

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATE COURT FOR
	)	BERKELEY COUNTY
COUNTY OF BERKELEY	)	
	)	TICKET NO(S): F118398
State of South Carolina	)	
	)	
v.	)	
	)	
Belinda H. Shaw,	)	ORDER TO DISMISS
	)	
Defendant.	)	
_____	)	

This case is before the Court based on the arrest of the Defendant and a Jury Trial notice sent to all parties by the Berkeley County Magistrate's office. After the jury was sworn, Defendant's attorney made a Motion to Suppress Evidence as a result of an unlawful traffic stop. The Court heard from both sides, Trooper Sigwald of the South Carolina Highway Patrol and the Defendant's attorney, John O. Williams, Esquire.

The trooper initiated a traffic stop on the Defendant shortly after midnight on October 3, 2011 along Interstate 26 in the Summerville area of Berkeley County. He stated to the Defendant that he pulled her over because "you were traveling right at 45 miles per hour" and you were travelling from the "right shoulder to the fog line." The trooper then placed the Defendant under arrest after she failed to complete the field sobriety tests satisfactorily.

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."¹ Thus, the Fourth Amendment protects against unreasonable searches and seizures, including seizures that involve only a brief detention.² Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes

¹ U.S. Const. amend. IV

² *United States v. Mendenhall*, 446 U.S. 544 (1980)

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a seizure of persons within the meaning of the Fourth Amendment.³ Thus, an automobile stop is "subject to the constitutional imperative that it not be 'unreasonable' under the circumstances."⁴ The United States Court of Appeals for the 10th Circuit has established that "failure to follow a perfect vector down the highway or keeping one's eyes on the road" is insufficient probable cause to invade the public's privacy.⁵ The Kansas Supreme Court, in interpreting a statute nearly identical to that of South Carolina, established that minor lane line crossings do not constitute reasonable suspicion for an investigatory stop -- even when the driver crossed both the white fog line and the center line.⁶

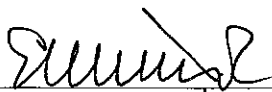
In the present case, the Defendant was not speeding and the Defendant never crossed a lane line. However, the Defendant was traveling 25 miles per hour under the posted speed limit and did travel from one fog line to the other.

This Court finds that there were no statutory violations; thus, there was not reasonable suspicion or probable cause to initiate a traffic stop.

It is the ORDER of this court that the Defendant's Motion to Suppress Evidence be GRANTED. There was no probable cause for the trooper to initiate a traffic stop on the Defendant; thus, any and all evidence seized as a result violates the Defendant's Fourth Amendment rights and is barred from being introduced. This matter must be DISMISSED WITH PRJEUDICE.

AND IT IS SO ORDERED!

Aug 28, 2012
Goose Creek, South Carolina



The Honorable Edward Sessions
Berkeley County Magistrate

³ *Whren v. United States*, 517 U.S. 806 (1996)

⁴ *Whren*, 517 U.S. at 810

⁵ *United States v. Lyons*, 7 F.3d 973, 976 (10th Cir. 1993)

⁶ *State v. Marx*, 215 P.3d 601, 604 (Kansas 2009)

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