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**OFFICE OF STATEWIDE PROSECUTION  
CASE LAW UPDATES**

**MARCH, 2009**

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**Case:** State v. Hebert, 2009 WL 605388 (Fla. 4<sup>th</sup> DCA 2009)

**Date:** March 11, 2009

**Subject:** Traffic Stops

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**Facts:** Florida Highway Patrol Sgt. is stopped at traffic light on divided highway. As light turns green and traffic starts to proceed through intersection, oncoming car makes left turn forcing everyone to slam brakes. Sgt. pulls car over and discovers driver has suspended license. During motion to suppress, Sgt. testifies that based on his position, he had no way of knowing whether defendant had green or red light. Defendant and wife testified that arrow was green when he turned.

**Holding:** In order to determine the constitutional validity of a traffic stop, the correct test to be applied is whether the particular officer who initiated the traffic stop had an objectively reasonable basis for making the stop.

**NOTE:** In other words, issue is not whether there was an actual violation but whether an officer has probable cause to believe there has been a violation. (See also State v. Wimberly, 988 So.2d 116, (Fla. 5<sup>th</sup> DCA 2008), upholding stop of vehicle for illegally tinted windows which were later proved to be legal.)

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Case: Merriel v. State, 2009 WL 633081 (Fla. 1st DCA 2009)

Date: March 13, 2009

Subject: Search Warrants – Stopping Vehicles Leaving Premises

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Facts: Detectives with the Okaloosa County Sheriff's Office had drug search warrant for defendant's home as well as "all persons, vehicles, and outbuildings, located on the curtilage thereof." On morning warrant was to be executed, detectives conducting surveillance observed defendant leave the home in his car which was then stopped by marked unit a block away. Car was then driven back to premises by a detective and searched revealing cocaine. Detectives testified that they could have executed the warrant at any point during surveillance, but made the decision to allow the defendant to leave the premises to eliminate any dangers associated with executing the warrant with him inside the home.

Holding: It is proper to allow stop and search of vehicle that just left home and that would have been searched on the premises but for officers' reasonable fear for their safety in executing the warrant.

NOTE: Important to remember that the search warrant in this case specifically authorized the search of persons and vehicles, otherwise the result would have been different.

Any questions, drop me a line or give me a call!

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