

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

STATE OF MISSOURI,	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1316-CR03248-01
	)	
GLORIA TINOCO	)	Division 8
Defendant.	)	

**ORDER DENYING MOTION TO SUPPRESS**

On or about October 23, 2014, the Defendant herein filed her Motion to Suppress Evidence from an Unlawful Traffic Stop. Thereafter, the State of Missouri filed its response to which the Defendant replied. On November 24, 2014 the matter was called for hearing, the Defendant represented by retained counsel Steven G. Sakoulas, the State represented by Assistant Prosecuting Attorney Amy Cooper.

Evidence was offered by the State through Detective Cutcliff and P.O. Viesselman along with the in-car video of, at least, a portion of the incident at issue herein. The Court viewed the videotape and argument was presented by counsel. Thereafter the matter was taken under advisement.

Having reviewed the pleadings and videotape and considering the evidence presented and argument of counsel the Court does hereby deny the Defendant’s Motion to Suppress Evidence from an Unlawful Traffic Stop.

“[P]olice can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion, supported by articulable facts, that criminal activity may be afoot.” *State v. Williams*, 334 S.W.3d 177, 182 (Mo. App. W.D. 2011) (quoting *State v. Peery*, 303 S.W.3d 150, 154 (Mo.App. W.D.2010) (citing *Terry v. Ohio*, 392 U.S. 1, 30; 88 S.Ct. 1868; 20 L.Ed.2d 889 (1968)). The crux of the inquiry regarding the propriety of the stop for investigative purposes is whether the police officer’s belief *at the time of the stop* was objectively reasonable. *See generally Williams*, 334 S.W.3d at 181-82; *see also United States v. Smart*. 393 F.3d 767, 770 (8th Cir. 2005).

From the evidence presented and a review of the video, what was objectively known to the officers at the time of the stop was that a pedestrian was laying in the street, in traffic, and the operator of a vehicle in front of the patrol car had exited his truck and was pointing to a vehicle ahead of his truck which was obscured (the “obscured vehicle”) in the video. The officers testified that it was their belief (a belief which was ultimately found to be incorrect) that the “obscured vehicle,” while backing out of its parking spot, struck the pedestrian and that an assault had taken place and that this was their reason for stopping the Defendant. Although there was audio associated with the in-car video of the incident, its quality was such that it was difficult, if not impossible, to discern what was actually said prior to the officers contacting the Defendant and therefore cannot be reasonably considered as persuasive evidence in this decision.

The patrol car’s emergency lights were activated and, despite what the pleadings allege or what other documents may recite, the video shows clearly that immediately upon stopping their patrol car, the officers involved went directly to the “obscured vehicle” to stop its driver. This was done prior to any further investigation concerning the reason for the pedestrian to be laying in the street in traffic. When the officers approached the “obscured vehicle” which was being driven by the Defendant, they noticed that she was slow to exit the vehicle, had slurred speech, and had the “faint odor” of alcohol. Upon searching the “obscured vehicle,” the officers found two (2) open cans of beer. The Defendant was administered the standard Field Sobriety Checks and was thereafter charged with the Class D Felony of Driving While Intoxicated.

Upon further investigation, the officers determined that the pedestrian found to be lying in the street had simply stumbled and fallen; she had not been struck by any of the vehicles in view on the patrol car’s video and therefore no assault had been committed. However:

[T]he validity of a stop depends on whether the officer’s actions were objectively reasonable in the circumstances, and in mistake cases the question is simply whether the mistake, whether of law or of fact, was an objectively reasonable one. “The determination of whether probable cause [or reasonable suspicion] existed is not to be made with the vision of hindsight, but instead by looking to what the officer reasonably knew at the time.”

*Smart*, 393 F.3d at 770 (quoting *U.S. v. Sanders*, 196 F.3d 910, 913 & n. 3 (8th Cir. 1999)). The actions of the officers in detaining the Defendant, the driver of the “obscured video,” for

investigative purposes were objectively reasonable at the time, based on the limited information immediately available to them.

Accordingly, it is ORDERED, ADJUDGED AND DECREED that the Defendant's Motion to Suppress Evidence from an Unlawful Traffic Stop is denied.

IT IS SO ORDERED.

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Date

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**HONORABLE BRYAN E. ROUND**

**CERTIFICATE OF SERVICE**

A copy of the foregoing was delivered to:  
STEVEN G. SAKOULAS, Attorney for Defendant  
AMY COOPER, Assistant Prosecuting Attorney

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Law Clerk or JAA, Division 8