

T A T E O F M I C H I G A N
C O U R T O F A P P E A L S

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

BARBARA WOODMAN,

Defendant-Appellee.

UNPUBLISHED

November 26, 2002

No. 237467

Wayne Circuit Court

LC No. 01-006198

Before: Markey, P.J., and Saad and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court's order granting defendant's motion to suppress test results and dismiss the case. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with operating a vehicle under the influence of intoxicating liquor (OUIL)/unlawful blood alcohol level (UBAL), third offense, MCL 257.625(1) and (8). Defendant moved to suppress the breathalyzer test results and to dismiss the case on the ground that the police officer lacked probable cause to stop her vehicle. Officer Cerroni testified that he observed defendant's vehicle travel for approximately two hundred feet while straddling traffic lanes. As the vehicle moved toward an upcoming exit, Cerroni determined that he would make a traffic stop. He then activated the video recorder in his unit. The video, which the court viewed, did not depict defendant's car committing the lane infraction.

When Cerroni made contact with defendant, he detected a strong odor of intoxicants and observed that her eyes were glassy. Defendant admitted that she had been drinking alcohol. She failed several field sobriety tests and a preliminary breath test. The trial court granted defendant's motion, finding that an observation that defendant's vehicle straddled the lanes for a very brief period of time did not constitute probable cause to believe that defendant was intoxicated, and did not justify stopping her vehicle.

We review a trial 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, 637; 575 NW2d 44 (1997). A brief investigative stop short of arrest is permitted if a peace officer has a reasonable suspicion that criminal activity is afoot. *Terry v Ohio*, 392 US 1, 16; 88 S Ct 1868; 20 L Ed 2d 889 (1968). The totality of the circumstances test determines the propriety of an investigative stop. A court should avoid engaging in an overly technical analysis of an officer's assessment of

the probability that criminal activity was taking place. *People v Faucett*, 442 Mich 153, 168; 499 NW2d 764 (1993).

We reverse the trial court's decision and remand for further proceedings. A police officer who observes a traffic violation may stop a vehicle. *People v Kazmierczak*, 461 Mich 411, 420 n 8; 605 NW2d 667 (2000); *People v Davis*, 250 Mich App 357, 363; 649 NW2d 94 (2002). Cerroni's testimony that he observed defendant's vehicle straddling traffic lanes was uncontradicted by any other evidence. Cerroni did not need probable cause to believe that defendant was intoxicated in order to stop her vehicle. The stop was justified on the ground that he observed a traffic violation. *Id.*

After Cerroni made contact with defendant, the focus of the investigative stop switched from the traffic violation to a suspicion that defendant was operating her vehicle under the influence of intoxicating liquor. This suspicion was unrelated to the reason for the initial stop; therefore, the suspicion must be justified under the *Terry* standard. *People v Rizzo*, 243 Mich App 151, 158; 622 NW2d 319 (2000). Cerroni detected a strong odor of alcohol about defendant's person, and observed that her eyes were glassy. Defendant admitted that she had been drinking.

Under the totality of the circumstances, Cerroni's suspicion that defendant was operating a vehicle under the influence of intoxicating liquor was reasonable. *Faucett, supra*. That reasonable suspicion supported his request that defendant exit the vehicle and perform the field sobriety tests. *Rizzo, supra*, 161. Defendant failed the field sobriety tests and preliminary breath test. The initial stop of defendant's vehicle was justified, as was the request that defendant perform field sobriety tests and take a preliminary breath test. *Kazmierczak, supra; Faucett, supra; Rizzo, supra*. The trial court erred by suppressing the breathalyzer test results and dismissing the case.

We reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey
/s/ Henry William Saad
/s/ Michael R. Smolenski