

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

---

**NO. 09-10-00489-CR**

---

**KENNETH RAY SHORT, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

---

---

**On Appeal from the County Court at Law No. 5**  
**Montgomery County, Texas**  
**Trial Cause No. 10-256975**

---

---

**MEMORANDUM OPINION**

After the trial court denied his motion to suppress evidence, Kenneth Ray Short pled guilty to the offense of possession of marijuana in the amount of two ounces or less, a class B misdemeanor. *See* Tex. Health & Safety Code Ann. § 481.121(a), (b)(1) (West 2010). The trial court assessed a \$1,500 fine, suspended Short's driver's license for one hundred eighty days, and taxed Short with costs of court. In his sole issue on appeal, Short argues the trial court erred in denying his motion to suppress evidence that the motion asserts was obtained following an allegedly illegal traffic stop. According to

Short, the police officer lacked reasonable suspicion to stop him to investigate whether he was driving without insurance based on the officer's search of a database maintained by the Department of Insurance. Because the trial court could reasonably conclude the database search provided a reasonable basis for the officer to suspect that Short was driving without insurance, we affirm the trial court's judgment.

### Background

During the suppression hearing, Officer Daniel McGrew testified that in March 2010, he stopped a car Short was driving after conducting a computerized search that relied on the number on the car's license plate. The computerized search reported that insurance coverage on the car was "unconfirmed for 45 days or more and expired." Officer McGrew explained that a status report of "confirmed" provides officers with registration information on the car as well as various policy information, including the dates of coverage, the policy number, and the insurance company's name. Officer McGrew further explained that a report of unconfirmed and expired also provides various information on a vehicle, including registration information as well as information about the insurance policy that was last confirmed on the vehicle and the dates of coverage on the expired policy. According to Officer McGrew, an "[u]nconfirmed status means that there is no insurance on the vehicle." Officer McGrew also stated that the search sometimes reports the insurance status as "unconfirmed status with no information

listed[,]” which “typically means that the Department of Insurance is unable to confirm one way or the other, and they don’t have information to support that finding.”

Officer McGrew testified that it was his department’s policy not to stop a vehicle whose return states an “unconfirmed status with no information listed.” However, in Short’s case, the search showed “unconfirmed for 45 days or more and expired[,]” and that information was the reasonable suspicion that led Officer McGrew to stop Short’s car. Officer McGrew testified that based on his experience with the insurance database, the information he received based on computerized searches for coverage information had been “very accurate.”

From the reported information, Officer McGrew learned that the car Short was driving had not been insured since December 6, 2009. Based on the reported information, Officer McGrew conducted the stop which is the subject of Short’s appeal.

#### Standard of Review

We review a trial court’s ruling on a motion to suppress by applying a bifurcated standard of review. *Wilson v. State*, 311 S.W.3d 452, 457-58 (Tex. Crim. App. 2010). As a general rule, a trial court’s findings of historical fact supported by the record, as well as mixed questions of law and fact that turn on an evaluation of credibility and demeanor, are given “almost total deference[.]” *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). A de novo standard is applied to a trial court’s determination of the law and its application of law to the facts that do not turn upon an evaluation of credibility and

demeanor. *Id.* If a trial court has not made a finding on a relevant fact, we imply findings to support the trial court's ruling, so long as the findings are supported by the record. *See Herrera v. State*, 241 S.W.3d 520, 527 (Tex. Crim. App. 2007); *State v. Kelly*, 204 S.W.3d 808, 818-19 (Tex. Crim. App. 2006); *see also Moran v. State*, 213 S.W.3d 917, 922 (Tex. Crim. App. 2007). In summary, we will uphold the trial court's ruling if it is reasonably supported by the record and is correct under any theory of law applicable to the case. *Amador v. State*, 275 S.W.3d 872, 878-79 (Tex. Crim. App. 2009).

#### Analysis

Short argues that the trial court erred in denying his motion to suppress evidence based on an allegedly illegal stop. Short contends that the information that Officer McGrew received about the status of the insurance coverage on the car he was driving was insufficient to create the required reasonable suspicion for a stop.

A police officer "conducts a lawful temporary detention when he has reasonable suspicion to believe that an individual is violating the law." *Ford v. State*, 158 S.W.3d 488, 492 (Tex. Crim. App. 2005). "Reasonable suspicion exists if the officer has specific, articulable facts that, when combined with rational inferences from those facts, would lead him to reasonably conclude that a particular person actually is, has been, or soon will be engaged in criminal activity." *Id.*; *see Foster v. State*, 326 S.W.3d 609, 613 (Tex. Crim. App. 2010).

