

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SARAH SAYAD JAFARI,

Defendant and Appellant.

A139896

(Contra Costa County
Super. Ct. No. 5-100902-6)

Defendant Sarah Sayad Jafari entered a no contest plea to possession of a controlled substance for sale (Health & Saf. Code, § 11351) and transporting a controlled substance (Health & Saf. Code, § 11352, subd. (a)). She was sentenced pursuant to her plea agreement to one year in county jail to be served on electronic home detention, followed by three years of mandatory supervision. She contends that the court erred in denying her motion to suppress evidence of heroin found in her possession when a car in which she was riding was stopped by the police. We conclude the heroin was discovered during a traffic stop that was not unduly lengthy and affirm the judgment.

BACKGROUND

San Pablo police officer Bowler testified at the hearing on the suppression motion that on the morning of August 23, 2009, she pulled over a vehicle she had seen make a left turn without signaling, into a lane of oncoming traffic. Inside the car were the driver and Jafari. Bowler had prior contacts with Jafari and knew about Jafari's drug use. Bowler obtained the driver's license, returned to her car, and checked the status of the license and whether the driver or Jafari had any outstanding warrants. The checks were

completed, a cover officer arrived, and Bowler returned to the car with the other officer. Bowler said she had not decided at that point whether to cite the driver for traffic infractions.

Bowler asked the driver whether he had anything on him she should be concerned about, and he said, “No.” She asked for and received the driver’s consent to search him, performed the search, and found nothing. She then asked Jafari one or two times whether she had anything on her. Bowler testified that Jafari “looked up at me and then turned away, completely avoiding my question.” Bowler or the other officer asked Jafari to step outside the vehicle. When Jafari was out of the vehicle, Bowler asked her again if she had anything on her. Jafari nodded her head up and down, and pulled a bag of heroin out of her jacket pocket. Bowler’s questioning of Jafari began about ten minutes after she left her patrol car to get the driver’s license.

Jafari argued among other things that evidence of the heroin had to be suppressed because the traffic stop was unduly prolonged. The court found Bowler’s testimony to be credible, disagreed that the stop was overly prolonged, and denied the suppression motion.

DISCUSSION

We independently review a Fourth Amendment suppression ruling “ ‘measur[ing] the facts, as found by the trier, against the constitutional standard of reasonableness.’ ” (*People v. Leyba* (1981) 29 Cal.3d 591, 597.)

When a vehicle has been lawfully stopped for a traffic violation, the detention “must be temporary and last no longer than is necessary to effectuate the purpose of the stop.” (*Florida v. Royer* (1983) 460 U.S. 491, 500.) “A lawful roadside stop begins when a vehicle is pulled over for investigation of a traffic violation. The temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop. Normally, the stop ends when the police have no further need to control the scene, and inform the driver and passengers they are free to leave. [Citation.] An officer’s inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those

inquiries do not measurably extend the duration of the stop. [Citation.]” (*Arizona v. Johnson* (2009) 555 U.S. 323, 333 (*Johnson*)). “There is no set time limit for a permissible investigative stop; the question is whether the police diligently pursued a means of investigation reasonably designed to confirm or dispel their suspicions quickly.” (*People v. Russell* (2000) 81 Cal.App.4th 96, 102.)

Jafari argues that the stop in this case was unlawfully prolonged after the license and warrant checks were completed. She relies primarily on *People v. McGaughran* (1979) 25 Cal.3d 577 (*McGaughran*), and *Williams v. Superior Court* (1985) 168 Cal.App.3d 349 (*Williams*). *McGaughran* held that an officer could not prolong a traffic stop to conduct a warrant check after he obtained all information necessary to perform his duties attendant to the stop. (*McGaughran, supra*, 25 Cal.3d at p. 587.) Similarly, the officer in *Williams* was held to have unlawfully prolonged a traffic stop, after “obtain[ing] all the information he needed to perform his citation duties,” in order to determine whether the defendants were involved in an armed robbery. (*Williams, supra*, 168 Cal.App.3d at p. 359.) These cases have been interpreted to permit “investigative activities beyond the original purpose of a traffic stop, including warrant checks . . . as long as they do not prolong the stop *beyond the time it would otherwise take*.” (*People v. Brown* (1998) 62 Cal.App.4th 493, 498, italics added.)

Despite the language limiting the duration of a traffic stop to the purpose of the stop, cases after *McGaughran* and *Williams* have not applied a strict rule that investigative activities unrelated to a traffic stop are impermissible where they only slightly prolong the stop. The courts have instead considered whether those activities “unreasonably” (*People v. Gallardo* (2005) 130 Cal.App.4th 234, 238) “unduly” (*People v. Brown, supra*, 62 Cal.App.4th at p. 500), or “measurably” (*Johnson, supra*, 555 U.S. at p. 333) extended the duration of the stop. The investigation here unrelated to the stop—asking the driver if he had contraband, searching the driver, asking Jafari about contraband, ordering her out of the car, asking her again about contraband—could have taken no more than a brief time that did not unreasonably, unduly, or measurably prolong the ten minute stop.

Moreover, the investigation of Jafari began with only one or two questions, which, according to the officer, she willfully evaded answering. “Circumstances which develop during a detention may provide reasonable suspicion to prolong the detention.” (*People v. Russell, supra*, 81 Cal.App.4th at p. 102.) Since Jafari’s actions provided good cause for the officer to continue her investigation, Jafari has no grounds to object to anything other than the first question the officer initially asked. If that limited questioning was unlawful, then, contrary to *Johnson’s* holding, no investigation during a traffic stop is allowed.

Jafari notes that there is no “general outside time limit for minor traffic offense detentions. . . . [T]he circumstances of each traffic detention are unique and . . . the reasonableness of each detention period must be judged on its particular circumstances.” (*Williams, supra*, 168 Cal.App.3d at p. 358.) Jafari argues: “[Bowler] confirmed that the driver’s license was valid and that there were no outstanding warrants either for him or for [her]. By that time, a backup officer had arrived at the scene. [¶] At that point, the only remaining step necessary for the arresting officer to fulfill her duties relative to the purpose of the stop was to either cite or warn the driver for the traffic violation. The detention became unlawful when the [officer] decided instead to embark upon a wholly unrelated general criminal investigation.” Under Jafari’s reasoning the only problem with the questions is that they were asked after, rather than before, the license and warrants were checked, thus creating a distinction of no constitutional significance.

The officer in this case “diligently pursued a means of investigation reasonably designed to confirm or dispel [her] suspicions quickly.” (*People v. Russell, supra*, 81 Cal.App.4th at p. 102.) The officer did not violate Jafari’s rights by asking whether she was carrying contraband. The motion to suppress was properly denied.

DISPOSITION

The judgment is affirmed.

Siggins, J.

We concur:

McGuinness, P.J.

Pollak, J.