

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CALVIN EUGENE SALTERS,

Defendant-Appellant.

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UNPUBLISHED  
November 20, 2014

No. 317457  
Wayne Circuit Court  
LC No. 12-008854-FH

Before: O'CONNELL, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of carrying a firearm during the commission of a felony (felony-firearm), MCL 750.227(b)(1), felon in possession of a firearm (felon-in-possession), MCL 750.224(f), carrying a concealed weapon, MCL 750.227, and possession with intent to deliver marijuana, MCL 333.7401(2)(d)(3). He was sentenced to two years' imprisonment for the felony-firearm conviction and to two years' probation for all other crimes. He appeals as of right, challenging the trial court's order denying his motion to suppress evidence. We affirm.

On August 31, 2012, a police officer observed defendant turn onto eastbound Michigan Avenue in Canton Township. After turning, defendant entered the shoulder, located next to the far left lane. Defendant continued to drive on the shoulder of Michigan Avenue, which was separated from the left lane by a solid yellow line and had diagonal yellow lines running throughout, for approximately 150 yards, past the intersection of Haggerty Road and Michigan Avenue. Defendant then continued on the shoulder, which became the left-hand side turnaround for westbound Michigan Avenue. After observing defendant's vehicle on the shoulder, the police officer initiated a traffic stop for improper lane usage. The officer approached the vehicle to ask for defendant's license, registration, and proof of insurance; while doing so, he recognized the odor of marijuana. The officer asked if there was marijuana in the vehicle and defendant replied that there was an ounce in the backseat. In his subsequent search of the vehicle, the officer discovered an ounce of marijuana, an electronic scale, pill bottles, a plastic bag containing smaller plastic bags, and a pistol.

Defendant argues that the trial court erred in denying his motion to suppress the evidence found during the vehicle search. Specifically, defendant asserts that he did not commit a traffic violation and, therefore, no reasonable suspicion existed to justify the traffic stop. We disagree.

An appellate court reviews a lower court's findings of fact on a motion to suppress for clear error, but reviews de novo the ultimate ruling. *People v Barbarich*, 291 Mich App 468, 471; 807 NW2d 56 (2011). Underlying issues of law are also reviewed de novo. *People v Mullen*, 282 Mich App 14, 21; 762 NW2d 170 (2008). A finding is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *Barbarich*, 291 Mich App at 471.

The right against unreasonable searches and seizures is guaranteed by both the United States and Michigan Constitutions. US Const, Am IV; Const 1963, art 1, § 11; *People v Dillon*, 296 Mich App 506, 508; 822 NW2d 611 (2012). A police officer "may stop and detain a motor vehicle on the basis of a reasonable and articulable suspicion that the vehicle or one of its occupants is violating the law." *Id.* The occurrence of a traffic violation provides reasonable suspicion justifying a traffic stop. *Id.* at 508, 510; see also *People v Kazmierczak*, 461 Mich 411, 420 n 8; 605 NW2d 667 (2000).

Defendant committed a traffic violation when he drove on the shoulder of the roadway and, therefore, the officer had reasonable suspicion to justify the traffic stop. According to the Michigan Motor Vehicle Code, a highway or street spans the entire width between the boundary lines. MCL 257.20. The shoulder is the portion of the highway "contiguous to the roadway generally extending the contour of the roadway, *not designed for vehicular travel* but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway." MCL 257.59a (emphasis added). These definitions emphasize that the shoulder is not a part of the roadway. It is located next to the road and is not designed for vehicular travel. It is not disputed that the section of pavement defendant drove on, separated from the lanes of traffic by a solid yellow line and filled with diagonal yellow lines, was the shoulder, not the roadway.

Defendant committed a traffic violation pursuant to MCL 257.634, which designates the proper positioning of a driver's vehicle in multi-lane roadways. MCL 257.634 states that drivers must drive in the lanes of the roadway. Pursuant to the definitions of highway and shoulder, *supra*, the shoulder is not a part of the roadway and therefore is not a part of the lane. MCL 257.20; MCL 257.59a. Therefore, defendant committed a traffic violation pursuant to MCL 257.634 because he did not remain in the lane of the roadway before making his turn. Defendant also violated MCL 257.647, which regulates vehicle positions for turning. Pursuant to MCL 257.647(1)(d), "both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway." Defendant's approach for the left-hand turn was not made "as close as practicable to the . . . edge of the roadway." It was instead made on the shoulder, beyond the boundaries of the roadway. Thus, defendant also violated MCL 257.647, and committed at least two civil infractions. MCL 257.647(2); MCL 257.634.

Pursuant to either MCL 257.634 or MCL 257.647, defendant committed a civil infraction. Because the police officer witnessed defendant committing a traffic violation, the officer had reasonable suspicion to perform a traffic stop. *Dillon*, 296 Mich App at 508, 510; *Kazmierczak*, 461 Mich at 420 n 8.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood