

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL EDWARD TISDALE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68350

FILED

APR 20 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal under NRAP 4(c) from a judgment of conviction, pursuant to a guilty plea, of felony driving under the influence of intoxicating liquor. Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.

Appellant Michael Edward Tisdale argues the district court erred by denying his motion to suppress evidence because he drove in the center median due to the weather conditions.¹ “Suppression issues present mixed questions of law and fact. This court reviews findings of fact for clear error, but the legal consequences of those facts involve questions of law that we review de novo.” *State v. Beckman*, 129 Nev. ___, ___, 305 P.3d 912, 916 (2013) (internal quotation marks and citations omitted). “In order for a traffic stop to comply with the Fourth Amendment, there must be, at a minimum, reasonable suspicion to justify the intrusion.” *State v. Rincon*, 122 Nev. 1170, 1173, 147 P.3d 233, 235

¹Tisdale preserved the right to challenge on appeal the district court’s denial of his motion to suppress. See NRS 174.035(3).

(2006). “In determining the reasonableness of a stop, the evidence is viewed under the totality of the circumstances and in the context of the law enforcement officer’s training and experience.” *Id.* at 1173-74, 147 P.3d at 235.


The district court made the following factual findings: On the night in question, it had recently snowed, but the roadway was plowed with two clear travel lanes. The median was not plowed, leaving an unplowed section in the middle of the roadway. The officer was traveling westbound on the roadway when he noticed a vehicle traveling eastbound in the center median and partially into the officer’s westbound lane. The officer had to move his vehicle to his right to avoid a head-on collision. The officer then turned and followed the vehicle and observed the vehicle continue driving in the median. The officer observed the vehicle continue into a left turn lane, make a turn, and the then officer initiated the traffic stop. The district court found there was no evidence that Tisdale was driving in the median for safety reasons.

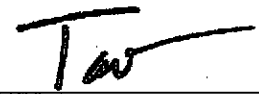
The district court found the officer had reasonable suspicion to believe Tisdale had violated NRS 484B.227(1) by failing to drive on the appropriate side of the roadway. The district court concluded the circumstances in this case demonstrated the officer was justified in stopping Tisdale’s vehicle. Substantial evidence supports the district court’s findings and we affirm the district court’s denial of the motion to suppress.

Second, Tisdale argues he did not display any indicia of intoxication, and therefore, the officer improperly detained him after the time necessary for the investigation of the traffic stop. This claim was not raised in Tisdale’s suppression motion and was not preserved for appeal.

Because Tisdale did not expressly preserve this issue when he pleaded guilty, he waived his right to raise this issue on appeal. See NRS 174.035(3); *Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (the entry of a guilty plea generally waives any right to appeal from events occurring prior to the entry of the plea). We therefore decline to consider this claim on appeal. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Nancy L. Porter, District Judge
David D. Loreman
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk