1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **STATE OF NEW MEXICO,**

3   Plaintiff-Appellant,

4 v.   **No. A-1-CA-42058**

5 **JORDAN ISAIAH JONES,**

6   Defendant-Appellee.

7 **APPEAL FROM THE DISTRICT COURT OF McKINLEY COUNTY**
8 **Douglas W. Decker, District Court Judge**

9 Raúl Torrez, Attorney General
10 Santa Fe, NM
11 Walter Hart, Assistant Solicitor General
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13 for Appellant

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15 Nina Lalevic, Assistant Appellate Defender
16 Santa Fe, NM

17 for Appellee

18   **MEMORANDUM OPINION**

19 **IVES, Judge.**

20 {1}   The State appeals the district court's order granting Defendant Jordan Isaiah

21 Jones' motion to suppress. The State argues that the district court erred by (1)

22 misapprehending the law in determining when the investigatory detention of

23 Defendant began and (2) concluding that the officer who detained Defendant lacked

reasonable suspicion that he had failed to maintain his lane while driving. *See* NMSA 1978, § 66-7-317(A) (1978). We disagree with the State's first argument but agree with its second argument. We therefore reverse.

DISCUSSION

{2}   "Appellate review of motions to suppress presents mixed questions of law and fact," and on appeal we ordinarily "examine whether there is substantial evidence to support the district court's factual findings, deferring to the district court's review of testimony and other evidence presented and viewing the facts in the manner most favorable to the prevailing party," and then "determine de novo the constitutional reasonableness of the search or seizure." *State v. Ontiveros*, 2024-NMSC-001, ¶ 8, 543 P.3d 1191. However, when, as in this case, only documentary evidence and no live testimony is available, an appellate court "in as good a position as the trial court to determine the facts and draw [our] own conclusions." *See State v. Martinez*, 2018-NMSC-007, ¶ 12, 410 P.3d 186 (internal quotation marks and citation omitted). Here, no witness testimony was provided during the hearing on Defendant's motion to suppress. Instead, the parties stipulated to the use of three exhibits, two of which pertain to the issues before us: the arresting officer's police report and the dash camera video taken leading up to and during the arrest. Because these exhibits are documentary evidence, we do not defer to the district court in reviewing them. *See State v. Martinez*, 2015-NMCA-051, ¶ 15, 348 P.3d 1022

("[R]eviewing a video by itself is like reviewing any other documentary evidence, and we are in as good a position as the district court to view the video and interpret what it shows."), *rev'd on other grounds*, 2018-NMSC-007. Under *Martinez*, we review them de novo. *See* 2018-NMSC-007, ¶ 12.

I.   The District Court Did Not Misapprehend the Law About When the Investigatory Detention Began

{3}   "The stop of a vehicle for the purpose of investigating a traffic violation is an investigative seizure under the Fourth Amendment and must be justified at its inception." *State v. Siqueiros-Valenzuela*, 2017-NMCA-074, ¶ 11, 404 P.3d 782. "A person has been seized only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that [they were] not free to leave." *State v. Garcia*, 2009-NMSC-046, ¶ 37, 147 N.M. 134, 217 P.3d 1032 (alteration, omission, internal quotation marks, and citation omitted). "[R]estraint on a person's freedom, within the meaning of *Terry* [*v. Ohio*, 392 U.S. 1 (1968)], can be the result of either physical force or a showing of authority." *State v. Jason L.*, 2000-NMSC-018, ¶ 15, 129 N.M. 119, 2 P.3d 856.

{4}   While patrolling a highway in New Mexico, the arresting officer, Officer Benally, made a U-turn and began driving in the same direction as Defendant. Officer Benally caught up to Defendant's vehicle, used his siren, and pulled Defendant over for alleged failure to maintain a lane.

{5}   The State asserts that the district court misapprehended the law by incorrectly analyzing when the investigatory detention began. In the hearing on Defendant's motion to suppress, the district court judge said, "I think whatever justified [Officer Benally] in making the U-turn to chase [Defendant] would've happened while he was headed [the opposite direction as Defendant] and should've been in the police report." The State labels this statement a "ruling indicating that Officer Benally had an obligation to 'justify' why" he made the U-turn, which the State interprets as a ruling as to when the investigative detention began, and argues this misapprehended the law "[b]ecause no evidence supports a finding that a reasonable person in Defendant's position would have believed that he was not free to leave prior to the time Officer Benally sounded his siren." We understand the district court's statement to reflect its desire to understand the totality of the circumstances, rather than as a ruling on when the investigatory detention began. We note that the district court did not make any findings of fact or conclusions of law related to the start of the investigatory detention in its order granting the motion to suppress. We are not persuaded that the district court concluded that the investigatory detention began when Officer Benally made the U-turn.

{6}   Related to this claim of error and to the State's remaining claim of error, the State argues that "Officer Benally's use of his siren constituted the earliest possible time of commencement of the investigatory detention." Defendant does not contest

this. We therefore assume without deciding that Officer Benally's use of his siren

marked the commencement of the investigatory detention, which means that the

State was required to demonstrate that Officer Benally developed reasonable

suspicion to stop Defendant prior to that time. *See Siqueiros-Valenzuela*,

2017-NMCA-074, ¶ 11. We turn next to the question of whether reasonable

suspicion existed at that time.

II.   Officer Benally Had Reasonable Suspicion to Stop Defendant

{7}   "Questions of reasonable suspicion are reviewed de novo by looking at the

totality of the circumstances to determine whether the detention was justified." *State*

v. Hubble, 2009-NMSC-014, ¶ 5, 146 N.M. 70, 206 P.3d 579 (text only) (citation

omitted). Reasonable suspicion, measured by an objective standard, is an officer's

"particularized suspicion, based on all the circumstances" and arising from "specific

articulable facts, together with rational inferences from those facts," that "a

particular individual, the one detained, is breaking, or has broken, the law." *Id.* ¶ 8

(text only) (citations omitted). "[O]fficers may draw on their own experience and

specialized training to make inferences from and deductions about the cumulative

information available to them that might well elude an untrained person." *State v.*

Neal, 2007-NMSC-043, ¶ 21, 142 N.M. 176, 164 P.3d 57 (internal quotation marks

and citation omitted). We defer to an officer's training and experience, *see State v.*

Olson, 2012-NMSC-035, ¶ 13, 285 P.3d 1066, but an officer may not rely on

1 "unsupported intuition and inarticulate hunches" to form reasonable suspicion. *See*

2 *Neal*, 2007-NMSC-043, ¶ 21 (text only) (citation omitted).

3 {8}   Officer Benally's police report states, in pertinent part:

4   At about 1617 hours, I was headed southbound on US Highway 491
5   and saw several vehicles ahead of me. In that pack of vehicles, I noticed
6   there was a small white SUV in front of all the vehicles in the inside
7   lane. It seemed to me that the other vehicles were avoiding the SUV. I
8   continued to monitor the SUV and watched it drive over the solid
9   yellow edge line and almost drive onto the raised median. The SUV
10   swerved back into [its] lane and drifted toward the white-dotted center
11   line. A second later, I saw the SUV drive over the solid yellow edge
12   line and almost drive on the raised median again, kicking up a cloud of
13   dust. After I saw the second lane violation, I caught up with the SUV
14   and initiated a traffic stop. The vehicle slowed down, and I saw the left
15   turn signal come on. The SUV was about to stop within the highway's
16   turn lane, but the driver must have known he could not stop there. The
17   SUV drove back into the roadway and finally stopped.

18 {9}   The dash camera video shows Officer Benally make a U-turn and begin

19 driving in the same direction as Defendant on a four-lane highway. Defendant's

20 vehicle is in the inside lane. As Officer Benally gets closer to Defendant's vehicle,

21 the video shows a disturbance of dust near the median, and although the source of

22 the disturbance is not clear, Defendant appears to swerve in his lane at the same time

23 the dust appears. Next, the video shows both left tires of Defendant's vehicle fully

24 cross over the solid yellow line on the left side of the inside lane. Officer Benally's

25 siren then briefly sounds. After this, Defendant pulls over on the right shoulder of

26 the highway.

{10}	The parties agree that the offense for which Officer Benally stopped Defendant was failure to maintain a lane in violation of Section 66-7-317(A). Thus, our reasonable suspicion determination hinges on whether Officer Benally's observations of Defendant gave rise to a reasonable belief that Defendant violated Section 66-7-317(A), which requires that when a road has two or more traffic lanes, "a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety."

{11}	Because the video clearly shows Defendant deviating from his lane before Officer Benally sounded his siren, the issue before us pertains only to whether that deviation gave rise to reasonable suspicion of a violation of the statute under the totality of the circumstances. We described the law on this topic in *Siqueiros-Valenzuela*. There, we identified a "legislative intent to avoid penalizing brief, momentary, and minor deviations outside the marked lines" in some situations. *Siqueiros-Valenzuela*, 2017-NMCA-074, ¶ 18 (text only) (citation omitted). Specifically, the "totality of the circumstances analysis [to determine if Section 66-7-317(A) has been violated] takes into account whether there were any weather conditions, road features, or other circumstances that could have affected or interfered with a driver's ability to keep [their] vehicle in a single lane." *Id.* ¶ 19. Defendant argues that the circumstance explaining any deviation from his lane here

was merely a "momentary distraction, possibly caused by [O]fficer [Benally] speeding through traffic behind [Defendant]." This is speculative, and the dash camera video does not show any circumstances that justify Defendant's deviation from his lane. The weather was clear, it was light outside, and the road conditions and traffic surrounding Defendant's vehicle appear normal. Absent any apparent mitigating circumstances, we conclude that it was reasonable for Officer Benally to suspect that Defendant violated Section 66-7-317(A) when Defendant deviated from his lane, and we therefore hold that Officer Benally had reasonable suspicion to stop Defendant for the purpose of investigating.

CONCLUSION

{12}   We reverse the order granting Defendant's motion to suppress and remand for further proceedings consistent with this opinion.
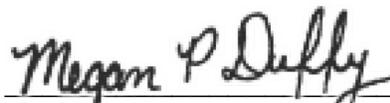
{13}   **IT IS SO ORDERED.**

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ZACHARY A. IVES, Judge

WE CONCUR:

_____
MEGAN P. DUFFY, Judge

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JANE B. YOHALEM, Judge

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