

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2006-391

MARCH TERM, 2007

State of Vermont	}	APPEALED FROM:
	}	
v.	}	Caledonia District Court
	}	
Hugh D. Langmaid	}	DOCKET NO. 40-6-06 Cacs
	}	
		Trial Judge: M. Kathleen Manley

In the above-entitled cause, the Clerk will enter:

Defendant appeals the civil suspension of his license for driving while intoxicated (DWI), arguing that the trial court should have granted his motion to suppress because his failure to signal a turn was not illegal under the circumstances and thus did not provide a reasonable basis for the arresting officer to stop his vehicle. We affirm.

Defendant was stopped after he failed to signal a left turn onto a state highway. The officer testified that defendant came to a full stop at the intersection to the highway but did not signal before turning left. Following the stop, the officer detected indicia of intoxication, and defendant was eventually arrested and charged with DWI. At the civil suspension hearing, defendant argued that there was no lawful basis for the stop because a turn signal is not required when no other vehicles are in the vicinity of the operator making the turn. The trial court rejected this argument, ruling that the plain language of the Vermont statutes requires motorists to signal before making turns regardless of the circumstances.

On appeal, defendant reiterates the argument he raised before the district court. According to defendant, Vermont statutes require motorists to communicate their intention to turn to other drivers, but if there are no other drivers to whom to communicate such an intention, there is no obligation to use a turn signal. We agree with the trial court that our statutes do not make any exceptions for signaling turns depending on the traffic conditions. Section 1065(b) of Title 23 provides as follows: “No turn to right or left may be made without first giving a signal of an intention to do so either by hand or by signal in accordance with section 1064 of this title.” (Emphasis added.) Section 1064(a) provides that before changing direction, “a driver shall give warning of his intention” with hand or mechanical signals. Defendant argues that the requirement to provide a warning of the driver’s intention implies that there must be other drivers in the vicinity to receive such a warning. In defendant’s view, if there are no other drivers to warn, there is no obligation to signal.

We find no support for this analysis. Section 1065(b) plainly requires motorists to signal their intention to turn for all turns, and nothing in the language of § 1064 creates exceptions for situations when other motorists are not present. This makes sense because it is quite possible, of course, for motorists intending to turn to mistakenly believe that no other vehicles are approaching when in fact they are. Defendant’s reliance on cases in other jurisdictions with different statutes is unavailing. Those statutes requires motorists to signal only when any other vehicle “ ‘may be affected’ ” by the turn. State v. Malloy, 453 N.W.2d 243, 245 (Iowa Ct. App. 1990) (quoting Iowa statute); State v. Williamson, 637 A.2d 195, 195-96 (N.J. Super. Ct. App. Div. 1994) (quoting New Jersey statute). For example, based on such statutory language, a Texas court required the state to demonstrate that traffic safety was affected by the motorist’s car when he made his turn. See Willett v. State, 454 S.W.2d 398, 399-400 (Tex. Crim. App. 1970). But when the Texas legislature amended the statute by dropping the “may be affected” language, the Texas courts concluded that “turn signals are now mandatory, regardless of the traffic conditions at the time of the turn.” Beck v. State, 547 S.W.2d 266, 267 (Tex. Crim. App. 1976). Likewise, our statute requires a signal before any turn without regard to traffic conditions. Accordingly, the officer had a reasonable basis for the stop, State v. Lussier, 171 Vt. 19, 34 (2000) (“[T]he law is well-settled that police may stop a vehicle and briefly detain its occupants to investigate a reasonable and articulable suspicion that a motor vehicle violation is taking place.”), and thus the district court did not err in denying defendant’s motion to suppress.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Brian L. Burgess, Associate Justice