

STATE OF MAINE

v.

LEVI R. CARPENTER

Submitted on Briefs January 28, 2014

Decided January 30, 2014

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Levi R. Carpenter appeals from a judgment of conviction of criminal OUI (Class D), 29-A M.R.S. § 2411(1-A)(B)(1) (2013) entered in the trial court (*A. Murray, J.*) on Carpenter’s conditional plea of guilty pursuant to M.R. Crim. P. 11(a)(2). Carpenter argues that the court erred in denying his motion to suppress evidence flowing from a traffic stop because there was no objectively reasonable, articulable suspicion to support the stop.

Contrary to Carpenter’s arguments on appeal, the court did not clearly err in finding that, within a distance of less than a half mile at approximately 1:00 a.m., police observed Carpenter’s vehicle travel into marked parking spaces alongside the roadway on two occasions, and travel in the center of the roadway on one occasion. *See State v. Sylvain*, 2003 ME 5, ¶ 8, 814 A.2d 984 (“Since the motion court has had the opportunity to hear the witnesses and assess their credibility, we afford the court’s findings concerning historical facts considerable deference. . . . [O]nly if the findings are clearly erroneous will they be set aside.”). Nor did the court err in concluding, based on those facts, that police had an objectively reasonable, articulable suspicion sufficient to justify the stop. *See State v. LaForge*, 2012 ME 65, ¶ 10, 43 A.3d 961 (“[T]he threshold for demonstrating an objectively reasonable suspicion necessary to justify a vehicle stop is low

The suspicion need only be more than speculation or an unsubstantiated hunch.” (quotation marks omitted)); *see also State v. Taylor*, 1997 ME 81, ¶ 9 n.6, 694 A.2d 907 (citing *Whren v. United States*, 517 U.S. 806 (1996)) (“[T]he subjective motivations of [an] officer are irrelevant for purposes of Fourth Amendment analysis.”).

The entry is:

Judgment affirmed.

On the briefs:

Donald F. Brown, Esq., Brewer, for appellant Levi R. Carpenter

Carletta M. Bassano, District Attorney, and Mary N. Kellett, Assist. Dist. Atty., Prosecutorial District No. VII, Ellsworth, for appellee State of Maine