

ORIGINAL

IN THE SUPREME COURT OF OHIO

State of Ohio,  
Appellee,

Case No. 13-2018

vs.

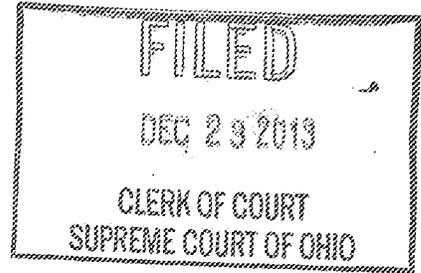
Ryan Stadelmann,  
Appellant.

On Appeal from the Hamilton County  
Court of Appeals, First Appellate District,  
No. C-1300138

MEMORANDUM IN SUPPORT OF JURISDICTION  
ON BEHALF OF APPELLANT RYAN STADELMANN

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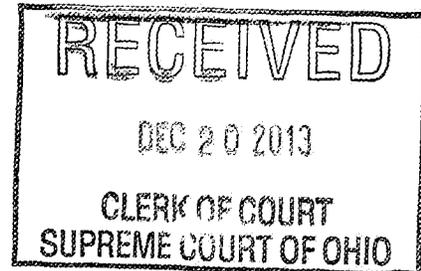


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EXPLANATION OF WHY THE APPELLANT'S PROPOSITIONS OF  
LAW PRESENT A CASE OF PUBLIC OR GREAT GENERAL INTEREST  
AND INVOLVE A SUBSTANTIAL CONSTITUTIONAL QUESTION

Appellant Ryan Stadelmann asks this Court to grant jurisdiction. His case presents a significant Fourth Amendment issue. The traffic stop at issue was based solely on the police officer's misunderstanding of R.C. 4511.36(A)(2), which regulates left turns at typical intersections. The First District Court of Appeals found that the misunderstanding was objectively reasonable because the statute, it held, was ambiguous.

But the statute is clear, and the officer's misinterpretation is therefore objectively unreasonable. The best way to determine whether a statute is ambiguous is to read it. In section (A), subsection (2) of the statute, there is a requirement that before making a left turn at a typical intersection, the driver must be in the lane nearest the center line of the roadway. This nearest-lane requirement only appears in the context of preparing to turn; it does not appear in the context of entering the roadway when the turn is completed. That the nearest-lane requirement applies only before the turn is clear.

The officer's belief that the nearest-lane requirement applies at the completion of a left turn is not a reasonable mistake. The First District improperly held that the law is ambiguous and it should not have affirmed the trial court's decision not to apply the exclusionary rule.

This Court must make clear that the exclusionary rule does not excuse a mistake of law that is objectively unreasonable.

### STATEMENT OF THE CASE AND FACTS

On October 11, 2012, Appellant Ryan Stadelmann made a left turn from Drake Road onto Madison Road. Madison Road had two lanes in each direction. A police officer called it a “wide turn,” *i.e.*, a turn into the right lane, which the officer believed to be a violation of R.C. 4511.36(A)(2). Actually, the turn was so sharp it looked more like a U-turn. Mr. Stadelmann was stopped in his driveway, which is on the right-hand side of Madison, a few blocks from the turn.

The sole basis of the traffic stop was the officer’s belief that Mr. Stadelmann had violated R.C. 4511.36(A)(2), which provides as follows:

“(A) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

“\* \* \*

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, **an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof** and by passing to the right of such center line where it enters the intersection and **after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.** Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.”

R.C. 4511.36(A)(2) (emphasis added). To paraphrase, the law requires a driver

turning left to prepare for the turn by being in the lane closest to the center line, and that the turn be completed on the right side of the center line of the roadway being entered. This is exactly what Mr. Stadelmann did.

