

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2013-CA-001423-DG

JAMES HINES

APPELLANT

ON DISCRETIONARY REVIEW FROM GREEN CIRCUIT COURT  
v. HONORABLE DAN KELLY, JUDGE  
ACTION NO. 13-XX-0002

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: DIXON, MAZE, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: James Hines obtained discretionary review by this Court from a July 22, 2013, opinion of the Green Circuit Court affirming in part and reversing in part an order of the Green District Court, entered pursuant to a conditional guilty plea, to driving under the influence of intoxicants, careless driving, improper vehicle registration, and operating a vehicle which is a nuisance. We affirm.

On January 18, 2013, Officer Matt Matney of the Greensburg Police Department observed a motor vehicle weaving and swerving over the center line and fog line of the highway. Officer Matney also heard loud noises emanating from the vehicle. As a result, the officer initiated a traffic stop. Upon approaching the vehicle, Officer Matney observed that Hines, the operator of the vehicle, had slurred speech, smelled of alcohol, and had red eyes. Officer Matney performed field sobriety tests upon Hines, which he failed. Thereupon, Hines was placed under arrest for driving under the influence of intoxicants. Hines was also charged with improper vehicle registration, careless driving, and vehicle being a nuisance.

In the district court, Hines filed motions to dismiss the charges of vehicle being a nuisance and improper registration as the vehicle was not owned by him. Hines also filed a motion to dismiss the charge of driving under the influence and for suppression of the intoxilyzer results. He argued that the officer lacked probable cause to effectuate the traffic stop.

The district court conducted an evidentiary hearing and thereafter denied all of Hines' motions. Consequently, Hines entered a conditional guilty plea to vehicle being a nuisance, improper vehicle registration, operating a motor vehicle under the influence of intoxicants and careless driving. He preserved the right to appeal the denial of his motions.

An appeal ensued to circuit court. The circuit court reversed the charge of improper vehicle registration under Kentucky Revised Statutes (KRS) 186.020. The circuit court held that only the owner of a motor vehicle may be

charged with improper registration under the plain language of KRS 186.020. As to the other charges of driving under the influence, carless driving, and vehicle being a nuisance, the circuit court affirmed and concluded that the district court properly denied the motions to dismiss these charges.

Hines then filed a Motion for Discretionary Review in the Court of Appeals on August 19, 2013. Kentucky Rules of Criminal Procedure (RCr) 12.02 and Kentucky Rules of Civil Procedure 76.02. This Court granted the motion on January 23, 2014. Our review follows.

Hines contends that the district court erred by denying his motion to dismiss the charge of vehicle being a nuisance. In particular, Hines argues that he was not the owner of the motor vehicle but rather merely a driver of the vehicle. As a driver, Hines maintains that he is not liable for the vehicle being a nuisance under KRS 189.020. We disagree.

KRS 189.020 reads:

Every vehicle when on a highway shall be so equipped as to make a minimum of noise, smoke or other nuisance, to protect the rights of other traffic, and to promote the public safety.

Under the plain terms of KRS 189.020, every vehicle driven upon a highway “shall be so equipped” to make a minimum noise or other nuisance. KRS 189.020 clearly prohibits any vehicle driven upon the roadway not so equipped. Thus, a driver of a motor vehicle is prohibited from driving a motor vehicle upon a highway that is not so equipped and may be charged with violation of KRS

189.020. See 11 Leslie A. Abramson, *Kentucky Practice – Substantive Criminal Law* § 11:4 (2013). Hence, we are of the opinion that the district court properly denied Hines’ motion to dismiss the vehicle nuisance charge.

Hines also argues that the charge of driving under the influence of intoxicants should be dismissed and the results of the intoxilyzer test results suppressed because the officer stopped his motor vehicle without probable cause. When reviewing a circuit court’s ruling upon a motion to suppress, we determine whether the circuit court’s findings of fact are clearly erroneous, and we review issues of law *de novo*. RCr 9.78. *Turley v. Com.*, 399 S.W.3d 412 (Ky. 2013). Our review proceeds accordingly.

It is well-established that an officer may properly stop a motor vehicle if that officer has probable cause to believe that a traffic violation has occurred. *Com. v. Bucalo*, 422 S.W.3d 253 (Ky. 2013). At the suppression hearing, Officer Matney testified that he observed Hines’ vehicle cross both the center line and the fog line of the road. Based upon these observations and others, Officer Matney initiated the traffic stop, and Hines was ultimately charged with careless driving,<sup>1</sup> as well as driving under the influence. Upon the whole, we believe the district court properly ruled that Officer Matney possessed probable cause to stop Hines’ vehicle.

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<sup>1</sup> Kentucky Revised Statutes 189.290 reads:

(1) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.

For the foregoing reasons, the order of the Greene Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Jonathan R. Spalding  
Labanon, Kentucky

BRIEF FOR APPELLEE:

Russell W. Goff  
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