



Traffic Safety – The driving factor behind interpreting the Michigan Vehicle Code

By: Margaret A. Scott and Laura M. Ivezaj

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The United States and Michigan Constitutions guarantee the right of persons to be secure against unreasonable searches and seizures. US Const, Am IV; Const 1963, art 1, § 11. In Michigan, the protective scope of each constitutional provision is the same. *People v Custer*, 465 Mich. 319, 326 n 2; 630 NW2d 870 (2001). “A traffic stop for a suspected violation of law is a ‘seizure’ of the occupants of the vehicle and therefore must be conducted in accordance with the Fourth Amendment.” *Heien v North Carolina*, 574 US at ___; 135 S Ct 530, 536; 190 L.Ed.2d 475 (2014) (internal citations and quotation marks omitted).

When making a stop for a possible traffic violation, a police officer has to have “a particularized and objective basis” that the person has broken the law. *Navarette v California*, 572 US ___, ___; 134 S Ct 1683, 1687; 188 L.Ed.2d 680 (2014) (internal citation and quotation marks omitted). The basis for

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Vanderhart is unpublished and therefore is not binding authority. However, it demonstrates the Court’s view on traffic stops under the Michigan Vehicle Code in accordance with the reasonable suspicion element of the Fourth Amendment. There are two important takeaways from this case. First, a suspected violation of the Michigan Vehicle Code creates reasonable suspicion to justify a police officer’s stop under the Fourth Amendment. Second, a police officer can stop a vehicle that may endanger the safety of another and is justified in doing so pursuant to the Michigan Vehicle Code’s catch-all provision, which is driven by the goal of promoting traffic safety.

making a stop is reasonable suspicion. See *id.* “[R]easonable suspicion arises from the combination of an officer’s understanding of the facts and understanding of relevant law.” *Heien*, 574 US at ___; 135 S Ct at 536. Reasonable suspicion to justify a stop is determined on a “case-by-case basis, evaluated under the totality of the circumstances, and based on common sense.” *People v Dillon*, 296 Mich App 506, 508; 822 NW2d 611, 614 (2012).

In a recent case concerning the Fourth Amendment as it relates to reasonable suspicion being created by a potential Michigan Vehicle Code violation, the Michigan Court of Appeals released an unpublished opinion in the case of *City of East Grand Rapids v Trevor Allen Vanderhart*, Michigan Court of Appeals, unpublished (April 11, 2017) (Docket No. 329529). The ruling affirmed the Circuit Court’s decision to reinstate the jury’s guilty verdict and to vacate the trial court’s ruling to suppress the evidence.

In this case, Defendant Trevor Allen Vanderhart was driving the opposite direction of Officer Lobbezoo when Officer Lobbezoo looked in his rearview mirror and noticed Defendant’s defective taillight. Officer Lobbezoo turned around and pulled Defendant over. When Officer Lobbezoo approached the car he smelled alcohol and noticed Defendant’s eyes were glassy and bloodshot. Officer Lobbezoo had Defendant do multiple sobriety tests. Defendant failed the sobriety tests and was arrested for Operating While Intoxicated.

Before trial, Defendant filed a motion to suppress all evidence obtained from Officer Lobbezoo’s traffic stop, arguing that Officer Lobbezoo lacked reasonable suspicion to pull Defendant over. A visiting judge denied Defendant’s motion, reasoning that Defendant’s defective taillight caused the properly functioning taillight to appear brighter, thereby, creating a safety concern. Therefore, reasonable suspicion was created from the potential violation and the seizure was compliant with the Fourth Amendment.

A different judge presided over the case at trial and granted Defendant’s renewed motion to suppress and to set aside the jury’s guilty verdict. On appeal, the Circuit Court vacated the trial court’s decision to set aside the verdict and to suppress the evidence. The Circuit Court reasoned that Officer Lobbezoo’s belief that Defendant’s dim taillight was a potential violation of the Michigan Vehicle Code was reasonable. The Court of Appeals affirmed.

To determine whether a constitutional right has been violated, the reasonableness of an officer’s actions will be looked at. The Court of Appeals asks, is it reasonable for an officer to stop a vehicle because of a dim taillight? The brief answer: yes. Given the totality of the circumstances and the Michigan Vehicle Code, Officer Lobbezoo did act reasonably. Here, Officer Lobbezoo observed a safety concern and a potential violation under the Michigan Vehicle Code when Officer Lobbezoo noticed that one of Defendant’s taillights was significantly dimmer than the other taillight.

Specifically, a possible violation under the Michigan Vehicle Code is sufficient enough to create reasonable suspicion for an officer to initiate a traffic stop. The Court found that Defendant’s

defective taillight violated MCL 257. 683(1), which provides that equipment on a vehicle must be in “proper condition and adjustment.” Here, the dim taillight was not in proper condition, therefore, the taillight defect was a violation of MCL 257.683(1).

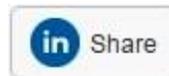
Furthermore, the Court reasoned that the catch-all provision in the Michigan Vehicle Code is specifically designed to promote traffic safety, therefore, any stop of a vehicle that may be in an “unsafe condition as to endanger a person” is justified. MCL 257.683(1). In the instant case, Defendant’s dim taillight was an unsafe condition because other drivers could reasonably perceive Defendant was braking in front of them. The potential violations under MCL 257.683(1) gave Officer Lobbezoo reasonable suspicion to pull Defendant over. Therefore, Officer Lobbezoo was acting in accordance with the Fourth Amendment and the evidence from the scene was obtained lawfully.

In summary, a traffic stop is justified under the Michigan Vehicle Code if the police officer reasonably perceived that the vehicle was potentially unsafe or not in proper condition. Presumably, courts and lawmakers will continue to seek out any possible ambiguity in the Michigan Vehicle Code. If the Michigan Supreme Court decides to chime in on this issue, we will continue to keep you updated.

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**We welcome your questions -
Please contact Margaret A. Scott at
mScott@secretwardle.com
or 248-539-2854**



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Troy 248-851-9500
Lansing 517-886-1224
Grand Rapids 616-285-0143
www.secretwardle.com

CONTRIBUTORS

Municipal Practice Group Chair
Derk W. Beckerleg

Editors
Linda Willemsen
Sandie Vertel

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