The officer cited Mr. Stadelmann for an improper turn under R.C. 4511.36 and operating a motor vehicle while under the influence of alcohol under R.C. 4511.19. On December 20, 2012, Mr. Stadelmann, through counsel, filed a suppression motion, arguing that all the evidence must be suppressed because it was obtained as a result of an unconstitutional seizure: specifically, an unlawful traffic stop. The trial court held a suppression hearing on January 22, 2013, and denied Mr. Stadelmann's motion seven days later. Mr. Stadelmann plead no-contest plea to the OVI offense and the trial court found him guilty.

On appeal, the Hamilton County Court of Appeals affirmed. A divided court held that the officer reasonably believed that Mr. Stadelmann had violated R.C. 4511.36 due to the wide turn, because the statute is ambiguous and a reasonable officer could have concluded that the statute requires a motorist who makes a left-hand turn to turn into the lane nearest the center line. Mr. Stadelmann now appeals to this Court and the argument in support of his request for jurisdiction follows.

## ARGUMENT

Appellant's Proposition of Law No. I: The requirement in R.C.

4511.36(A)(2) that a left turn at an intersection only be to the right of the center line of the roadway being entered is not ambiguous.

The First District held that R.C. 4511.46 was ambiguous with respect to the officer's belief that the driver must be in a portion of the roadway nearest the center line after the turn is made. The statute explicitly requires that before entering the intersection to make the turn, the driver must be "in that portion of the right half of the roadway nearest the center line." It does not have this nearest-lane requirement after the turn has been accomplished, however. In other words, there is no requirement that the driver be in a portion of the roadway nearest the center line after the turn is made. If the nearest-lane requirement appears in only one of the two contexts, it can be assumed that it only applies where it appears. *State v. Feller*, 1st Dist. Nos. C-110775 and C-110776, 2012-Ohio-6016, ¶12. Under R.C. 4511.36(A)(2), the person turning left legally has both lanes available in the roadway being entered.

The plain meaning of the statute is clear and unambiguous. After setting forth the nearest-lane requirement for the preparation of a turn, it states that the turn must be completed "to the right of the center line of the roadway being entered." R.C. 4511.36(A)(2). Although the First District offered a straw man

argument with respect to left turns onto one-way streets, the plain meaning is perfectly clear: it does not require that a left be completed in the lane nearest the center line of the roadway being entered.

Common sense and Ohio case law confirm that the officer's mistake of law was unreasonable. The officer's reading of the statute would require avoiding the right lane for no reason. For example, in the case of a left turn from a road forming the stem of a "T" intersection, there would be no traffic from the opposite direction turning right. The person turning left would not need to choose the lane closest to the center line in order to "share" the right lane with traffic entering from the opposite direction. At a four-way intersection, cars turning left must always yield to traffic approaching from the opposite direction; the rules of the road do not contemplate "sharing" lanes of the roadway being entered with opposing traffic turning right. R.C. 4511.42(A). Since 1951, Ohio courts have recognized the purpose of the statute as prohibiting "cutting the corner" at intersections. *Richlin v. Gooding Amusement Co.*, 113 Ohio App. 99, 170 N.E.2d 505 (8th Dist. 1960). Thus, the officer's mistake had no basis in the language of the statute, common sense or case law.

Appellant's Proposition of Law No. II: A police officer's mistake of law cannot support probable cause to conduct a traffic stop.

Because the plain meaning of R.C. 4511.36 is clear and unambiguous, the

officer's mistake was objectively unreasonable. The defendant's conduct did not facially violate the statute cited by the officer as the basis for the stop.

Probable cause is an objective test, and the legal justification for the stop must be objectively grounded. *State v. Fears*, 8th Dist. No. 94997, 2011-Ohio-930, ¶12. An officer cannot possess probable cause for a stop if the decision to stop is based upon an objectively clear mistake of law. *Bowling Green v. Godwin*, 110 Ohio St.3d 58, 2006-Ohio-3563, 850 N.E.2d 698, ¶15.

