

Police Prosecutor Update

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MIRANDA WARNINGS TRAFFIC STOP

On June 18, 2013, the Indiana Court of Appeals issued a decision in *Crocker v. State*, _____ N.E.2d _____ (Ind.Ct. App. 2013), affirming the defendant's convictions for drug offenses.

The defendant was stopped on I-65 for speeding. The defendant provided an Ohio driver's license and Ohio rental car agreement in someone else's name. The defendant was very nervous and shaking. The defendant told the trooper that his girlfriend's mother rented the car for him in Ohio. The trooper noticed that the defendant had bloodshot and glassy eyes.

The trooper asked the defendant to come back to his car where the trooper administered the HGN, which did not indicate any signs of intoxication. While working on the e-ticket, the trooper asked additional questions regarding his origin and destination. The defendant gave inconsistent answers. The trooper then presented the defendant with a consent to search form. As the defendant was looking at the form, he asked the trooper what the warnings were for. The trooper told the defendant that he believed there was at least 80 pounds of marijuana in the trunk. The defendant signed the consent to search. The trooper then asked the defendant how much marijuana was in the trunk and the defendant said he didn't know. The trooper then advised him of his *Miranda* warnings. The defendant then admitted there were pounds of marijuana in the trunk but he didn't know how many pounds. The police then searched and found 10 bales of marijuana, approximately 215 pounds. The defendant was read his *Miranda* rights again and further admitted that he was paid \$5000 to drive the marijuana from Chicago to Cincinnati.



The Court held that under the facts and circumstances of this case, the defendant was in custody when the trooper was questioning him in the trooper's police car. Although the defendant was not handcuffed or physically restrained, the trooper had a high degree of control over the environment. In this case, the court pointed out that the trooper administered an FST in the car, did not

tell the defendant he didn't have to answer the questions or that he was free to go, and was not truthful with the defendant when he told him there was marijuana in the trunk. The Court was careful to explain that not all situations where a suspect is questioned, during a traffic stop, inside a police car, will amount to custodial interrogation. There are many circumstances that make it reasonably necessary for a police officer to require a stopped motorist to get inside a police vehicle (inclement weather, lack of available lighting, unsafe conditions etc.) but in this case the record provided no reason for the trooper to conduct his investigation in the car and not on the road side. The admission of the statements was harmless error and the convictions were affirmed.

This is a publication of the Monroe County Prosecutor's Office which will cover various topics of interest to law enforcement officers. Please direct any questions or suggestions you may have for future issues to Chris Gaal of the Monroe County Prosecutor's Office.

TRAFFIC STOP
TINTED WINDOWS

On June 25, 2013, the Indiana Supreme Court issued a decision in *Sanders v. State*, _____ N.E.2d _____ (Ind. 2013), **reversing** the Indiana Court of Appeals decision.

At 4:30 p.m., an officer pulled over the defendant because he believed the rear window of the



defendant's vehicle was tinted so dark that he was unable to clearly identify or recognize the occupants inside the vehicle. Once the officer started talking to the defendant, he smelled an odor of burnt marijuana. The defendant admitted he had just smoked a joint. The officer searched the vehicle and found cocaine.

The defendant filed a motion to suppress the evidence. At the hearing, the state introduced photographs of the vehicle taken by an evidence technician an hour after the traffic stop. The arresting officer testified that the tint did not allow him to clearly recognize or identify the occupant inside. The officer testified that if he can't tell the occupant's approximate age, ethnicity and gender, then the windows are too dark. The defense called a window tint expert who had been tinting windows for twenty-four years for several local car dealerships and was familiar with the tinting regulations in Indiana. He testified that the light transmittance of the windows in question was thirty-eight percent, which was in compliance with Indiana law. He also testified that he looked through the rear window of the vehicle at the same time of day as the time of the traffic stop and he could see clearly through the back window.

The trial court denied the motion to suppress and held that even though the windows were later found to be in compliance with Indiana law, the officer had a good faith belief that the window tint was illegal and therefore, justified the stop. The Court of Appeals disagreed and found that the evidence conclusively proved the defendant's windows were not in violation of I.C. 9-19-19-4(c) and that the officer mistakenly believed that the windows were in violation of the statute. The Indiana Supreme Court reversed the Court of Appeals and held that although the officer was ultimately mistaken in his belief that a violation occurred, the traffic stop was based upon a good faith belief that a statutory infraction had occurred. The officer had reasonable suspicion that the tint on the windows of the defendant's vehicle was in violation of the window tint statute such that the initial stop was justified.