

IN THE SUPREME COURT OF IOWA

Supreme Court No. 22-1234
Warren County No. OWOM020879

STATE OF IOWA,

Plaintiff-Appellant,

v.

CHASE ROBERT GRIFFIN,

Defendant-Appellee.

On Discretionary Review from the Iowa District Court for Warren County
The Honorable Mark F. Schlenker, Judge

**APPELLEE'S FINAL BRIEF
AND
REQUEST FOR ORAL ARGUMENT**

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. **THE DISTRICT COURT CONCLUDED CORRECTLY THAT THE TROOPER'S MISTAKE OF LAW DID NOT PROVIDE PROBABLE CAUSE TO SUPPORT THE TRAFFIC STOP.**

Cases:

State v. Coleman, 890 N.W.2d 284 (Iowa 2017)

State v. Owens, 418 N.W.2d 340 (Iowa 1988)

State v. Tyler, 830 N.W.2d 288 (Iowa 2013)

Statutes:

Iowa Code § 321.37

Iowa Code § 321.38

STATEMENT OF THE CASE

Nature of the Case, Course of Proceedings and Disposition of the Case in the District Court

Appellee agrees that the State seeks review of a district court order granting suppression of a traffic stop based on the holding of *State v. Tyler*, 830 N.W.2d 288 (Iowa 2013), but disputes whether the stop was justified by either Iowa Code sections 321.37 or 321.38.

Appellee also agrees with the course of proceedings before the district court. While it may be factually correct that the State did not argue the application of Iowa Code section 321.38 *before* the district court in *Tyler*, it is evident that the Iowa Supreme Court nevertheless considered the “unreadability” theory for the first time on appeal at the State’s request. After applying the code section to the traffic stop video, the Iowa Supreme Court concluded, nevertheless, the evidence showed “no foreign materials on the plate,” and upheld the mistake of law. *Id.* at 295.

Facts Relevant to the Issues Presented for Review

On February 19, 2022, the Iowa State Patrol stopped Appellee’s vehicle as he exited Highway 5 South at Fleur Drive in Warren County. The dash camera video captures the discussion between Trooper Nguyen and Sergeant

Major in the moments leading up to the stop. Sgt. Major indicates the reason for the stop is that he cannot read the license plate because the plate frame is too dark. (Ex. 1 at 00:33-36). App. 11. He further notes the plate frame is tinted and hard to see (00:43-47). App. 11. Sgt. Major is heard citing Iowa Code section 321.37 and interpreting that code section as prohibiting anything on the plate that makes it not legible. (00:51-1:03). App. 11. Prior to coming to a stop, Sgt. Major indicates he can now see “it,” meaning the license plate, from one to two car lengths behind. (1:03-1:08). App.11.

The record contains two sources of images of the rear license plate and tinted cover. One is the dash camera footage from the traffic stop and the other a photograph of the rear of the vehicle taken from the same distance between the vehicle as estimated by law enforcement. The important details regarding vehicle markings and license plate information that are readily apparent from a cell phone photograph of the rear of the SUV, *i.e.*, a bright, yellow Iowa Hawkeye decal; the capitalized “SUBURBAN” badge; a valid, blue registration sticker, are basically unrecognizable on the pixilated dash camera. *Compare Exhibit B with State’s Ex. 1, Reconsideration at 3 (image).* App 11, 32. The enhanced resolution offered by the photograph clearly shows what is plainly visible on the license plate from that distance.

Trooper Nguyen admits during the suppression hearing that his narrative contains the legal basis for his stop, *i.e.*, a tinted license plate cover that “failed to permit full view of all numerals and letters printed on the registration plate.” He also admits that he could see all the numerals and letters on the printed plate when parked behind the vehicle on the shoulder of the Fleur Drive exit before he approached. This includes the state and county identifiers as well as the registration sticker.

Trooper Nguyen observes no other traffic violations that would provide probable cause to stop Appellee’s vehicle. He admits there was no suspicion of criminal activity that might otherwise justify a *Terry*-stop to briefly detain and further investigate.

ROUTING STATEMENT

This case should be transferred to the Iowa Court of Appeals pursuant to Iowa R. App. P. 6.1101(3)(a) because the case presents the application of existing legal principles.

The State seeks retention on the basis of substantial questions of changing legal principles. It is unclear whether by doing so the State is calling for *State v. Tyler*, 830 N.W.2d 288 (Iowa 2013) to be overturned or subtly inviting the Iowa Supreme Court instead to dismantle the mistake-of-law

framework under the Fourth Amendment or article 1, section 8 of the Iowa Constitution. What is evident, however, is that the State did not previously raise these issues before the trial court. The issues were neither identified in the resistance nor litigated before the district court. The State also neglected to secure a ruling on reconsideration to preserve them for review. They were not mentioned further in the Application for Discretionary Review. Whatever the State is seeking to change by having the Iowa Supreme Court retain the case, it is requesting that relief now for the first time in its brief.

If the Iowa Supreme Court nevertheless elects to retain this matter as the State requests, then Appellee requests that the parties be ordered to submit further briefing before any oral argument.

ARGUMENT

THE DISTRICT COURT CONCLUDED CORRECTLY THAT THE TROOPER'S MISTAKE OF LAW DID NOT PROVIDE PROBABLE CAUSE TO SUPPORT THE TRAFFIC STOP.

