

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

STATE OF FLORIDA, )  
)  
Appellant/Cross-Appellee, )  
)  
v. )  
)  
WILLIAM PATRICK BALLINGER, )  
)  
Appellee/Cross-Appellant. )  
\_\_\_\_\_ )

Case No. 2D06-2613

Opinion filed February 13, 2008.

Appeal from the Circuit Court for Pasco  
County; Linda H. Babb, Judge.

Bill McCollum, Attorney General,  
Tallahassee, and Marilyn Muir Beccue,  
Assistant Attorney General, Tampa, for  
Appellant/Cross-Appellee.

Eilam Isaak, Tampa, for Appellee/Cross-  
Appellant.

VILLANTI, Judge.

The State appeals a trial court order granting suppression of William  
Patrick Ballinger's refusal to take a breath test, and Ballinger cross-appeals the same  
trial court order which also denied his motion to suppress evidence obtained from an

allegedly unlawful stop. For the reasons stated in State v. Busciglio, 33 Fla. L. Weekly D267 (Fla. 2d DCA Jan. 23, 2008), we reverse the trial court's order granting suppression of Ballinger's refusal. However, we affirm the court's order denying his motion to suppress evidence obtained from the stop because the officer was not required to have probable cause to arrest Ballinger in order to stop his vehicle. Rather, the officer was merely required to have reasonable suspicion that Ballinger had committed, was committing, or was about to commit a crime. See § 901.151, Fla. Stat. (2004); Terry v. Ohio, 392 U.S. 1 (1968); Popple v. State, 626 So. 2d 185, 186 (Fla. 1993). We conclude that the trial court correctly found that the officer had the requisite reasonable suspicion sufficient to stop Ballinger's vehicle. Thus, we affirm that portion of the order denying suppression.

Affirmed in part; reversed in part; and remanded for further proceedings.

DAVIS, J., and BENNETT, ROBERT B., JR., ASSOCIATE JUDGE, Concur.