

SUPREME COURT OF NORTH DAKOTA

State v. Bornsen

2018 ND 256 (2018) · No. 20180093 · Decided December 6, 2018

SUMMARY

The North Dakota Supreme Court affirmed the judgment entered after Nathan Bornsen conditionally pleaded guilty to driving under the influence, second offense. The court held that the deputy had reasonable and articulable suspicion to stop Bornsen based on his extended stop at an intersection and wide turn, and therefore the district court properly denied the motion to suppress.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jon J. Jensen; Lisa Fair McEvers; Daniel J. Crothers; Gerald W. VandeWalle, C.J.; Jerod E. Tufte
JURISDICTION	North Dakota
DECIDED	December 6, 2018
DOCKET	20180093
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bornsen entered a conditional guilty plea to driving under the influence, second offense, after the district court denied his motion to suppress evidence from a traffic stop. He appealed the resulting judgment.
STANDARD OF REVIEW	Whether the facts support reasonable suspicion is a question of law fully reviewable on appeal. The district court's suppression decision is affirmed unless there is insufficient competent evidence to support it or the decision is against the manifest weight of the evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Nathan Thomas Bornsen v. State of North Dakota

TOPICS

- suppression of evidence
- fourth amendment
- search and seizure
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the deputy had a reasonable and articulable suspicion that Bornsen had violated the law sufficient to justify the investigatory traffic stop.
2. Whether the district court erred in denying Bornsen's motion to suppress evidence obtained following the stop.

HOLDINGS

1. An officer's observation of Bornsen remaining stopped at an intersection for approximately fifteen seconds, under the circumstances presented, objectively supported a reasonable and articulable suspicion of a violation of N.D.C.C. § 39-10-49 and therefore justified the investigatory traffic stop.

KEY QUOTATIONS

“Investigatory traffic stops are valid when the officer conducting the stop had “a reasonable and articulable suspicion the motorist has violated or is violating the law.”” (¶ 5)

“The apparent violation, even if considered common or minor, was prohibited conduct which provided the deputy with requisite suspicion for conducting an investigatory stop.” (¶ 8)

FACTUAL BACKGROUND

A sheriff's deputy observed Bornsen remain stopped at a stop sign for approximately fifteen seconds, although the deputy testified that vehicles ordinarily stopped there for one to two seconds. The deputy then observed Bornsen make a wide right turn, with the driver's-side wheels crossing onto and remaining on the centerline for two or three seconds. The deputy stopped Bornsen and issued a written warning for violating N.D.C.C. § 39-10-49.

PROCEDURAL HISTORY

Bornsen was arrested and charged with driving under the influence—second offense. The district court denied his motion to suppress, finding that his approximately fifteen-second stop at an intersection, together with his wide turn, provided sufficient grounds for the traffic stop. Bornsen entered a conditional guilty plea and appealed.

DISPOSITION

affirmed

CASES CITED

- Gabel v. N.D. Dep't of Transp., 2006 ND 178, ¶ 9, 720 N.W.2d 433
- Zimmerman v. N.D. Dep't of Transp., 543 N.W.2d 479, 482 (N.D. 1996)
- City of Dickinson v. Hewson, 2011 ND 187, ¶ 6, 803 N.W.2d 814

- City of Fargo v. Thompson, 520 N.W.2d 578, 581 (N.D. 1994)
- State v. Ostby, 2014 ND 180, ¶ 8, 853 N.W.2d 556
- Whren v. United States, 517 U.S. 806, 813 (1996)
- State v. Oliver, 2006 ND 241, ¶ 6, 724 N.W.2d 114
- State v. Bartelson, 2005 ND 172, ¶ 8, 704 N.W.2d 824
- State v. Higgins, 2004 ND 115, ¶ 11, 680 N.W.2d 645
- State v. Loh, 2000 ND 188, ¶ 10, 618 N.W.2d 477
- Wheeling v. Director of N.D. Dep't of Transp., 1997 ND 193, ¶ 9, 569 N.W.2d 273
- Pesanti v. N.D. Dep't of Transp., 2013 ND 210, ¶ 9, 839 N.W.2d 851
- Hanson v. Director, N.D. Dep't of Transp., 2003 ND 175, ¶ 15, 671 N.W.2d 780