Excusing a clear mistake of law would encourage actual or feigned ignorance of the law by the very people responsible for enforcing it. *United States v. McDonald*, 453 F.3d 958, 962 (7th Cir. 2006). The assumed wide-turn violation was the sole means by which the officer claimed that he legally stopped Mr. Stadelmann. The traffic stop was based upon the officer's mistake of law; the mistake was objectively unreasonable, and the stop was therefore unconstitutional. *State v. Babcock*, 6th Dist. Wood No. WD-12-025, 2013-Ohio-2366, ¶22; *State v. Haas*, 3rd Dist. No. 7-10-15, 2012-Ohio-2362, ¶25, 27, citing *State v. Bacher*, 170 Ohio App.3d 457, 2007-Ohio-727, 867 N.E.2d 864.

Therefore, the First District erred when it held that R.C. 4511.36 is ambiguous and that the officer reasonably believed that Mr. Stadelmann had violated that statute by failing to make a left hand turn into the lane of traffic nearest the center line.

CONCLUSION

For the reasons discussed above, the Appellant's proposition of law involves a matter of public and great general interest or a substantial constitutional question.

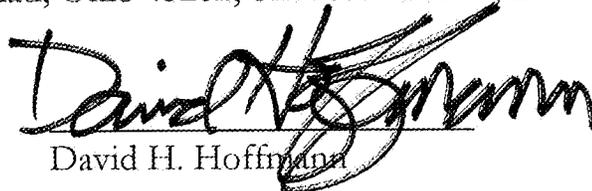
Respectfully submitted,

By:   
David H. Hoffmann

COUNSEL FOR APPELLANT  
RYAN STADELMANN

PROOF OF SERVICE

I certify that a copy of the above has been sent by ordinary U.S. mail, postage prepaid, to Christopher Liu, Assistant City Prosecutor, at his address of 801 Plum Street, Room 226, Cincinnati, Ohio 45202, on December 19, 2013.

  
David H. Hoffmann

COUNSEL FOR APPELLANT  
RYAN STADELMANN

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

**ENTERED  
NOV 15 2013**

STATE OF OHIO,	:	APPEAL NO. C-130138
	:	TRIAL NO. 12TRC-49692
Plaintiff-Appellee,	:	
	:	<i>OPINION.</i>
vs.	:	
	:	
RYAN STADELMANN,	:	PRESENTED TO THE CLERK
	:	OF COURTS FOR FILING
Defendant-Appellant.	:	
	:	NOV 15 2013
	:	
	:	COURT OF APPEALS

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: November 15, 2013

*John P. Curp*, City Solicitor, *Charles Rubenstein*, City Prosecutor, and *Christopher Liu*, Assistant City Prosecutor, for Plaintiff-Appellee,

*David Hoffmann*, for Defendant-Appellant.

Please note: this case has been removed from the accelerated calendar.

ENTERED

NOV 15 2013

DINKELACKER, Presiding Judge.

{¶1} In one assignment of error, defendant-appellant Ryan Stadelmann claims that the trial court erred when it denied his motion to suppress prior to his pleading no contest to operating a vehicle while under the influence of alcohol, in violation of R.C. 4511.19(A)(1)(d). The gravamen of his argument below was that his vehicle was improperly stopped on the night of his arrest. We affirm.

{¶2} Stadelmann was traveling on Drake Road when he made a “wide” left turn onto Madison Road. When turning, he turned from the lane immediately left of center on Drake into the far right lane on Madison. Thomas Bloomberg, a sergeant with the Ohio State Highway Patrol, observed the turn and believed it to be a violation of R.C. 4511.36, the statute regulating turns at intersections. The statute requires that,

[a]t any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and **after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.**

(Emphasis added.) R.C. 4511.36(A)(2).

