

NOTICE

*Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law.*

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

SHARLENE ROOKER,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12151  
Trial Court No. 3PA-14-2000 CR

MEMORANDUM OPINION

No. 6475 — May 24, 2017

Appeal from the District Court, Third Judicial District, Palmer,  
William L. Estelle, Judge.

Appearances: Laurence Blakely, Assistant Public Defender, and  
Quinlan Steiner, Public Defender, Anchorage, for the Appellant.  
Eric A. Senta, Assistant District Attorney, Palmer, and Craig W.  
Richards, Attorney General, Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, Allard, Judge, and Suddock,  
Superior Court Judge.\*

Judge MANNHEIMER.

Around 10:00 p.m. on the evening of July 7, 2014, a state trooper observed  
a vehicle on the Parks Highway that was being driven in an unusual manner.

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\* Sitting by assignment made pursuant to Article IV, Section 16 of the Alaska  
Constitution and Administrative Rule 24(d).

The driver — who turned out to be Sharlene Rooker — activated her left-turn signal just past the intersection of the Parks Highway and Vine Road, and she slowed down as if to make a turn. But Rooker did not make a turn. Instead, she sped up and continued down the highway — but with her left-turn signal still activated.

Rooker traveled down the highway for about another mile with her left-turn signal on. Over the course of this mile, Rooker slowed down a few times, as if preparing to make a turn, but each time she sped up again and continued down the highway.

Finally, where the highway intersects Pittman and Sylvan Roads, Rooker got into the designated left-turn lane, as if preparing to turn left onto Sylvan. But even though there was no oncoming traffic to obstruct her turn, and even though the traffic light was a flashing yellow turn arrow, Rooker did not make a left turn. Instead, she stopped her vehicle in the left-turn lane for about ten seconds.

Eventually, Rooker made a left turn onto Sylvan — at which point, the trooper initiated a traffic stop.

During his contact with Rooker, the trooper observed indications that Rooker was intoxicated: Rooker's speech was slurred, her eyes were bloodshot and watery, and the trooper could smell alcohol. Rooker admitted that she had been drinking both beer and hard liquor. Rooker was arrested, and a subsequent breath test showed that her blood alcohol level was .263 percent (more than three times the legal limit).

On appeal, Rooker argues that the trooper lacked reasonable suspicion to justify the traffic stop, and that all evidence stemming from that traffic stop should be suppressed.

At the evidentiary hearing in the trial court, Rooker offered an innocent explanation for her unusual driving. She testified that she was driving in an unfamiliar area, and that she was trying to follow instructions that her sister had given her. According to Rooker, her various actions — her continuous use of her turn signal over

the course of a mile, the fact that she slowed her vehicle several times only to speed up again, and that she then waited stationary in the left-turn lane for ten seconds, even though she could have executed the turn — were all attributable to the fact that Rooker was unsure where she was going, and the fact that the streets were confusing to her.

But the fact that Rooker offered an innocent explanation for her driving behavior does not mean that the trooper lacked reasonable suspicion for making the traffic stop.

As this Court and the Alaska Supreme Court have frequently explained, the government’s burden to establish probable cause for an arrest or a search does not require the government to affirmatively negate all innocent explanations for the observed conduct.<sup>1</sup> The same principle applies when the government’s burden is to establish reasonable suspicion for an investigative stop. Reasonable suspicion does not require a police officer to rule out all possibility of innocent behavior.<sup>2</sup>

Here, the trooper’s observations of Rooker’s driving were sufficient to raise a reasonable suspicion that Rooker was impaired. Thus, the trooper’s decision to conduct a traffic stop was justified even though Rooker later presented an innocent explanation for her driving behavior.

The judgement of the district court is AFFIRMED.

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<sup>1</sup> See *McCoy v. State*, 491 P.2d 127, 130 (Alaska 1971) (holding that probable cause existed despite possible innocent explanations for the observed conduct); *Ferrick v. State*, 217 P.3d 418, 422-23 (Alaska App. 2009) (the burden of establishing probable cause does not require the government to affirmatively negate all innocent explanations for the observed conduct); *State v. Grier*, 791 P.2d 627, 632 n. 3 (Alaska App. 1990) (“probable cause is established even though the facts known to the officer could also be reconciled with innocence”).

<sup>2</sup> *Bochkovsky v. State*, 356 P.3d 302, 308 (Alaska App. 2015); *State v. Moran*, 667 P.2d 734, 736 (Alaska App. 1983).