

**IN THE TENTH JUDICIAL CIRCUIT  
FOR HARDEE, HIGHLANDS AND  
POLK COUNTY, FLORIDA**

**County Case No.: TT01-006976-XX**

**Appeal No.: EE-08**

**TRAVIS STEPHENSON,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

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**OPINION OF THE COURT**

This is an appeal from the county court of Polk County, Judge Ellen S. Masters presiding. Appellant argues that the trial court erred by failing to grant his motion to suppress certain evidence. This court has jurisdiction. Fla. R. App. P. 9.030(c). The ruling of the county court is affirmed.

**I.**

On December 2, 2001, Polk County Sheriff's Deputy Jerry Connolly was traveling westbound on Interstate-4 when a vehicle ahead of him being driven by the Appellant pulled over near the Polk City exit. Connolly then observed the Appellant exit the automobile and walk toward the passenger side. At this time, Connolly activated his emergency lights and pulled over behind Appellant's vehicle. As he approached the Appellant, who was still on the passenger side of the vehicle with his back to him, Connolly heard what he suspected was the Appellant urinating on the grass. When Appellant turned around and faced him, Connolly asked if he had been urinating, and Appellant denied doing so. Throughout the encounter, Appellant appeared to be acting nervous and vague with his responses. Connolly asked Appellant several more times if he had been urinating, which he finally admitted doing. Based on this admission, Connolly asked Appellant to produce his driver's license. A license and warrants check on the computer revealed that Appellant's license was suspended. Connolly issued Appellant a uniform traffic citation for driving on a suspended license. Appellant filed a motion to suppress based on unlawful police conduct, which was denied on February 20, 2002.

**II.**

A trial court's ruling on a motion to suppress is clothed with a presumption of correctness and, as the reviewing court, we must interpret the evidence and reasonable inferences and deductions derived therefrom in a manner most favorable to sustaining the trial court's ruling. Connor v. State, 803 So.2d 598 (Fla. 2001). The standard of review to be applied to the factual

findings of the trial court is whether competent, substantial evidence support the findings. Hines v. State, 737 So.2d 1182 (Fla. 1<sup>st</sup> DCA 1999).

### III.

The first issue before the Court is whether the contact in this case was a consensual encounter or a “stop” requiring at least reasonable suspicion. Appellant argues that the deputy’s use of his emergency lights clearly establishes that the contact in this case is a “stop” requiring at least reasonable suspicion that some offense is being committed. Further, Appellant contends that the deputy exceeded his authority once he determined that the occupants of the vehicle did not need assistance. According to Appellant, the use of the emergency lights would lead a reasonable person to feel that he was not free to leave. In response, Appellee maintains that the use of emergency lights was justified for officer safety reasons and did not elevate the encounter to an investigatory stop.

Upon considering the facts in the totality of the circumstances, the Court finds that a consensual encounter occurred between the deputy and Appellant in this case. The record show that the deputy did not use his emergency lights to stop Appellant, but only activated the lights after pulling over behind the vehicle and observing Appellant exit the driver’s side. In this instance, the deputy was warranted in using his emergency lights for officer and public safety reasons.

### IV.

The next issue is whether a law enforcement officer needs reasonable suspicion or probable cause of a criminal or traffic offense to require a person to exhibit a license. Appellant alleges that the deputy did not have the requisite reasonable suspicion to order him to produce his driver’s license. However, the Court finds that based on his testimony that he heard “water fall onto the grass” and the fact that Appellant has his back turned to him, the deputy was justified in questioning Appellant about whether he was urinating. In addition, Appellant’s nervous behavior and subsequent admission that he was urinating was sufficient for the deputy to request Appellant’s driver’s license. Therefore, there is competent, substantial evidence to support the trial court’s findings.

Accordingly, it is ORDERED that the ruling of the county court is AFFIRMED.

ORDERED March 11, 2003.

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**RONALD HERRING**, Chief Judge