

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARRY DEAN STEWART, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48981

**FILED**

JUL 17 2007

CAROLANNE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of felony driving while under the influence of alcohol. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge. The district court sentenced appellant Harry Dean Stewart to serve a prison term of 12 to 30 months.

Stewart contends that the district court erred in denying his motion to suppress blood alcohol evidence seized as the result of an unlawful traffic stop.<sup>1</sup> Citing to federal case law,<sup>2</sup> Stewart contends that the police officers were not justified in stopping his vehicle because "there were no traffic violations observed, nor could the driver be identified." We conclude that Stewart's contention lacks merit.

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<sup>1</sup>Under the terms of the plea bargain, Stewart expressly reserved the right to appeal the district court's ruling denying his pretrial motion to suppress. See NRS 174.035(3).

<sup>2</sup>See United States v. Laughrin, 438 F.3d 1245 (10th Cir. 2006); United States v. Sandoval, 29 F.3d 537 (10th Cir. 1994).

A police officer may initiate an investigatory stop if he has a reasonable articulable suspicion that an individual "has committed, is committing or is about to commit a crime."<sup>3</sup> In determining whether reasonable suspicion exists, the district court must consider the totality of the circumstances.<sup>4</sup> The district court's factual findings in a suppression hearing will not be disturbed if supported by substantial evidence.<sup>5</sup>

In this case, we conclude that there is substantial evidence in support of the district court's finding that the police officer had a reasonable articulable suspicion for initiating the investigative traffic stop. At the suppression hearing, the arresting officer testified that the vehicle was distinctive, and he had learned, from an incident involving the vehicle the night before, that the vehicle's owner and "everybody associated with the vehicle" did not have valid driver's licenses. Although the police officer admitted that he could not identify the driver before initiating the traffic stop, we conclude from the totality of the circumstances that the officer had reasonable grounds to believe criminal activity was afoot; namely, that the person driving the vehicle did not possess a valid license.<sup>6</sup> Accordingly, the district court did not abuse its discretion by denying the motion to suppress.

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<sup>3</sup>See NRS 171.123(1); Terry v. Ohio, 392 U.S. 1 (1968).


<sup>4</sup>See United States v. Arvizu, 534 U.S. 266, 273 (2002).

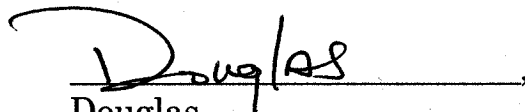
<sup>5</sup>State v. Harnisch, 113 Nev. 214, 219, 931 P.2d 1359, 1363 (1997).

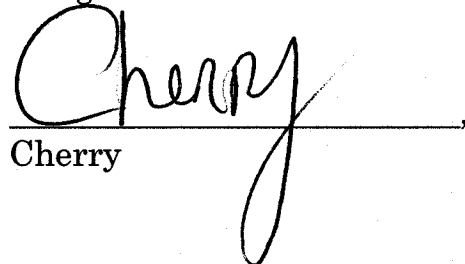
<sup>6</sup>See U.S. v. Sandridge, 385 F.3d 1032, 1036 (6th Cir. 2004) (holding that a police officer had reasonable suspicion to conduct an investigatory  
*continued on next page . . .*

Having considered Stewart's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Andrew J. Puccinelli, District Judge  
Elko County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Elko County District Attorney  
Elko County Clerk

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*... continued*

traffic stop based on the officer's personal knowledge that the owner of the vehicle did not have a valid license).