

Court of Appeals, State of Michigan

ORDER

People of MI v Ryan Joseph Papiersky

Docket No. 323258

LC No. 14-001485-AR

William B. Murphy, C.J.
Presiding Judge

David H. Sawyer

Mark T. Boonstra
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court VACATES the June 10, 2014 order of the district court granting defendant's motion to suppress and the August 1, 2014 order of the circuit court affirming the district court. A trial judge must exclude from trial any evidence unconstitutionally seized. *People v Dillon*, 296 Mich App 506; 822 NW2d 611 (2012). A traffic stop is reasonable where a police officer has "an articulable and reasonable suspicion that the vehicle or one of its occupants is violating the law," *id.* at 508, or the officer has probable cause to believe that the driver of a vehicle has violated a traffic law, *People v Davis*, 250 Mich App 357; 649 NW2d 94 (2002). Considering the totality of the circumstances, and applying common sense, the evidentiary record supports the conclusion that defendant's vehicle crossed from the travel lane over the solid white lane marker or fog line and into the demarcated bicycle lane and occupied the bicycle lane for several seconds, despite the fact that it was imminently feasible or practicable for defendant to have remained in the travel lane of McDevitt Road by straddling the seam in the road or even driving on the seam, as evidenced by the deputy's ability to maintain his vehicle safely within the travel lane despite the presence of structural deficiencies in the road's surface. Thus, the totality of the circumstances supports the conclusion that Deputy Garrett had both a particularized suspicion and probable cause to believe that he was witnessing a violation of MCL 257.642(1)(a). The traffic stop was reasonable and proper under the circumstances. The district court erred in ruling to the contrary and suppressing the evidence. This matter is REMANDED for trial. This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

NOV 05 2014

Date


Chief Clerk