Officer McGrew's testimony in this case relates to whether Short had insurance coverage for the car he was driving. Under Texas law, a person may not operate a motor vehicle unless financial responsibility is established for that vehicle. Tex. Transp. Code Ann. § 601.051 (West 2011). A person commits a misdemeanor offense if he or she operates a motor vehicle in violation of Section 601.051. *Id.* § 601.191(a), (b) (West 2011).

Short relies primarily on *Gonzalez-Gilando v. State*, 306 S.W.3d 893 (Tex. App.—Amarillo 2010, pet. ref'd) to support his argument that Officer McGrew stopped him without reasonable suspicion. In that case, the Amarillo Court of Appeals overturned a trial court's denial of a motion to suppress, reasoning that a computerized search that resulted in a report that insurance information for the vehicle was unavailable was not sufficient evidence to establish that the officer had reasonable suspicion to stop the vehicle. *See Id.* at 896-97. In *Gonzalez-Gilando*, the Amarillo Court explained that the

information obtained by the officers while pursuing those technological means was hardly suggestive of anything other than the unknown[;] . . . without other evidence developing the source of the information comprising the database, explaining what was meant when insurance information was unavailable, explaining why such information would be unavailable, illustrating the accuracy of the database, establishing the timeliness of the information within the database, depicting how often those using the database were told that insurance information was unavailable, proving that the program through which the database was accessed was even operating at the time, and the like, we cannot accept the deputy's inference as reasonable.

*Id.* at 896-97. The *Gonzalez-Gilando* court further explained that “[g]iven the absence of the evidence described above, we can only liken the indication that the information was unavailable to who knows, and who knows falls short of being an articulable fact upon which reasonable suspicion can be founded.” *Id.* at 897.

The facts in this case are distinguishable from those in *Gonzalez-Gilando*. Here the evidence shows that after Officer McGrew ran a computer check of the license plate on the car Short was driving, he received a report stating the status of the coverage on the car was “unconfirmed for 45 days or more and expired,” and he received policy information showing the expiration date of the last policy in effect on the car. Thus, Officer McGrew had more information about the insurance coverage on Short’s car than the officer had in *Gonzalez-Galindo*. *See id.* at 896. Second, Officer McGrew provided more information about the accuracy of the insurance database than did the officer in *Gonzalez-Galindo*, as Officer McGrew testified, that in his experience, the information in the insurance database was “very accurate.” *Id.* at 897. Finally, unlike the officer who testified in *Gonzalez-Galindo*, Officer McGrew stated the information he received on the car was “overwhelming” and that in light of the information he had, “[i]t’s definitely reasonable suspicion to stop a car.” *Compare U. S. v. Cortez-Galaviz*, 495 F.3d 1203, 1204, 1206 (10th Cir. 2007) (concluding that a response from a state computer system containing vehicle insurance data indicating that there was no information that the owner had insured the vehicle “provided objective, particularized, and, while perhaps not perfect

or immediate, sufficient information to justify a brief traffic stop”). In contrast, the *Gonzalez-Galindo* Court indicated that based on the testimony before it in that case, “the information garnered from the database did not provide the troopers basis to confirm whether or not such insurance existed.” 306 S.W.3d at 894. *See also Contraras v. State*, 309 S.W.3d 168, 172-73 (Tex. App.—Amarillo 2010, pet. ref’d.) (concluding that a return of unavailable did not provide the officers with reasonable suspicion that appellant was driving an uninsured vehicle).

Giving proper deference to the trial court’s resolution of the facts, it is our opinion that the trial court could reasonably conclude that a reasonably objective officer could form a reasonable suspicion based on the evidence provided from the database inquiry in this case, and from that information, the officer could have formed a reasonable belief that the car Short was driving was not covered by an insurance policy. Because the trial court, on the facts before it, could reasonably choose to believe Officer McGrew’s testimony and decide to deny Short’s motion to suppress evidence, we overrule Short’s sole issue on appeal.

AFFIRMED.

---

HOLLIS HORTON  
Justice

Submitted on July 14, 2011  
Opinion Delivered August 10, 2011  
Do Not Publish

Before McKeithen, C.J., Gaultney and Horton, JJ.