

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(b). Summary disposition decisions of this Court do not create legal precedent and are not available in a publicly accessible electronic database. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

JAMES JOHN TYSON,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12738
Trial Court No. 3PA-16-00076 CR

SUMMARY DISPOSITION

No. 0071 — September 18, 2019

Appeal from the District Court, Third Judicial District, Palmer,
John W. Wolfe, Judge.

Appearances: Bradley A. Carlson, Attorney at Law, under contract with the Public Defender Agency and Quinlan Steiner, Public Defender, Anchorage, for the Appellant. Kimberly Del Frate, Assistant District Attorney, Palmer, and Jahna Lindemuth, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, Fabe, Senior Supreme Court Justice,* and Andrews, Senior Superior Court Judge.*

James John Tyson appeals his conviction for driving under the influence.¹
Tyson filed a motion to suppress, arguing that the police officer who stopped him lacked

* Sitting by assignment made pursuant to Article IV, Section 11 of the Alaska Constitution and Administrative Rule 23(a).

¹ AS 28.35.030(a)(1).

reasonable suspicion. The stop occurred at approximately 4:00 in the morning. After an evidentiary hearing, the district court found that the police officer observed Tyson's vehicle "drifting from the center line to the fog line and back and forth" and making "repeated speed changes." The district court concluded that these facts established reasonable suspicion to believe that the driver may have been under the influence, thus justifying the investigative stop.²

On appeal, Tyson argues that the district court erred in finding that the officer's observations were sufficient to establish reasonable suspicion. But we have previously upheld a finding of reasonable suspicion under similar facts.³ We therefore conclude that the district court did not err in finding that the police officer had reasonable suspicion in this case.

Tyson also argues that the district court's underlying factual findings were clearly erroneous. A court's factual findings are clearly erroneous when, after reviewing the entire record, we are "left with a definite and firm conviction that a mistake has been made."⁴ After reviewing the record in this case, we conclude that the district court did not clearly err.

The judgment of the district court is AFFIRMED.

² See *Ebona v. State*, 577 P.2d 698, 701 (Alaska 1978) (holding that a police officer can make an investigative stop of a vehicle when the officer has reasonable suspicion to believe that the driver of the vehicle is intoxicated).

³ *Hamman v. State*, 883 P.2d 994, 995 (Alaska App. 1994) (holding that a police officer had reasonable suspicion to stop a vehicle when the officer witnessed the vehicle repeatedly weave within its lane at 3:00 a.m.).

⁴ *Ferguson v. State*, 242 P.3d 1042, 1051 (Alaska App. 2010) (quoting *Majaev v. State*, 223 P.3d 629, 631 (Alaska 2010)).