{¶3} The portion of the statute relevant to our analysis seems to allow for two interpretations. First, and more likely, it means that a driver must turn into the lane closest to the center line when making a left turn onto a two-way street. In that case, Stadelmann’s turn into the curb lane was a violation. Alternatively, the statute could simply mean that one must complete the turn without driving left-of-center—i.e. into

oncoming traffic. This reading seems less likely as such operation would be regulated by other portions of the Revised Code. See R.C. 4511.25.

{¶4} But resolution of this case does not require that we answer this question. The question we must answer is whether Sergeant Bloomberg's belief that Stadelmann violated R.C. 4511.36 was reasonable. The Fifth Appellate District recently held that

[w]here a statute is vague or ambiguous, or requires judicial construction to determine its scope of meaning, exceptional circumstances exist which permit courts to extend the good faith exception to the exclusionary rule to not only mistakes of fact but also mistakes of law.

*State v. Reedy*, 5th Dist. Perry No. 12-CA-1, 2012-Ohio-4899, ¶ 19, citing *State v. Greer*, 114 Ohio App.3d 299, 303, 683 N.E.2d 82 (2d Dist.1996). This court has reached a similar conclusion, noting that "reasonable suspicions can exist even if the officer misunderstands the law that the driver is allegedly violating." *State v. Burnett*, 1st Dist. Hamilton Nos. C-110565, C-110566, and C-110567, 2012-Ohio-1631, ¶ 9, citing *State v. Leonard*, 1st Dist. Hamilton No. C-060595, 2007-Ohio-3312; *State v. Cronin*, 1st Dist. Hamilton No. C-100266, 2011-Ohio-1479. Thus, the test is whether an objectively reasonable officer could have concluded from Stadelmann's wide turn that he might have been violating a traffic law. *Burnett* at ¶ 9, citing *Bowling Green v. Godwin*, 110 Ohio St.3d 58, 2006-Ohio-3563, 850 N.E.2d 698, ¶ 15. And that is what we have in this case.

{¶5} The dissent argues that the statute is not only unambiguous, but that its plain meaning leaves no doubt that Stadelmann did not violate it. In so arguing, it cites a 1960 automobile accident case from the Eighth Appellate District, *Richlin v. Gooding Amusement Co.*, 113 Ohio App. 99, 170 N.E.2d 505 (8th Dist.1960), for the proposition that the purpose of the language at issue was to make it "perfectly clear" that the

General Assembly intended to prohibit “cutting the corner” of the intersection. *Id.* at 103.

{¶6} The problem with relying on *Richlin* is that the facts and the court’s analysis do not contemplate the issues in this case. In *Richlin*, the two vehicles were approaching each other from opposite directions on the same street when one vehicle turned in front of the other. *Id.* at 100-101. The specific question of how a turn is properly completed onto an intersecting roadway was not at issue.

{¶7} The appellant in *Richlin* had raised the issue of whether the jury had been properly instructed on the duties of a driver under R.C. 4511.36. In addressing a 1951 amendment to that statute, the court noted that the amendment did not “change the basic requirements for making a left-hand turn at a street intersection.” *Id.* The “basic requirements” the court referred to, and about which the jury in the case had been properly instructed, were that a vehicle must

enter the intersection to the right of and next to the centerline of the street upon which it is traveling when proceeding into the intersection **and proceed to the right of the centerline of the street being entered** in making the left-hand turn[.]

(Emphasis added.) *Id.* at 102. Far from demonstrating that Stadelmann’s turn was inarguably proper under the statute, the decision in *Richlin* could actually support Sergeant Bloomberg’s interpretation of R.C. 4511.36.

{¶8} In a footnote, the dissent also makes reference to R.C. 4511.36(A)(3) for the proposition that, if the General Assembly had intended for left turns to be completed in the manner that Sergeant Bloomberg understood, it knew how to so indicate. Indeed, that provision references making a turn into the “left-hand lane of the roadway being entered lawfully available to traffic moving in that lane.” But R.C.

