

**IN THE COUNTY COURT OF THE SEVENTEENTH CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA  
CRIMINAL JUSTICE DIVISION**

**STATE OF FLORIDA**

**CASE NO: 07-01XXXXMM10A**

**v.**

**SCD**

**DIVISION: Hon. XXXXXXXX**

**DEFENDANT'S MOTION TO SUPPRESS**

COMES NOW, Defendant, SD

## LEGAL ANALYSIS

The probable cause for the traffic stop was a violation of Florida Statute § 316.089(1).  
divided into  
two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply: (1) 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

Florida Statute § 316.089(1) does not create a strict liability offense for failing to maintain a single lane. *See Jordan v. State*, 831 So.2d 1241 (Fla. 5<sup>th</sup> DCA 2002) *citing Crooks v. State*, 710 So.2d 1041 (Fla. 2<sup>nd</sup> DCA 1988). There is no violation of Florida Statute § 316.089(1) when there is no evidence that the failure to maintain a single lane did not create a safety concern or any suspicion that the driver is impaired.

In the case at bar, Officer GT did not have probable cause to stop Defendant as Officer GT did not observe Defendant create a safety concern by failing to maintain a single lane. Additionally, Officer GT did not allege that he observed a driving pattern giving rise to a suspicion of impairment.

## CONCLUSION

A traffic stop may only be made upon probable cause. *See State of Florida v. Lee*, WL 1372731 at 2 (Fl. 5<sup>th</sup> DCA 2007); *see also Whren v. United States*, 517 U.S. 806, 809-10(1996); *Holland v. State*, 696 So.2d 757, 795 (Fla. 1997); *Jordan v. State*, 831 So.2d 1241 1242-43 (Fla. 5<sup>th</sup> DCA 2002); *State v. Kindle*, 782 So.2d 971 (Fla. 5<sup>th</sup> DCA 2001). There was no probable cause for a traffic stop for a violation of Florida Statute § 316.089(1) as Officer GT did not see Defendant place any other vehicles in danger nor did Officer GT observe a driving pattern giving rise to a suspicion of impairment. As such, all evidence seized as a result of the illegal traffic stop must be suppressed as fruit of the poisonous tree.

WHEREFORE, Defendant, SD, respectfully requests this Honorable Court to issue an order finding that the stop and detention by Officer GT were illegal and suppressing all of the

aforementioned evidence.

**Certificate of Service**

I certify that a copy hereof has been furnished to the State's Attorney by fax on June XX,  
20XX.

Respectfully submitted,

Michael A. Dye, P.A.