

2012 IL App (2d) 111098-U  
No. 2-11-1098  
Order filed August 20, 2012

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Lake County.
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	No. 11-CF-829
	)	
WILLIS J. RUSSELL,	)	Honorable
	)	Michael B. Betar,
Defendant-Appellee.	)	Judge, Presiding.

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JUSTICE HUDSON delivered the judgment of the court.  
Justices Zenoff and Burke concurred in the judgment.

**ORDER**

*Held:* The trial court properly granted defendant’s motion to suppress, as the officer lacked probable cause to stop him for failing to activate his turn signal at least 100 feet from an intersection: defendant entered the road less than 100 feet from the intersection, such that compliance with the literal statutory requirement was impossible, and defendant complied with the alternative requirement, applicable in such an instance, that he provide reasonable notice of his intent to turn.

¶ 1 Defendant, Willis J. Russell, was stopped for failing to activate his turn signal 100 feet from a “T” intersection (see 625 ILCS 5/11-804(b) (West 2010)). Evidence discovered after the stop led to defendant’s arrest for driving while his driving privileges were revoked (DWLR) (625 ILCS 5/6-

303(d-3) (West 2010)). Defendant moved to suppress the evidence that resulted in his arrest for DWLR, arguing that the arresting officer, Jason Plichta, lacked probable cause to stop him for the turning violation. More specifically, defendant claimed that, given the fact that he backed out of a parking lot less than 100 feet from the “T” intersection and then proceeded to that intersection, he could not comply with the law requiring drivers to signal turns 100 feet from an intersection. The trial court granted defendant’s motion to suppress, and the State filed a timely notice of appeal in addition to a certificate of impairment. For the reasons that follow, we affirm.

¶ 2 The relevant evidence presented at the suppression hearing, which consisted of Officer Plichta’s testimony and a video recording of the stop, provided as follows. At 9:10 p.m. on March 16, 2011, defendant was in the parking lot of Al’s Tap. Al’s Tap is located in Beach Park. The parking lot of Al’s Tap is approximately 50 to 75 feet away from the intersection of Ames and Sheridan. Ames and Sheridan is a “T” intersection.

¶ 3 As Officer Plichta drove his squad car on Ames, approaching the intersection of Ames and Sheridan, defendant backed his car out of the parking lot of Al’s Tap and onto Ames. Once defendant was on Ames, he put his car in drive, straightened his car out so that it was within the proper lane of traffic, and proceeded to the intersection. At that point, defendant stopped his car at the stop sign located at Ames and Sheridan. Prior to stopping at the stop sign, defendant did not activate his car’s turn signal.

¶ 4 Defendant remained stopped at the stop sign for approximately 5 to 10 seconds before he activated his car’s left-turn signal. Although Officer Plichta testified that defendant remained at the intersection for another second before proceeding to make a left turn onto Sheridan, the trial court found, based on the recording, that defendant’s turn signal was activated for 18 seconds before he

turned. Because defendant did not activate his turn signal 100 feet before he made his turn onto Sheridan, Officer Plichta stopped defendant for failing to signal his turn (see 625 ILCS 5/11-804(b) (West 2010)). Evidence discovered after the stop led to defendant's arrest for DWLR (see 625 ILCS 5/6-303(d-3) (West 2010)).

¶ 5 The trial court granted defendant's motion to suppress. In doing so, the court found that, although the statute defendant was charged with violating states that a driver must activate his car's turn signal 100 feet before making a turn (see 625 ILCS 5/11-804(b) (West 2010)) and defendant failed to do that, defendant was incapable of complying with the statute, as his car was less than 100 feet away from the intersection when he backed out of the parking lot of Al's Tap. Moreover, the court determined that the purpose behind the statute is to give those around you notice of which direction you will be driving. Here, because defendant activated his turn signal once he was stopped at the stop sign and his turn signal remained activated for 18 seconds, the court found that defendant's use of his turn signal accomplished that objective.

¶ 6 The State moved the trial court to reconsider, and the trial court denied the motion. This appeal followed.

¶ 7 At issue in this appeal is whether defendant's motion to suppress should have been denied. More specifically, we are asked to consider whether defendant's failure to activate his turn signal 100 feet from Ames and Sheridan, which act was impossible for defendant to do given where he began driving his car, provided Officer Plichta with probable cause to believe that defendant committed a traffic offense.

¶ 8 "In reviewing a trial court's ruling on a motion to suppress, the trial court's findings of historical fact are reviewed only for clear error, giving due weight to any inferences drawn from

those facts by the fact finder, and reversal is warranted only when those findings are against the manifest weight of the evidence.” *People v. Hackett*, 2012 IL 111781, ¶ 18. “However, a reviewing court remains free to undertake its own assessment of the facts in relation to the issues and may draw its own conclusions when deciding what relief should be granted.” *Id.* “A trial court’s ultimate ruling as to whether suppression is warranted is subject to *de novo* review.” *Id.*

¶ 9 Here, the parties do not dispute that defendant failed to activate his car’s turn signal 100 feet from the “T” intersection. In fact, the parties agree that defendant activated his turn signal only after he was stopped at the stop sign at Ames and Sheridan. Thus, because the material facts are not in dispute, we review *de novo* the order granting defendant’s motion to suppress. *People v. Haywood*, 407 Ill. App. 3d 540, 542-43 (2011).

¶ 10 “Vehicle stops are subject to the fourth amendment’s reasonableness requirement.” *Hackett*, 2012 IL 111781, ¶ 20. Generally, a stop of a vehicle is considered reasonable if the officer has probable cause to believe that a traffic violation was committed.<sup>1</sup> *Id.* Probable cause is not proof beyond a reasonable doubt that an offense occurred. *People v. Davis*, 2012 IL App (2d) 110581, ¶ 50. Rather, probable cause exists when the arresting officer is aware of facts and circumstances that

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<sup>1</sup>In *Hackett*, our supreme court determined that both the probable cause standard and the less exacting reasonable and articulable suspicion standard may apply in suppression cases involving traffic stops. *Id.* However, the court observed that “[t]he distinction between these two standards may or may not be relevant depending upon the facts of the case under consideration and the [traffic offense] at issue.” *Id.* Given the facts of this case and the offense involved, we determine that the distinction is irrelevant. Because the officer knew all the pertinent facts, he could not have had a reasonable suspicion without also having probable cause.

would lead a reasonably cautious person to conclude that the defendant committed a crime. *People v. Wear*, 229 Ill. 2d 545, 563 (2008). Thus, “the existence of probable cause depends upon the totality of the circumstances at the time of the arrest.” *Id.* at 564.

¶ 11 Resolution of whether Officer Plichta had probable cause to stop defendant for the turning violation necessarily turns on an interpretation of section 11-804 of the Illinois Vehicle Code (Code) (625 ILCS 5/11-804 (West 2010)). As relevant here, that section provides:

“(a) No person may turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 11-801 or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person may so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

“(b) A signal of intention to turn right or left when required must be given continuously during not less than the last 100 feet traveled by the vehicle before turning within a business or residence district[.]” 625 ILCS 5/11-804(a), (b) (West 2010).

¶ 12 In interpreting section 11-804 of the Code, we are guided by the familiar rules of statutory construction. “The primary objective in construing a statute is to ascertain and give effect to the legislature’s intent.” *People v. Pohl*, 2012 IL App (2d) 100629, ¶ 16. “The surest and most reliable indicator of legislative intent is the statutory language itself.” *Id.* “We must construe the statute as a whole, giving the statutory language its plain and ordinary meaning.” *Id.* “In doing so, when the statutory language is clear and unambiguous, we must apply the statute without resorting to any extrinsic aids of construction.” *Id.*

¶ 13 Courts can look “ ‘beyond the express language of a statute only where such language is ambiguous, or where a literal interpretation would lead to absurd results or thwart the goals of the statutory scheme.’ ” *Lansing v. Southwest Airlines*, 2012 IL App (1st) 101164, ¶ 30 (quoting *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Lauer*, 49 F.3d 323, 326-27 (7th Cir. 1995)). In such instances, a court may consider extrinsic aids of construction in discerning the legislature’s intent. See *Pohl*, 2012 IL App (2d) 100629, ¶ 16. Such extrinsic aids of construction include considering the purpose of the statute. See *People v. Cuevas*, 371 Ill. App. 3d 192, 196 (2007). In considering the purpose of the statute, we must avoid a construction of the statute that would defeat that purpose or yield an unjust result. *Id.* That is, we must consider “the consequences that would result from construing the statute one way or the other, and, in doing so, we must presume that the legislature did not intend absurd, inconvenient, or unjust consequences.” *Pohl*, 2012 IL App (2d) 100629, ¶ 17. We review the construction of a statute *de novo*. *Id.* ¶ 14.

¶ 14 With these principles in mind, we turn to the statute at issue here. We determine that a literal interpretation of section 11-804(b) of the Code in this case would lead to an absurd result. When the statute is given a literal interpretation, it is clear that defendant violated it, as the statute requires a driver to signal a turn at least 100 feet before executing it, and it is undisputed that the distance between the point at which defendant turned onto Ames and the point at which he turned onto Sheridan was less than 100 feet. Nevertheless, because compliance with the statute was impossible in this case, it would be absurd to apply the statute literally in this situation. See *State v. Chilson*, 182 P.3d 241, 243 (Or. App. 2008) (a literal reading would mean that “a person whose driveway enters a one-way street that ends at a ‘T’ intersection 50 feet away would be unable lawfully to leave home by automobile.”).

¶ 15 Although we generally cannot read into a statute exceptions, conditions, or limitations that the legislature did not provide, it is also true, as noted above, that we must construe statutes in a way that avoids absurd results. *Village of Ringwood v. Foster*, 405 Ill. App. 3d 61, 82 (2010) (“Although a court generally may not read unstated limitations into statutes, it also must interpret statutes so as to avoid absurd results.”). Here, our task is to effectuate the obvious intent of the General Assembly, which is that motorists give others sharing the roadways appropriate notice before turning (see *Corder v. Smothers*, 86 Ill. App. 2d 237, 242 (1967)), while avoiding the absurd result of punishing motorists where literal compliance with section 11-804(b) of the Code is impossible. In such cases, the legislative objective is best promoted by requiring motorists to provide reasonable notice of their intent to turn, and, when motorists do so, to exempt them from literal application of the statute.

¶ 16 Here, as the trial court found, defendant provided reasonable notice of his intent to turn, thereby satisfying the purpose of section 11-804(b) of the Code. The recording of the stop demonstrates that defendant backed out of the parking lot, proceeded to the intersection, stopped at the stop sign, and activated his turn signal. His signal was lit for approximately 10 seconds before he began to turn, and it stayed lit until his turn was complete.<sup>2</sup> There was simply no doubt that defendant provided reasonable notice of his intent to turn, such that, under these facts, a reasonably cautious person could not have concluded that he had committed a crime. Thus, Officer Plichta lacked probable cause to stop defendant, and defendant’s motion to suppress was properly granted.

¶ 17 For these reasons, the judgment of the circuit court of Lake County is affirmed.

¶ 18 Affirmed.

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<sup>2</sup>Thus, as the trial court noted, defendant’s signal was lit for roughly 18 seconds before he “turned,” *i.e.*, before he completed his turn.