Standard of Review/Preservation of Error

Appellee agrees that error was preserved by way of the ruling on his motion to suppress. Appellee also agrees with the State's contention that review is de novo because it involves a constitutional error and matters of statutory interpretation are reviewed for correction of errors at law.

Merits

This issue has already been decided by the Iowa Supreme Court in *State v. Tyler*, 839 N.W.2d 288 (Iowa 2013). In *Tyler*, the officer noticed the vehicle “had a *tinted license plate cover*” on both the front and rear license plates and considered that a “violation of Iowa Code section 321.37(3) display of plates.” *Id.* at 294 (emphasis added).

The *Tyler* Court noted that the code section cited by the officer does *not* proscribe tinted license plate covers. *Id.* (emphasis in original). It also concluded that the officer’s narrative report, which contained the above quoted information, was itself a mistake of law. *Id.*

The circumstances of Appellee’s traffic stop are on all fours with *Tyler*. Sergeant Major’s recitation of section 321.37 on the dash camera video is a mistake of law. He believes the code section proscribes tinted license plate covers when it has previously been interpreted by the Iowa Supreme Court to allow them. Trooper Nguyen’s written narrative, which sets forth the same conclusion, is also a mistake of law for the same reason.

According to *Tyler*, a mistake of law “would not allow the State to meet its burden of proof in establishing probable cause to stop [the] vehicle.” *Id.* The district court was correct in concluding the troopers’ mistake of law did

not support a traffic stop under the circumstances.

In order to avoid the holding in *Tyler* that a tinted plate cover does not provide probable cause for a traffic stop, the State advances a theory that the cover violates Iowa Code section 321.38. This theory is easily refuted by referencing Exhibit B, which depicts the tinted cover and the license plate at a distance of 15-20 feet. App.32. The pertinent information on the plate is both clearly visible and legible. If a tinted plate frame is legally permitted under section 321.37 and *Tyler*, then it certainly would be absurd to simultaneously consider it a “foreign material” for purposes of section 321.38. In any event, the Iowa Supreme Court considered section 321.38 in determining there was a mistake of law in *Tyler*. If a tinted plate cover constitutes “foreign material” under the Code, then the *Tyler* Court certainly had the opportunity to reach that conclusion but elected instead to uphold the stop because of a mistake of law. The tinted plate cover here must be treated similarly.

Also, just like in *Tyler*, Trooper Nguyen admitted he could see all the required information when Appellee’s vehicle came to a stop. *See id.* at 296 (finding “when Tyler pulled over in a parking lot, Officer Lowe was able to read the license plate accurately and completely to the dispatcher without hesitation”). This knowledge is presumed to be shared with Sergeant Major

because the two were riding together in a training environment. *See State v. Owens*, 418 N.W.2d 340, 342 (Iowa 1988) (noting “it is well established that when police officers are acting in concert, the knowledge of one is presumed to be shared by all”). This should not be surprising considering the information on the plate is both clearly visible and legible in Exhibit B. App. 32.

At the moment Trooper Nguyen observes the information printed on the plate, there was no longer any authority to continue to detain the driver for any investigation. The traffic stop was over. There is no basis to approach the Appellee, engage him in conversation, request his driver’s license, registration or proof of insurance or issue him a warning. Appellee was free to go about his business. The trooper should have simply waived him on. *See State v. Coleman*, 890 N.W.2d 284, 301 (Iowa 2017) (holding “when the reason for the traffic stop is resolved and there is no other basis for reasonable suspicion, article 1, section 8 of the Iowa Constitution required that the driver must be allowed to go his or her way without further ado”) (reasonable suspicion to further detain vehicle ended when upon approach officer observed that the gender of the driver did not match gender of registered owner, who had a suspended driver’s license).

CONCLUSION

This case is factually and legally indistinguishable from the prior precedent announced in *State v. Tyler*, 839 N.W.2d 288 (Iowa 2013). The district court correctly applied *Tyler* to the facts in this record and concluded there was a mistake of law that invalidated the traffic stop. It properly considered section 321.38 in both the ruling and reconsideration. There is no error to overturn here. The Iowa Court of Appeals should uphold the district court's ruling on discretionary review and, thereafter, remand the case for the State to dismiss.

REQUEST FOR ORAL ARGUMENT

Appellee hereby requests to be heard in oral argument upon submission of the case.

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS, TYPEFACE REQUIREMENTS AND TYPE-STYLE REQUIREMENTS

This brief complied with the type-volume limitations of Iowa R. App. P. 6.903(1)(g)(1) because the brief contains 2,135 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1). The brief further complied with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because the brief

has been prepared in a proportionally-spaced typeface using Times New Roman in size 14 font.

ATTORNEY'S COST CERTIFICATE

I, Colin Murphy, attorney for the Appellant, hereby certify that the actual cost of reproducing the necessary copies of this Brief was \$0.00 and that amount has been paid in full by me.

PROOF OF SERVICE AND CERTIFICATE OF FILING

I certify that on the 25th day of January, 2023, I served this document on the Criminal Appeals Division, Attorney General of Iowa, Hoover Building, Des Moines, Iowa 50319 through electronic filing with EDMS.

I further certify that on the 25th day of January 2023, I filed this document with the Clerk of the Iowa Supreme Court, Judicial Branch Building, 1111East Court Avenue, Des Moines, Iowa 50319 through electronic filing with EDMS.

Respectfully submitted,

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