4511.36(A)(3) refers to intersections involving a one-way street. Such a roadway would have no centerline. Therefore, the General Assembly could only speak in terms of the “left-hand lane” in order to accommodate turning onto a one-way street. So, far from indicating that Sergeant Bloomberg was entirely off base, R.C. 4511.36(A)(3) further demonstrates the intent of the General Assembly that motorists should complete left turns in the left-most lane available.

{¶9} It is worth noting that even the Ohio Department of Public Safety agrees with this reading. In its manual *Digest of Ohio Motor Vehicle Laws*—the recommended study guide for anyone seeking to take the driver’s license examination—a driver is instructed that “[t]he turn should be made into the lane on the right half of the street nearest the center line.” *Digest of Ohio Motor Vehicle Laws*, [http://bmv.ohio.gov/pdf\\_forms/HSY-7607.pdf](http://bmv.ohio.gov/pdf_forms/HSY-7607.pdf), 36 (accessed November 5, 2013). The diagrams used to illustrate proper left-hand turns all make clear that a turn must be completed into the lane just right of center, and that the driver may change lanes to the right thereafter. *Id.* at 37.

{¶10} As the Ohio Supreme Court has noted, members of law enforcement are not taking the bar examination every time they stop a motorist. *Godwin*, 110 Ohio St.3d 58, 2006-Ohio-3563, 850 N.E.2d 698, at ¶ 15. Under the facts of this case, Sergeant Bloomberg believed that the manner in which Stadelmann executed his turn violated R.C. 4511.36. The language of the statute lends itself to that interpretation, and makes Bloomberg’s belief objectively reasonable. He was not required to “correctly predict that a conviction will result.” *Id.* Therefore, the traffic stop was proper, and the trial court properly denied Stadelmann’s motion to suppress.

{¶11} Having considered his argument and the record, we overrule Stadelmann’s sole assignment of error, and affirm the judgment of the trial court.

Judgment affirmed.

FISCHER, J., concurs.  
DEWINE, J., dissents.

DEWINE, J., dissenting.

{¶12} The only reason the officer provided for stopping the defendant in this case was the defendant's execution of a perfectly-legal left-hand turn. As a result, I believe that we are compelled to reverse the trial court's decision to deny the motion to suppress.

{¶13} The majority avoids this result by suggesting that the statute is ambiguous, and then concluding that even if the officer got the law wrong, because the law was ambiguous he still had probable cause to make the stop.

{¶14} But it is hard to understand what is ambiguous about the statute. Let's look at it again:

At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the **intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.** Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(Emphasis added.) R.C. 4511.36(A)(2). Far from being ambiguous, the language is quite precise. It simply requires the driver "square into the turn," as we are all

taught in drivers' education class. The driver must proceed through the intersection and across the center line before turning left. The statute says nothing about whether the driver must make the turn into the right or left side of the right lane. Under the plain language of the statute, a turn into either side is perfectly legal.<sup>1</sup> The turn simply must "be made so as to leave the intersection to the right of the center line of the roadway being entered."

{¶15} The majority's finding that the statutory provision (which has been on Ohio's law books in its current form since 1951) is ambiguous will come as a surprise to many. Over a half century ago, one Ohio court noted that the purpose of the 1951 enactment was to "make it perfectly clear that 'cutting the corner' " of the intersection was what was intended to be prohibited. *Richlin v. Gooding Amusement Co.*, 113 Ohio App. 99, 103, 170 N.E.2d 505 (8th Dist.1960).<sup>2</sup> At least sixteen other states include identical or practically identical language in their traffic codes. *See, e.g.*, 21 Del.C. 4152(a)(2); Mo.Rev.Stat. Sec. 300.215(2); W. Va. Code Sec. 17C-8-3(a).<sup>3</sup> So do countless municipalities.<sup>4</sup> *See, e.g.*, Columbus, Ohio, Municipal Code 2131(a)(2). Presumably, the ubiquitousness of the statutory language come

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<sup>1</sup> R.C. 4511.36(A)(3) demonstrates that when the legislature wants to require that the turn be made into the "left-hand lane of the roadway being entered into" it is perfectly capable of drafting language saying exactly that. Contrary to the majority's suggestion, this section is not limited to turns onto a one-way street. Rather, it is written to include turns from a one-way street onto a two-way street—a street precisely like Madison Road, the road the defendant was turning on in this case.

