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2012 IL App (3d) 110281-U

Order filed August 14, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
Plaintiff-Appellant,)	Will County, Illinois,
)	
v.)	Appeal No. 3-11-0281
)	Circuit No. 10-DT-1894
)	
PAUL E. JAST,)	Honorable
)	Raymond E. Rossi and James E. Egan,
Defendant-Appellee.)	Judges, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices McDade and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* The arresting officer had reasonable suspicion to stop the defendant.

¶ 2 The defendant, Paul E. Jast, was stopped and ticketed for improper lane usage (625 ILCS 5/11-709(a) West 2010)) and driving under the influence (DUI) (625 ILCS 5/11-501(a)(2) (West 2010)). The defendant filed a motion to quash arrest and suppress evidence. The trial court found that the arresting officer did not have probable cause to stop the defendant, and it granted his motion. The State appeals. We reverse and remand.

¶ 3

FACTS

¶ 4 On November 20, 2010, the defendant was ticketed for improper lane usage and DUI. The defendant filed a motion to quash arrest and suppress evidence, and the matter proceeded to a hearing. At the hearing, police officer John Parnitzke testified that he observed the defendant driving southbound on Route 53 on the night of the incident. Parnitzke stated that Route 53 is a divided highway and the defendant was driving in the left-hand, southbound lane. Near Tehle Road, the defendant's car moved to the right, and its passenger-side tires drove on top of the dashed, white dividing line. About one-half mile later, the defendant's driver's side tires crossed over the left-hand, solid yellow line. Parnitzke testified that defendant did not make an evasive move to avoid hitting an obstruction and there was no other reason for him to cross the lines. Parnitzke stopped defendant solely for the lane violation.

¶ 5 The trial court found Parnitzke's testimony credible; however, it did not find the defendant's conduct provided probable cause to believe that the defendant was driving under the influence of alcohol, and it granted the defendant's motion. The State appeals.

¶ 6

ANALYSIS

¶ 7 On appeal, the State argues that the trial court erred in granting the defendant's motion to quash arrest and suppress evidence because Parnitzke had reasonable suspicion to stop the defendant.

¶ 8 The defendant has not filed an appellee's brief, but we reach the merits of the case because the record is simple and we can easily decide the matter without the aid of an appellee's brief. See *People v. Dovgan*, 2011 IL App (3d) 100664.

¶ 9 Initially, we note that the trial court applied an incorrect standard to the traffic stop. The trial court reasoned that Parnitzke did not have probable cause to stop the defendant; however, the stop needed only to be supported by reasonable suspicion to justify an investigative stop. *People v. Hackett*, 2012 IL 111781 (opinion not released for publication as of August 3, 2012).

¶ 10 Next, we determine whether Parnitzke had reasonable suspicion to stop the defendant. Section 11-709(a) of the Illinois Vehicle Code states that "[a] vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety." 625 ILCS 5/11-709(a) (West 2010). When a motorist crosses over a lane line and does not drive as nearly as practicable within one lane, he has violated section 11-709(a). *People v. Smith*, 172 Ill. 2d 289 (1996). To establish probable cause that a violation of section 11-709(a) has occurred, an officer must point to facts which support a reasonable belief that a defendant has deviated from his lane of travel and that it was practicable for him to have remained in his proper lane. *Hackett*, 2012 IL 111781. An officer who observes a lane deviation may conduct an investigatory stop; however, for probable cause and a conviction, there must be affirmative testimony that a defendant deviated from his proper lane of travel and that no road conditions necessitated the movement. *Id.*

¶ 11 Here, Parnitzke saw the defendant drive on top of the right-hand lane marker before crossing completely over the left-hand lane marker. Parnitzke also stated that there were no roadway obstructions that would have prompted the defendant to make an evasive maneuver. This evidence provided reasonable suspicion to conduct an investigatory stop. We also note that Parnitzke's testimony demonstrated that he had probable cause to stop the defendant, but, as we have stated, the stop needed only to be supported by reasonable suspicion. Therefore, we reverse

the trial court's order granting the defendant's motion to quash arrest and suppress evidence and remand the cause for further proceedings.

¶ 12

CONCLUSION

¶ 13 For the foregoing reasons, the judgment of the circuit court of Will County is reversed, and the cause is remanded for further proceedings.

¶ 14 Reversed and remanded.