

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JIM DUKE RODERICK,

Defendant-Appellant.

UNPUBLISHED

March 21, 2006

No. 258931

Jackson Circuit Court

LC No. 04-000303-FH

Before: Neff, P.J., and Saad and Bandstra, JJ.

MEMORANDUM.

Defendant was convicted, following a bench trial, of operating a motor vehicle while under the influence of intoxicating liquor, third offense, MCL 257.625(8)(c), for which he was sentenced to three years' probation, with the first two months to be served in jail. He appeals as of right. We affirm.

Defendant's sole issue on appeal relates to the validity of the traffic stop. We find the issue to be without merit. The testimony at trial disclosed that the investigating officer observed defendant swerving within his lane several times, during which the vehicle's tires veered once over the centerline and again over the fog line. Erratic driving, such as swerving within a lane and driving on the lane markers, can give rise to a reasonable suspicion of intoxication justifying an investigatory stop. *People v Christie (On Remand)*, 206 Mich App 304, 309; 520 NW2d 647 (1994). The officer also observed that one of defendant's brake lights was not working. Such an equipment violation constitutes a civil infraction justifying a stop. MCL 257.683; MCL 257.697. The fact that the officer did not cite that as a basis for the stop is immaterial. The constitutional reasonableness of the stop does not depend upon the actual motivations of the officer involved. *Whren v United States*, 517 US 806, 813; 116 S Ct 1769; 135 L Ed 2d 89 (1996); *People v Oliver*, 464 Mich 184, 200; 627 NW2d 297 (2001).

Affirmed.

/s/ Janet T. Neff

/s/ Henry William Saad

/s/ Richard A. Bandstra