

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DUSTIN C. BASKIN,

Defendants.

ORDER

04-CR-0003-C-02

Defendant Dustin C. Baskin has filed objections to the report and recommendation entered by United States Magistrate Judge Stephen L. Crocker on April 19, 2004. The magistrate judge recommended that the court deny defendant's motion to suppress all evidence obtained in the course of an investigative traffic stop. Defendant objects to the recommendation and contends that the report contains several factual and legal errors.

After reviewing the report, defendant's objections, the transcript of the evidentiary hearing and the parties' briefs, I am convinced that the magistrate judge's recommendation is correct. Deputy sheriff Uhan had probable cause to make a stop of the car in which defendant was riding. It was 3:00 in the morning when Deputy Uhan observed a car driving unnaturally slowly down a dirt road through a county park, nearing a cave in which hikers

had found paraphernalia associated with a meth lab the day before. Uhan and other deputies had been monitoring the site ever since, waiting for a specialist to come and dismantle the equipment. Uhan knew that no car had passed the spot during the two preceding two-hour shifts, from 10 p.m. to 2 a.m., or during the hour that she had been at the spot. Not only was the car proceeding unusually slowly, it was in the vicinity of the meth lab, it was out at a time when few people are awake, let alone driving on scenic roads through county parks, and, when Deputy Uhan turned on her headlights, the car accelerated quickly. This was enough to give her reasonable suspicion to make a stop.

Defendant argues that Deputy Uhan had had only 18 months' experience in patrolling although she had been employed by the department for five years. Her experience is not particularly relevant in this instance. The relevant question is whether the observations she made were enough to give a reasonable officer sufficient suspicion to justify a traffic stop. Defendant argues that her observations were equally consistent with an innocent driver who had slowed down to negotiate a sharp curve just north of Uhan's car and had accelerated when the road straightened. Most observers would find it unusual for a car to drive as slowly as this one had and then to speed up when it observed another car, instead of continuing to drive slowly until the driver was sure he could get around Uhan's car on the narrow dirt road.

Defendant notes that the road through the park has residences along it, as the

magistrate judge found, and that the existence of nearby residences might have explained the car and its slow speed. From the magistrate judge's report and the transcript, I infer that the residences were widely spaced and that the area was not well developed. In such circumstances, Deputy Uhan would have had little reason to think that the approaching car was slowing to approach a driveway. She would have had even less reason to think this after the car accelerated. In any event, she did not see it head into a driveway before she caught up with it.

The possibility of legitimate explanations for the car's actions does not negate the possibility that the explanation was an illegitimate one. Deputy Uhan was justified in pulling the car over for an investigative stop.

ORDER

IT IS ORDERED that the magistrate judge's recommendation is ADOPTED. FURTHER, IT IS ORDERED that defendant Dustin C. Baskin's motion to suppress evidence obtained as a result of the investigative stop of the car in which he was a passenger on

September 23, 2003, is DENIED.

Entered this 30th day of April, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge