. King, Attorney General, Santa Fe, NM, for Appellant

Thomas E. Lilley, P.C., Thomas E. Lilley, Roswell, NM, for Appellee

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
JONATHAN B. SUTIN, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} The State has appealed from an order granting a motion to suppress. We previously issued a notice of proposed summary disposition in which we proposed to reverse. Defendant has filed a memorandum in opposition. After due consideration, we remain unpersuaded. We therefore reverse and remand for further proceedings.

{2} Because the underlying facts were previously set forth in the notice of proposed summary disposition and appear to be essentially undisputed, we will not reiterate at length here. To summarize, the traffic stop at issue in this case began as a community caretaking encounter, after Deputy Mason observed the passenger door open while the vehicle was in motion. [RP 180] Defendant does not dispute that the stop was justified at its inception. [MIO 3] However, Defendant continues to assert that Deputy Mason impermissibly extended the encounter, thereby transforming it into an unlawful investigatory detention. [MIO 3-9] Specifically, Defendant contends that Deputy Mason's concerns "vanished when he stepped out of his sheriff's car and saw that the passenger in the stopped vehicle was vomiting out of the open door." [MIO 4] Because Deputy Mason no longer had reasonable concerns about the welfare of the occupants, Defendant contends that he should have simply walked away, rather than proceeding to make contact with Defendant and requesting his license, registration, and proof of insurance. [MIO 4-9] For the reasons that follow, we remain unpersuaded.

{3} As we previously observed in the notice of proposed summary disposition, once a traffic stop has been initiated, whether in the officer's capacity as a community caretaker or otherwise, the officer may briefly continue the detention in order to request the driver's license, registration, and proof of insurance, without violating the Fourth Amendment. See *State v. Reynolds*, 1995-NMSC-008, ¶¶ 21-22, 119 N.M. 383, 890 P.2d 1315; see also *City of Albuquerque v. Haywood*, 1998-NMCA-029, ¶ 13, 124 N.M. 661, 954 P.2d 93 (citing *Reynolds* for the proposition that "generally, whenever a driver is validly stopped for whatever reason, it is reasonable for the officer to ask for identification (driver's license) and proof of insurance."). The fact that the officer's initial concern may already have been allayed does not diminish the applicability of this principle. See, e.g., *State v. Vandenberg*, 2003-NMSC-030, ¶¶ 40-42, 134 N.M. 566, 81 P.3d 19 (observing that a traffic stop was permissibly prolonged in order to request license, registration, and proof of insurance even after the officer's original concern about the apparent lack of a license plate had been allayed); *Haywood*, 1998-NMCA-029, ¶¶ 3, 13 (arriving at the same conclusion under similar circumstances).

{4} In his memorandum in opposition Defendant attempts to distinguish this case on its facts from the specific situations presented in *Reynolds* and *Haywood*. [MIO 5-8] Analytically, however, we find the suggested distinctions to be immaterial. The basic principles for which *Reynolds* and *Haywood* stand, as well as their applicability to the situation presented in this case, remain clear: once a valid community caretaking encounter has commenced, the encounter may briefly be continued to permit the officer to request the driver's license, registration, and proof of insurance. As such, Deputy Mason was entitled to continue the traffic stop in order to request the aforementioned documents, notwithstanding the fact that his concerns about the passenger may have been alleviated.

{5} Defendant further argues that even if Deputy Mason was justified in briefly continuing the encounter to request Defendant's driver's license, registration, and proof of insurance, he lacked any valid basis for asking Defendant if he had been drinking and subsequently embarking upon the DWI investigation. [MIO 8]

{6} Once again, the pertinent facts appear to be essentially undisputed. Deputy Mason testified that he smelled the odor of alcohol emanating from the vehicle as he approached the driver's side. [DS 3-4; MIO 3] He then asked Defendant for his documents, and asked Defendant whether he had consumed any alcohol. [DS 4; MIO 3] Defendant admitted drinking three beers. [DS 4; MIO 3] At that point Deputy Mason asked Defendant to step out of the vehicle and proceeded to administer field sobriety tests. [DS 4; MIO 8]

{7} “An officer’s continued detention of a suspect may be reasonable if the detention represents a graduated response to the evolving circumstances of the situation.” *State v. Funderburg*, 2008-NMSC-026, ¶ 16, 144 N.M. 37, 183 P.3d 922. “We consider whether an officer’s . . . actions were fairly responsive to the emerging tableau—the circumstances originally warranting the stop, informed by what occurred, and what the officer learned, as the stop progressed.” *Id.* ¶ 27 (internal quotation marks and citation omitted). Applying these principles, Deputy Mason’s actions were clearly permissible. See, e.g., *Schuster v. NM Dep’t. of Tax. & Rev.*, 2012-NMSC-025, ¶ 30, 283 P.3d 288 (holding that an officer permissibly expanded a traffic stop that commenced as a community caretaking encounter in order to investigate possible DWI, based on the strong smell of alcohol emanating from the driver’s person, as well as the driver’s admission to having consumed two beers); *State v. Randy J.*, 2011-NMCA-105, ¶ 34, 150 N.M. 683, 265 P.3d 734 (upholding the expansion of the scope of a traffic stop where the officer initially detected the odor emanating from the vehicle, the officer asked the driver to exit the vehicle and then detected the odor on the driver’s person, whereupon the officer commenced a DWI investigation, including the administration of field sobriety tests).

{8} Accordingly, for the reasons stated above and in the notice of proposed summary disposition, we reverse and remand for further proceedings.

{9} **IT IS SO ORDERED.**

TIMOTHY L. GARCIA, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

JONATHAN B. SUTIN, Judge