

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

Case No. TT02-000392-BA

Appeal No.: FF-6

WILLIAM L. CLANTON

Appellant,

v.

STATE OF FLORIDA,

Appellee.

_____ /

OPINION OF THE COURT

This is an appeal from the county court of Polk County, Judge Timothy Coon presiding. The Appellant, William L. Clanton, entered a negotiated plea of no contest to the charge of driving under the influence and was placed on probation for one year. Appellant seeks review of the court's denial of his motion to suppress. This court has jurisdiction. Fla. R. App. P. 9.030(c). The ruling of the trial court is AFFIRMED.

On November 30, 2002, Appellant was driving on Highway 17 when he was observed swerving from the outside lane to the inside lane several times without using turn signals. Appellant was pulled over and was issued a citation for driving under the influence.

Appellant argues on appeal that the court erred in denying the motion to suppress because his actions did not provide a founded suspicion or criminal activity or of a traffic violation. A trial judge's ruling on a motion to suppress is presumptively correct and will be affirmed if based upon competent substantial evidence. Escobar v. State, 699 So.2d 984, 987 (Fla. 1999). This court may not reweigh findings which resolve disputed factual issues. Id. To succeed on appeal, Appellant must show that the ruling of the trial court is not supported by competent evidence. Id.

Appellant argues that an isolated instance of erratic driving may does not give rise to reasonable suspicion. However, the Second District Court of Appeal has held that "driving behavior need not reach the level of a traffic violation in order to justify a DUI stop." Department of Highway Safety and Motor Vehicles v. Deshong, 603 So.2d 1349 (Fla. 2d DCA 1992). Therefore, the Court finds that there is competent substantial evidence to support the trial court's ruling.

For the foregoing reasons, it is ORDERED that the ruling of the trial court is AFFIRMED.

DONE and ORDERED January 10, 2005.

RONALD HERRING, Chief Judge