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2013 IL App (3d) 120325-U

Order filed April 9, 2013

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2013

PEOPLE OF THE STATE OF	)	Appeal from the Circuit Court
ILLINOIS	)	of the 12 <sup>th</sup> Judicial Circuit,
	)	Will County, Illinois,
Plaintiff-Appellant,	)	
	)	Appeal No. 3-12-0325
v.	)	Circuit No. 11-DT-1638
	)	
SHONTEESE BOOKER,	)	Honorable
	)	Robert Livas,
Defendant-Appellee.	)	Judge, Presiding.

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JUSTICE McDADE delivered the judgment of the court.  
Presiding Justice Wright concurred in the judgment.  
Justice Schmidt specially concurred.

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**ORDER**

¶ 1 *Held:* An officer who saw defendant deviate from his own lane of travel into another lane for no obvious reason had a reasonable suspicion that the defendant had committed a crime.

¶ 2 Defendant, Shontese Booker, was charged in the circuit court of Will County with driving under the influence of cannabis (625 ILCS 5/11-501(a)(6) (West 2010)) and improper

lane usage (625 ILCS 5/11-709 (West 2010)).<sup>1</sup> Defendant filed a motion to quash arrest and suppress evidence, arguing that the arresting officer "could not have reasonably inferred" that defendant has committed a crime and, as a result, the "stop and arrest of defendant were illegal." The court granted defendant's motion. We reverse and remand for further proceedings.

¶ 3

#### FACTS

¶ 4 At the hearing on defendant's motion, Illinois State Trooper Robert Matos testified that he was traveling eastbound on a four-lane road in Joliet when he saw defendant's vehicle traveling in front of him in the left lane. He saw the vehicle "drive over the left solid line (separating east and westbound traffic) and then over the right center lane diving the line [sic]" (separating the two lanes of east bound traffic). The State played the police video of the stop for the trial court. After the video was played, Matos described it as having shown that defendant had driven "over the left lane for approximately a second, went back in her lane, and then \*\*\* drove over the center lane." Matos testified that he stopped defendant after he witnessed defendant deviate from his own lane of travel into another lane for no obvious reason.

¶ 5 The circuit court asked that the video be played again. Specifically, it stated: "I saw the car touch the right line, but let me see it again." The State then moved for a directed finding. In response, defendant argued that Matos lacked reasonable grounds to conduct an investigatory stop because defendant's tires did not go "over the marked lines." The following colloquy then took place:

"THE COURT: I didn't see the defendant's car cross a point

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<sup>1</sup> These two cases followed one another in the circuit court. The State's notice of appeal in each of these cases was docketed under the same appellate court number.

to the left which would have caused another car to take evasive action, did you?

MR. EGAN [State's Attorney]: I did, yes, Judge, and in that I believe –

THE COURT: You saw her tires cross over both the lines?

MR. EGAN: Well, absolutely, Judge.

THE COURT: No, no no.

MR. EGAN: Yes, yes.

THE COURT: Hold on. Hold on. No, no, no.

MR. EGAN: Yes, yes.

THE COURT: Not close enough pal. Hand grenade is close enough. I asked you specifically did you see that her tires crossed over the 'W' line?

MR. EGAN: I did, Judge, yes, on the left hand side. If we can –

THE COURT: Go ahead, play it again.

¶ 6 After viewing the tape again, the circuit court held that defendant "didn't go over." On this basis, the court denied the State's motion for directed verdict and subsequently granted defendant's motion to quash arrest and suppress evidence.

¶ 7 ANALYSIS

¶ 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. Luedemann*, 222 Ill. 2d 530, 542 (2006). 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. *Luedemann*, 222 Ill. 2d at 542. A trial court's ultimate legal ruling as to whether suppression is warranted is subject to *de novo* review. *Luedemann*, 222 Ill. 2d at 542.

¶ 9 We have reviewed the video and find that it confirms at the very least, a portion of Matos's testimony – defendant's tires momentarily went over the "right center lane diving line [sic]"<sup>2</sup> (separating the two lanes of eastbound traffic). The video is *unclear* as to whether defendant's tires also went over the "left solid line" (separating east and westbound traffic). While the video does not confirm or refute whether defendant actually went over the "left solid line," it does establish that the trial court's factual finding that defendant did not breach any other lanes was against the manifest weight of the evidence. The video clearly shows defendant breached the other eastbound lane. We are now left with the question of whether defendant's deviation justified the subsequent investigatory stop.

¶ 10 The supreme court in *People v. Hackett*, 2012 IL 111781, ¶ 29 held that an officer who "twice saw defendant deviate from his own lane of travel into another lane for no obvious reason" had a reasonable suspicion that the defendant had committed a crime. The fact that the video in the instant case only confirms one lane deviation does not require a different result. The *Hackett* court explained that, where an officer observes multiple apparent lane violations, "[a]n investigatory stop \*\*\* allows the officer to inquire further into the reason for the lane deviation,

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<sup>2</sup> Defendant did not signal.

either by inquiry of the driver or verification of the condition of the roadway where the deviation occurred." *Hackett*, 2012 IL 111781 ¶ 28. This is no less true where the officer observes only a single unexplained lane deviation. It is reasonable in such circumstances to investigate whether the deviation was the result of driving conditions as opposed to criminal activity.

¶ 11 For the foregoing reasons, we reverse the circuit court's judgment granting defendant's motion to quash arrest and suppress evidence. We remand the matter for further proceedings.

¶ 12 Reversed and remanded.

¶ 13 JUSTICE SCHMIDT, specially concurring.

¶ 14 I concur in the judgment. I write separately to point out that my review of the video shows the defendant driving with the left tires on the "left solid line" separating east and westbound traffic and then, again, as the majority notes, weaving over the line separating the two eastbound lanes. The video also shows the roadway is dry and that there are no potholes. That is, it shows that there is nothing about the roadway conditions to cause these lane deviations. For that reason, I believe the officer had probable cause to believe that defendant was guilty of improper lane usage. *People v. Hackett*, 2012 IL 111781, ¶ 28; 625 ILCS 5/11-709(a) (West 2010).