

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-1113**

State of Minnesota,  
Respondent,

vs.

James Byron Dean,  
Appellant.

**Filed March 26, 2018  
Affirmed  
Jesson, Judge**

Olmsted County District Court  
File No. 55-CR-16-2624

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Terry L. Adkins, Rochester City Attorney, Kelly M. Wagner, Assistant City Attorney,  
Rochester, Minnesota (for respondent)

James McGeeney, Doda & McGeeney, P.A., Rochester, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Jesson, Judge; and  
Kalitowski, Judge.\*

---

\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**JESSON**, Judge

A state trooper stopped appellant James Byron Dean after witnessing Dean's car make a wide left turn and then cross into a separate lane for 60 to 80 feet. Dean sought to suppress any evidence resulting from that stop, arguing that the trooper lacked a reasonable basis to stop his vehicle. The district court denied his motion to suppress evidence, determining that two suspected traffic violations justified the stop. We affirm.

### FACTS

In April 2016, a state trooper witnessed appellant James Byron Dean's car make a wide left turn and straddle a lane divider line for up to 80 feet. The trooper stopped the car and soon suspected Dean was under the influence of alcohol. The trooper requested Dean perform field sobriety tests and that he take a preliminary breath test. Dean agreed, but failed the field sobriety tests and the preliminary breath test showed Dean had an alcohol concentration of 0.15. The trooper arrested Dean and informed him that he must submit to a chemical test. Dean refused. Dean was ultimately charged with a DWI and refusal to submit to a chemical test. Subsequently, and the sole focus of this appeal, Dean filed a motion to suppress evidence, arguing that law enforcement lacked the requisite articulable suspicion of criminal activity to justify the initial traffic stop.

In September 2016, the district court held a pretrial hearing on the motion to suppress evidence. The only witness was the arresting state trooper. The testimony revolved around Dean's left turn at the intersection of First Avenue and Second Street. First Avenue has a single lane going in each direction, two lanes total. Second Street has

two lanes going east and two lanes going west, four lanes total. Dean was traveling northbound on First Avenue and made a left-hand turn into the left westbound lane of Second Street. The trooper stated it appeared to be a wide turn. Both of the wheels on the right side of Dean's car crossed over the lane divider between the left and right westbound lanes by about six inches. This lasted for 60 to 80 feet. Dean then moved back into the left westbound lane completely. The trooper stated that there was no pedestrian traffic at the intersection or any other vehicular traffic.

The district court denied the motion to suppress evidence. The court held there was reasonable suspicion for law enforcement to stop Dean, based on the two observed traffic violations. First, the court determined Dean straddled the dividing lane for 60-80 feet after he made his turn, in violation of Minnesota Statutes section 169.18, subdivision 7(a) (2014). Second, the court determined Dean made an improper left turn under Minnesota Statutes section 169.19, subdivision 1(b) (2014), because Dean made a wide turn that was not in the correct half of the roadway, nearest to the centerline of the intersection. The court found that Dean's left turn placed his car in both westbound lanes.

Both parties agreed the pretrial evidentiary hearing was dispositive, and Dean agreed to a stipulated-facts trial. The district court convicted Dean of both charges and sentenced him for the refusal charge to four years of supervised probation, in addition to 90 days in jail on work release.

## **DECISION**

Both the U.S. and Minnesota Constitutions protect individuals from unreasonable searches and seizures. *State v. Liebl*, 886 N.W.2d 512, 515 (Minn. App. 2016). But law

enforcement is permitted to conduct a limited investigatory stop of a motor vehicle, if the state trooper “has an objectively reasonable and articulable basis for suspecting the motorist of criminal activity.” *State v. Kilmer*, 741 N.W.2d 607, 609 (Minn. App. 2007). A traffic violation, even an insignificant one, can provide the basis needed to conduct a legal stop. *Id.* Dean argues there was insufficient evidence to establish either of the alleged traffic violations—crossing over a traffic lane and an improper turn—and therefore no objectively reasonable basis for suspecting criminal activity.

We first address whether there was sufficient evidence to determine that Dean improperly crossed over the traffic lane. And because a single traffic violation can provide the sole basis to conduct a limited investigatory stop, we will address the improper-turn violation only if necessary. This court reviews the legal conclusions of suppression rulings *de novo* and the district court’s factual findings for clear error. *State v. McCabe*, 890 N.W.2d 173, 175 (Minn. App. 2017), *review denied* (Minn. Apr. 26, 2017).

Minnesota Statutes section 169.18, subdivision 7(a), discusses improperly crossing over traffic lanes. This statute provides:

When any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

*Id.* In *Kruse*, this court concluded that lanes encompass the area between the markings delineating traffic, but not the markings themselves. *Kruse v. Comm’r of Pub. Safety*, 906

N.W.2d 554, 558 (Minn. App. 2018). As a result “driving on the markings constitutes movement from a lane and a potential violation of the statute.” *Id.* This court concluded that driving on the far-right solid-white line for an unspecified amount of time, but not crossing over it, provided reasonable grounds to suspect a violation of Minnesota Statutes section 169.18, subdivision 7(a), because it meant the defendant “moved from his lane of traffic.” *Kruse*, 906 N.W.2d at 560.

Our recent decision in *Kruse* dictates the outcome of this case as well. Like *Kruse*, the record shows that Dean improperly moved out of his lane of traffic. Testimony showed that Dean made a left-hand turn onto Second Street, which is a four-lane road, two lanes going in each direction. When he turned into the left westbound lane, the right side of his vehicle drove over the lane divider by about six inches, for approximately 60 to 80 feet. With this evidence, the district court’s finding that Dean straddled both westbound lanes is not clearly erroneous. And by going over the line dividing the two westbound lanes, Dean moved from his lane of traffic, in violation of Minnesota Statutes section 169.18, subdivision 7(a), and the trooper had an objectively reasonable basis to believe a traffic violation occurred. *See Kruse*, 906 N.W.2d at 558.

Dean contends that six inches over the lane divider “is hardly driving in both lanes.” However under *Kruse*, driving on the line dividing lanes from one another is sufficient for a suspected violation of the statute. *Id.* Certainly then, six inches *over the line* into a separate lane is enough. Dean also argues that driving six inches in another lane for only 60 to 80 feet is “evidence that [Dean] stayed entirely within his lane as nearly as practicable.” Dean is correct that the statute states that he must remain in his lane as nearly

as practicable, but there is nothing in the record to suggest that it was impracticable to remain fully within his lane. There was no pedestrian traffic at the intersection or any other vehicular traffic. Dean also fails to explain how driving six inches into another lane is evidence of staying in the lane as nearly as practicable. Nor do we discern a reason.

Because Dean failed to remain within his lane, law enforcement had reasonable grounds to suspect a violation of Minnesota Statutes section 169.18, subdivision 7(a), and the limited investigatory stop was justified. And because this sole traffic violation provides reasonable grounds, we decline to reach the issue of whether his wide turn also provided reasonable grounds for an investigatory stop. *See State v. Shellito*, 594 N.W.2d 182, 185 (Minn. App. 1999) (stating an officer's observation of a single traffic violation provided reasonable grounds to support a stop).

**Affirmed.**