

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

HAMPSHIRE COUNTY

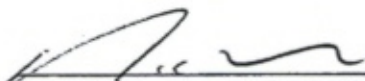
No. SJC-12610

COMMONWEALTH

v.

ZACHARIAH LAROSE

**BRIEF OF THE NATIONAL COLLEGE FOR DUI DEFENSE AS AMICI
CURIAE IN SUPPORT OF DEFENDANT - ZACHARIAH LAROSE**


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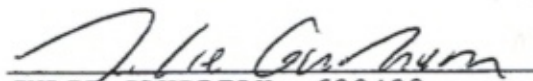

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TABLE OF CONTENTS

TABLE OF AUTHORITIES3

STATEMENT OF THE ISSUE5

INTEREST OF THE AMICUS CURIAE6

STATEMENT OF THE CASE.....7

STATEMENT OF THE FACTS.....10

ARGUMENT.....12

THIS COURT SHOULD AFFIRM THE ALLOWANCE OF THE
DEFENDANT'S MOTION TO SUPPRESS BECAUSE THE MOTION
JUDGE CORRECTLY CONCLUDED THAT A MOMENTARY, INCIDENTAL
CROSSING OF A FOG LINE, WHICH WAS NOT DONE IN AN
UNSAFE MANNER, DID NOT CONSTITUTE A MARKED LANES
VIOLATION UNDER G.L. C. 89, §4A.....12

 A. The plain language of Section 4A indicates
 that a "fog line" is not a marked "lane" within
 the statute's
 meaning.....14

 B. Even if the term "lane" in Section 4A
 encompasses a fog line, the motion judge
 correctly concluded that because the
 Commonwealth failed to elicit any evidence that
 the Defendant crossed the fog line in an
 unsafe manner, the Commonwealth did not
 establish reasonable suspicion of a marked
 lanes violation.....18

CONCLUSION.....29

CERTIFICATE OF COMPLIANCE31

CERTIFICATE OF SERVICE32

ADDENDUM.....33

TABLE OF AUTHORITIES

Cases

Commonwealth v. Escobar, 479 Mass. 225 (2018).....15

Federal Nat'l Mtge. Ass'n v. Rego, 50 N.E.3d 419 (2016).....15

Commonwealth v. Campbell, 616 N.E. 2d 430 (1993).....16

Commonwealth v. Santos, 2007 LEXIS Mass.Super. (2007).....17

State v. Barner, 2004 WL 2535394, (Ohio. App. 2004)....20

State v. Ross, 990 N.E.2d, (Ohio. App. 2013).....21

State v. Mays, 894 N.E.2d 1204 (Ohio 2008).....21

Dods v. State, 240 P.3d 1208 (Wyoming 2010).....19

State v. Ross, 149 P.3d 876 (Kan. App. 2007).....22

State v. Marx, 215 P.3d 601 (2009).....22

State v. Miles, 387 P.3d 866, (Kan. App. 2017).....22

Rowe v. State, 769 A.2d 879 (Maryland 2001).....23

Ehrhart v. State, 9 S.W.3d 929, (Tex. App. 2000).....23

State v. Cerny, 28 S.W. 3d 796 (Tex. App. 2000).....23

Jordan v. State, 831 So. 2d 1241 (Fla.5TH DCA 2002)....23

Crooks v. State, 710 So. 2d 1041 (Fla. 2nd DCA 1998).24

United States v. Gregory, 79 F.3d 973 (10th Cir. 1996).....24

Galindo v. State, 949 So.2d 951 (Alabama 2005).....25

State v Caron, 534 A.2d 978 (Maine 1978).....25

<u>State v. Lafferty</u> , 291 Mont. 157 (Mont. 1998)	25
<u>State v. Flynn</u> , 251 P.3d 143 (Mont. 2011)	25
<u>State v. McBroom</u> , 39 P.3d 226 (2002)	26
<u>State v. Wolfer</u> , 780 N.W.2d 650 (North Dakota 2010)	26
<u>Leming v. State</u> , 493 S.W.3d 552 (Texas 2016)	26

Other Authorities

G. L. c. 89, § 4A	12
Code of Massachusetts Regulations at 700 CMR 702	15
MUTCD Section 3B.06	16
MUTCD Section 3A.05	16
Code of Massachusetts Regulations 700 CMR 7.09	16
Ohio R.C. 4511.33(A)	20
Wyo. Stat. Ann. § 31-5-209(a) (ii)	19
K.S.A. 8-1522(a)	22
MD Code, Transportation, § 21-309	23
TEX. TRANSP. CODE ANN. § 545.060(a)	23
Florida Statutes Section 316.089	23
Utah Code Ann. § 41-6-61(1)	24

STATEMENT OF THE ISSUE

This brief is submitted pursuant to this court's request for amicus briefs on October 9, 2018.

