IN THE SUPREME COURT OF THE STATE OF NEVADA

CAROLYN JACINTO A/K/A CAROLYN LORRAINE JACINTO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49084

FILED

OCT 1 2 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a bench trial, of felony driving under the influence. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Carolyn Jacinto to a prison term of 12 to 36 months.

Jacinto contends that the district court erred in denying the motion to suppress because the police officer did not have reasonable suspicion to initiate an investigatory stop of the vehicle. Specifically, Jacinto contends that the police officer did not have reasonable suspicion to stop her vehicle because the flashing of her "high beams" was a lawful act used to convey her intention to pass.

A police officer may initiate an investigatory stop if he or she has a reasonable articulable suspicion that an individual "has committed, is committing or is about to commit a crime."[1] "A reasonable suspicion

[1]See NRS 171.123(1).

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may be justified even if there are innocent explanations for a defendant's behavior when the circumstances are considered in the totality."[2]

In the present case, there is sufficient evidence considered in the totality supporting the district court's finding that there was a reasonable articulable suspicion for the investigatory stop of Jacinto's vehicle. Highway Patrol Officer Timm testified at the preliminary hearing that Jacinto's vehicle exceeded the flow of traffic and that she twice "flashed her high beams" at vehicles, including Timm's patrol vehicle, in order to convey that she wanted them to yield. It was reasonable for the officer to suspect that Jacinto had committed or was committing a traffic violation. We conclude that the district court did not abuse its discretion in denying Jacinto's motion to suppress.[3]

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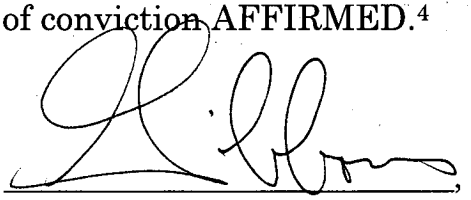
[2]U.S. v. Tuley, 161 F.3d 513, 515 (8th Cir. 1998); see also State, Dep't of Mtr. Vehicles v. Long, 107 Nev. 77, 79, 806 P.2d 1043, 1044 (1991) (stating that the district court may consider the fact "that trained law enforcement officers are permitted to make reasonable inferences and deductions that might elude an untrained person" in determining whether a vehicle stop is reasonable).

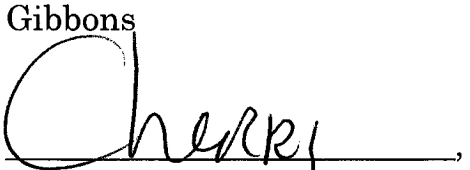
[3]See State v. Harnisch, 113 Nev. 214, 219, 931 P.2d 1359, 1363 (1997) (recognizing that "findings of fact in a suppression hearing will not be disturbed if supported by substantial evidence"), quoting State v. Miller, 110 Nev. 690, 694, 877 P.2d 1044, 1047 (1994), opinion clarified on denial of rehearing, State v. Harnisch, 114 Nev. 225, 954 P.2d 1180 (1998).

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

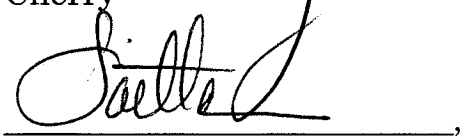
ORDER the judgment of conviction AFFIRMED.[4]



_____, J.
Gibbons



_____, J.
Cherry



_____, J.
Saitta

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[4]We note that there are clerical errors in the judgment of conviction. The judgment incorrectly states that Jacinto had "been found plea by the Court" when it should read that she had "been found guilty by the Court." Further, the judgment incorrectly reads "submission to a DNA fine in the amount of Two Thousand Dollars" when it should state that she be further punished by a "fine in the amount of Two Thousand Dollars." Following this court's issuance of its remittitur, the district court shall correct this error in the judgment of conviction. See NRS 176.565 (providing that clerical error in judgments may be corrected at any time); Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994) (explaining that the district court does not regain jurisdiction following an appeal until supreme court issues its remittutur).

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk