

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JEFFREY MICHAEL WARACK,

Defendant-Appellee.

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UNPUBLISHED

July 10, 2001

No. 232498

Tuscola Circuit Court

LC No. 00-007941-AV

Before: Saad, P.J., and Holbrook, Jr. and Murphy, JJ.

PER CURIAM.

Plaintiff appeals by delayed leave granted the circuit court order affirming the district court's decision to grant defendant's motion to suppress. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was stopped by state police on suspicion of drunk driving after the tires on defendant's car touched or crossed the fog line four times within a half-mile distance. The automobile never left the pavement, and was otherwise in conformance with applicable traffic laws. The trooper opined that the suspect's driving was erratic, and initiated the traffic stop.

Defendant moved to suppress the evidence obtained as a result of the stop. The district court granted the motion, finding that there was no showing that defendant violated any portion of the motor vehicle code, and the officer lacked reasonable suspicion to initiate a traffic stop. The circuit court granted leave to appeal, and affirmed the district court.

This Court will review a lower court's findings of fact on a motion to suppress for clear error, and review the ultimate decision de novo. *People v Darwich*, 226 Mich App 635; 575 NW2d 44 (1997).

The brief detention of a person following an investigatory stop is considered reasonable if the officer has a reasonably articulable suspicion that the person is engaged in criminal activity. *People v LoCicero (After Remand)*, 453 Mich 496, 501; 556 NW2d 498 (1996). The reasonableness of the officer's suspicion is determined case-by-case on the basis of the totality of the circumstances. *Id.* In determining whether the officer acted reasonably, due weight must be given to the specific reasonable inferences the officer is entitled to draw from the facts in light of

his experience. *Id.*, 502. Fewer facts are needed to establish reasonable suspicion when a person is in a moving vehicle than in a house. *Id.*

In *People v Christie (On Remand)*, 206 Mich App 304; 520 NW2d 647 (1994), the defendant was stopped after officers observed his car swerving within its lane, and activating his turn signal for two-tenths of a mile before turning. The district court ruled that the stop was unreasonable, and the circuit court affirmed. This Court reversed, finding that the deputy had reasonable cause to suspect ongoing criminal activity where the defendant displayed classic indicia of an intoxicated driver. *Id.*, 309.

Here, defendant swerved within his lane, crossing the fog line four times within the officer's observation period. Unlike *Christie*, there were no other indications of impaired driving. The officer testified that he believed defendant's driving was erratic, and he suspected drunk driving. He believed that defendant committed an infraction for improper lane usage in leaving the regular traveled portion of the roadway.

The district court erred in finding that the officer lacked the requisite reasonable suspicion to initiate a traffic stop. Due weight must be given to the specific reasonable inferences the officer was entitled to draw from the facts in light of his experience. *LoCicero, supra*, 502. The officer had a reasonably articulable suspicion gathered from his observations that defendant was driving while impaired.

Reversed and remanded for further proceedings consistent with this opinion. The stay of proceedings previously granted by this Court is lifted. We do not retain jurisdiction.

/s/ Henry William Saad  
/s/ Donald E. Holbrook, Jr.  
/s/ William B. Murphy