

NO. 12-08-00430-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>WILTON LARRON MAHAFFEY,</i> <i>APPELLANT</i>	§	<i>APPEAL FROM THE</i>
<i>V.</i>	§	<i>COUNTY COURT AT LAW #2</i>
<i>THE STATE OF TEXAS,</i> <i>APPELLEE</i>	§	<i>HENDERSON COUNTY, TEXAS</i>

MEMORANDUM OPINION ON REMAND

Wilton Larron Mahaffey appeals his conviction for driving while intoxicated, for which he was sentenced to confinement for three days and fined five hundred dollars. This case has a lengthy procedural history.¹ We reverse and remand.

The facts of the case at hand are well known to the parties. As such, we will not recount them here.²

In his sole issue on remand, Appellant argues that the trial court erred in denying his motion to suppress illegally seized evidence. In *Mahaffey II*, the court of criminal appeals' concluding paragraph states as follows:

We hold that Sergeant Sparks failed to articulate specific facts that support a reasonable suspicion that appellant had violated Texas Transportation Code Section 545.104(a) [citation omitted]. We, therefore, hold that there was no reasonable suspicion for the initial stop and that the

¹ See *Mahaffey v. State*, 316 S.W.3d 633, 634–43 (Tex. Crim. App. 2010) (*Mahaffey I*); see also *Mahaffey v. State*, 364 S.W.3d 908, 909–15 (Tex. Crim. App. 2012) (*Mahaffey II*).

² A full recitation of the facts appears in *Mahaffey v. State*, No. 12-08-00430-CR, 2011 WL 721505, at *1–2 (Tex. App.–Tyler Mar. 2, 2011) (mem. op., not designated for publication). For the purpose of this opinion, it is noteworthy that the trial court specifically found that “the sole valid basis for the traffic stop and detention of the Defendant was the violation of [Texas Transportation Code]Section 545.104(a).” *Id.*, at *2.

trial court erred by failing to suppress the evidence obtained as a result of the stop.

See *Mahaffey*, 364 S.W.3d 908, 914–15. In *Mahaffey I* and *II*, the court resolved all arguments raised in support of Appellant’s sole issue on remand in Appellant’s favor. Accordingly, we hold that the trial court abused its discretion by failing to suppress the evidence obtained as a result of the traffic stop. Appellant’s sole issue is sustained.

Having sustained Appellant’s sole issue on remand, we *reverse* the trial court’s judgment and *remand* the cause to the trial court for further proceedings consistent with this opinion.

SAM GRIFFITH
Justice

Opinion delivered August 15, 2012.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

AUGUST 15, 2012

NO. 12-08-00430-CR

WILTON LARRON MAHAFFEY,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the County Court at Law #2
of Henderson County, Texas. (Tr.Ct.No. 2006-1835CL2)

THIS CAUSE came to be heard on the appellate record and the briefs filed herein, and the same being considered, because it is the opinion of this court that there was error in the judgment of the court below, it is ORDERED, ADJUDGED and DECREED by this court that the judgment be **reversed** and the cause **remanded** to the trial court **for further proceedings** in accordance with the opinion of this court; and that this decision be certified to the court below for observance.

Sam Griffith, Justice.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.