<sup>2</sup> The majority misses the point in its discussion of *Richlin*. I cite to *Richlin* not to assist in the construction of the statute; the language of the statute is perfectly clear. The point is that, until today, courts for 60 years have had little difficulty understanding that what the statute prohibits is cutting the corner while turning left.

<sup>3</sup> Nine states have identical language, and another seven have language that is nearly so.

<sup>4</sup> I'll spare the reader citations to all the states and the municipalities, but they can be readily found on LEXIS or Westlaw. And cases like *Pitcher v. Rogers*, 259 F.Supp. 412 (N.D.Miss. 1966) and *Chavez v. United States*, 192 F.Supp. 263 (Mont.1961), provide good examples of the safety hazards that come from the too-sharp, corner-cutting left turns that the statute aims to prevent.

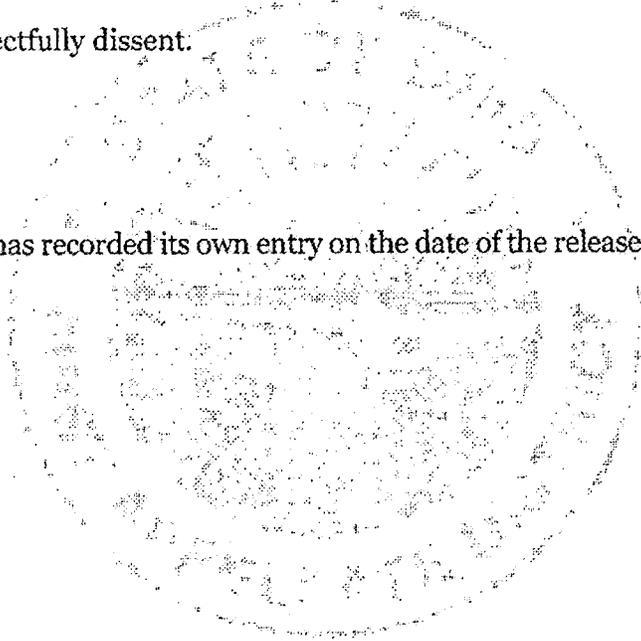
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from its recommendation in the 1948 version of the Uniform Vehicle Code, a model code drafted by the National Committee on Uniform Traffic Laws and Ordinances, "designed and advanced as a comprehensive guide or standard for state motor vehicle laws." Uniform Vehicle Code (rev. 1962), at *III*.

{¶16} Because I am confident that the turn was perfectly legal under any plain reading of the statute, I disagree with the majority's conclusion that the officer's stop of Mr. Stadelmann for violating the law was "objectively reasonable." Therefore, I respectfully dissent.

Please note:

The court has recorded its own entry on the date of the release of this opinion.



**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

**ENTERED**  
NOV 15 2013

STATE OF OHIO, :  
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Plaintiff-Appellee, :  
 :  
vs. :  
 :  
RYAN STADELMANN, :  
 :  
Defendant-Appellant. :

APPEAL NO. C-130138  
TRIAL NO. 12TRC-49692

*JUDGMENT ENTRY.*



D104288851

This cause was heard upon the appeal, the record, the briefs, and arguments.

The judgment of the trial court is affirmed for the reasons set forth in the Opinion filed this date.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty and orders that costs are taxed under App. R. 24.

The Court further orders that 1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App. R. 27.

**To the clerk:**

**Enter upon the journal of the court on November 15, 2013 per order of the court.**

By: \_\_\_\_\_  
                    *[Signature]*  
                    **Presiding Judge**