

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

████████████████████

Petitioner,

ORDER

v.

Court File No. 19-WS-CV-13-1484

Commissioner of Public Safety,

Respondent.

The above-entitled matter came before Martha M. Simonett, Judge of District Court, on November 5, 2013 at the Dakota County Northern Service Center in West St. Paul. Jeffrey Sheridan, Esq., appeared on behalf of Petitioner. Assistant Attorney General Kristi Nielsen appeared on behalf of the Commissioner of Public Safety. The record remained open following the hearing to allow the parties to submit briefs. The record was considered closed on December 6, 2013.

Based upon the file, record, and proceedings herein, the Court makes the following:

ORDER

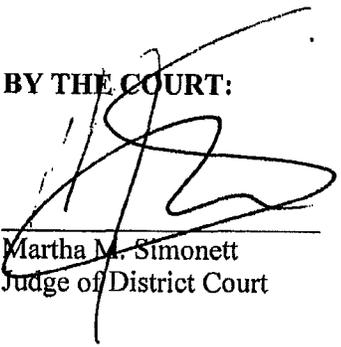
1. The revocation of Petitioner's driver's license is hereby rescinded.
2. The attached memorandum shall comprise the Court's rationale.

FILED DAKOTA COUNTY
CAROLYN M. RENN, Court Administrator

DEC 20 2013

Dated: December 20, 2013

BY THE COURT:



Martha M. Simonett
Judge of District Court

MEMORANDUM

On September 5, 2013, at about 11:04 p.m., Officer Aaron Machtemes was on routine patrol in the city of Egan, Dakota County. Officer Machtemes was headed east on Cliff Road, and stopped for a red light at the intersection of Cliff Road and Nichols Road. He noticed a vehicle driven by Petitioner ahead of him, also eastbound on Cliff Road. He decided to catch up to Petitioner's vehicle on a whim. When the light turned green he accelerated, ultimately going 66 MPH in a 50 MPH speed zone. As he approached Petitioner's vehicle he noticed the vehicle touch the line between the two eastbound lanes, although the video of the arrest does not clearly show this. The video clearly does show, however, that Petitioner turned right onto Rahncliff Road without using her turn signal. Thereafter, Officer Machtemes activated his emergency lights and initiated a traffic stop, eventually culminating in the arrest of Petitioner for DWI.

The testimony at the hearing clarifies that the officer observed no suspicious driving conduct of any kind prior to accelerating:

Q. Why were you speeding?

A. I was going fast to catch up to the vehicle because at night vehicles are very sporadic and in order to observe vehicles and driving conduct and enforce the law I need to be within viewing distance of a vehicle so I was speeding up to observe the vehicle.

Q. So as I understood your testimony that basically you sped up to the area because that's where there was something to watch, correct?

A. Correct.

Q. Okay. So where you were back at the light, you were first in line, there was nothing – no observations for you to make there because there wasn't any traffic around you, correct?

A. Correct.

Q. And so the reason you sped up wasn't because you saw anything particular, anybody doing anything in particular wrong up ahead of you, you just wanted to get closer so you could make more observations, correct?

A. Correct.

Both the United States Constitution and the Minnesota Constitution guarantee “[t]he right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art I, §10. A warrantless seizure is “presumptively unreasonable unless one of ‘a few specifically established and well-delineated exceptions applies.” *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)). Here, Machtemes’ stop of Petitioner and her vehicle was a seizure under the Fourth Amendment. *Delaware v. Prouse*, 440 U.S. 648, 659 (1979); *Whren v. United States*, 517 U.S. 806 (1996).

The State bears the burden of proving that a seizure is lawfully made as a result of a warrant or that an exception to the warrant requirement applies. *Licari*, 659 N.W.2d at 250 (citation omitted). One such exception is the plain-view doctrine. *See State v. Zanter*, 535 N.W.2d 624, 631 (Minn. 1995). Under the plain-view doctrine, the “police may, without a warrant, seize an object they believe to be the fruit or instrumentality of a crime” as long as three criteria are met” “(1) [the] police are legitimately in the position from which they view the object; (2) they have a lawful right of access to the object; and (3) the object’s incriminating nature is immediately apparent.” *Id.* (citations omitted) (internal quotation marks omitted.)

Here, by his own admission, the officer could not see any of Petitioner’s driving conduct from his position stopped at the traffic light. He candidly concedes that there was nothing interesting in his immediate vicinity when the light changed so he decided to exceed the speed limit to improve his vantage point to make observations of the vehicles beyond his field of vision.

Minn. Stat. §169.17, provides that “the speed limitations set forth in sections 169.14 to 169.17 do not apply to an authorized emergency vehicle responding to an emergency call.” And under the rules of statutory construction, “exceptions expressed in a law shall be construed to exclude all others.” *Minn. Stat.* §645.19. Therefore, a police officer is required to adhere to the speed law unless the officer is responding to an emergency call.

Under the circumstances in this case, the officer was not legitimately in the position from which he viewed the driving conduct. Accordingly, the Court must suppress the evidence thereby obtained. Without this evidence, there is not independent evidence to establish cause for the traffic stop.

M.M.S.