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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A12-0587**

State of Minnesota,  
Respondent,

vs.

Christine Marie Porter,  
Appellant.

**Filed November 5, 2012  
Affirmed  
Stoneburner, Judge**

Hennepin County District Court  
File No. 27-CR-11-8389

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Steven M. Tallen, Tallen & Baertschi, Minneapolis, Minnesota (for respondent)

Douglas V. Hazelton, Halberg Criminal Defense, Bloomington, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Stoneburner, Judge; and  
Ross, Judge.

**UNPUBLISHED OPINION**

**STONEBURNER**, Judge

On appeal from her conviction of fourth-degree driving while impaired, appellant argues that the district court erred by finding that the stop of her vehicle was lawful and

denying her motion to suppress evidence of her impairment. Because the stop was based on an observed traffic violation, we affirm.

## **FACTS**

The vehicle driven by appellant Christine Marie Porter was stopped by Maple Grove Police Officer Matthew Olson in the early morning hours of January 3, 2011, after the officer saw Porter cross the yellow double centerline of a road onto which she was making a very wide right turn. Crossing the centerline is a violation of Minn. Stat. § 169.13, subd. 2 (2010). Based on the officer's subsequent observations of indicia of intoxication, Porter was arrested for driving while impaired (DWI). A urine test revealed that Porter had an alcohol concentration of .12.

Porter was charged with two counts of fourth-degree DWI in violation of Minn. Stat. §§ 169A.20, subds. 1(1), (5), .27 (2010), and one count of careless driving in violation of Minn. Stat. § 169.13, subd. 2 (2010). Porter moved to suppress all evidence obtained as a result of the traffic stop, arguing that the stop was unreasonable because she was forced by snow on the roadside to make a wide turn that required crossing the centerline.

At the suppression-motion hearing, Officer Olson testified that although there was snow at the edge of the roadway, the roadway itself was "pretty clear of snow" and that nothing required such a wide right turn. Porter testified that she drove over the double-yellow centerline, but stated that it was necessary to do so because the curb was covered with packed snow and ice such that she would have hit a snow bank or ice had she not made a wide turn over the centerline.

The video of Porter's driving conduct taken by Officer Olson's squad car was played to the district court more than six times, with both the officer and Porter narrating as the video played. Ruling from the bench, the district court concluded that the stop was legal and denied Porter's motion to suppress.

Porter stipulated to a court trial under Minn. R. Crim. P. 26.01, subd. 4, preserving the issue of the legality of the traffic stop for appeal. The district court found Porter guilty of all charges. She was convicted of one count of DWI and sentenced to a \$300 fine and 30 days in jail, 28 days stayed for two years pending successful completion of probation, and 16 hours of community service. This appeal followed.

### **D E C I S I O N**

“In an appeal following a Minn. R. Crim. P. 26.01, subd. 4, procedure . . . , this court's review is limited to the pretrial order that denied the motion to suppress.” *State v. Sterling*, 782 N.W.2d 579, 581 (Minn. App. 2010). The district court found that conditions did not justify Porter's crossing the centerline to make her turn and concluded that Officer Olson had sufficient cause to make the stop.<sup>1</sup>

In reviewing a district court's determination of the legality of a traffic stop, we review findings of fact for clear error, “giving due weight to the inferences drawn from those facts by the district court,” and we review questions of reasonable suspicion *de novo*. *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000) (quotation omitted).

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<sup>1</sup> The district court stated that Officer Olson had “probable cause” to stop Porter, but “[a]n investigatory stop requires only reasonable suspicion of criminal activity, not probable cause.” *State v. Vereb*, 643 N.W.2d 342, 346 (Minn. App. 2002).

The fact that Porter crossed the centerline while making the turn is undisputed, but Porter argues that the video conclusively shows that the district court's finding that conditions did not require her to cross the centerline is clearly erroneous. We disagree. Contrary to Porter's assertions, the video shows considerable space between Porter's vehicle and the snow on the roadside, supporting the district court's rejection of Porter's version of the events. Additionally, the fact that Officer Olson might have inferred from his observations that road conditions contributed to Porter's driving conduct does not negate the fact that he observed a traffic-law violation giving rise to reasonable, articulable suspicion to make an investigatory stop. *See Shull v. Comm'r of Pub. Safety*, 398 N.W.2d 11, 14 (Minn. App. 1986).

Porter attempts to distinguish *Shull* by arguing that the only reasonable inference in this case is that she had no choice but to drive across the centerline in order to turn safely. But as noted above, the evidence does not support this argument. The district court did not err by concluding that Officer Olson had a reasonable, articulable suspicion of a traffic law violation that justified the investigatory stop. And the district court did not err by denying Porter's motion to suppress evidence obtained as a result of the stop.

**Affirmed.**