1. Whether a motorist is subject to seizure by the police for a marked "lanes" violation pursuant to G. L. c. 89, § 4A, when the tires on one side of the vehicle cross a "fog line", rather than a lane dividing traffic, one time, for two to three seconds, and without imposing a danger to the driver or anyone else.

INTEREST OF THE AMICUS CURIAE

Amicus curiae the National College for DUI Defense, Inc. (NCDD) is a nonprofit professional organization of lawyers, with over 1,000 members, focusing on issues related to the defense of persons charged with driving under the influence. Through its extensive educational programs, its website, and its email list, NCDD trains lawyers to more effectively represent persons accused of drunk driving.

Counsel for amicus states that no counsel for a party authored this brief in whole or in part and no person, other than amicus, its members, or its counsel made a monetary contribution to the preparation of this brief.

STATEMENT OF THE CASE

On June 20, 2016, the Defendant was charged in the Eastern Hampshire District Court with operating a motor vehicle under the influence of intoxicating liquor ("OUI"), in violation of G.L. c. 90, § 24(1)(a)(1), and a marked lanes violation, pursuant to G.L. c. 89, § 4A.¹ C.App.2. On November 18, 2016, the Defendant filed a motion to suppress and supporting affidavit, in which he challenged the warrantless seizure of his vehicle while he was driving in the town of Belchertown. C.App.6. On December 2, 2016, an evidentiary hearing was held before the Honorable Thomas H. Estes. C.App.4. At the hearing, the Commonwealth offered the testimony of Belchertown police officer Michael Jablonski, as well as a video recording of the vehicle stop taken from the officer's dashboard camera. Tr: 1-11. The Defendant presented the testimony of Robert Lamoureux, the Defendant's father, as well as a photograph of the license plate area of the Defendant's vehicle. Tr: 11-14. On January 25, 2017,

¹ References to the record are abbreviated as listed below and followed by page: Add. is the addendum to this amicus brief; Tr: is the transcript attached to the Commonwealth's brief from the December 2, 2016 motion to suppress hearing; C.App: Is the Record Appendix attached to the Commonwealth's SJC brief; D. Add: is the addendum attached to the defendant Larose's SJC brief.

Judge Estes allowed the motion to suppress, finding that "crossing a fog line one time for a few seconds does not constitute a marked lanes violation" under G.L. c. 89, § 4A (hereafter, "Section 4A"). D.Add.1. In making this determination, Judge Estes reasoned that (1) "a fog line does not serve to divide lanes" and thus does not fall within the realm of Section 4A; and (2) "even if the fog line is a marked lane for the purposes of the statute, there is no indication in the facts that the defendant's crossing the fog line was unsafe." D.Add.1.

Thereafter, the Commonwealth filed a Motion for Further Findings of Fact and Rulings of Law, which the Judge Estes issued on February 7, 2017. C.App.17. In the further findings, Judge Estes stated that because of conflicting testimony regarding the visibility of the rear license plate, as well as the quality of the dashboard camera video, "the Court finds that it does not have credible evidence regarding whether the rear register number was plainly visible or not." D.Add.5. On February 14, 2017, the Commonwealth filed a notice of appeal. C. App.19. On February 21, 2017, the Commonwealth filed an application for leave to file an interlocutory appeal, pursuant to Mass. R. Crim. P. 15(a)(2), in the Supreme Judicial Court for Suffolk

County. On May 5, 2017, a single justice (Lowy, J.) allowed that application, ordering the appeal to proceed in the Appeals Court. C.App.20.

On June 5, 2018, the Appeals Court issued an unpublished decision in which they reversed the holding of the motion court and found that the Defendant's motion to suppress should have been denied. D.Add.7. The Appeals Court reasoned that, "[i]n this case, because the judge found that the defendant drove out of the marked travel lane when crossing over the fog line, the observing police officer had reason to stop the defendant for a marked lanes violation. The motion to suppress should have been denied." See Commonwealth v. Larose, 93 Mass.App.Ct.1113 (Mass.2018). Thereafter, the Defendant's request for appellate review of the Appeal's Court decision was granted.

STATEMENT OF FACTS

On June 18, 2016, around 1 a.m., Officer Michael Jablonski of the Belchertown Police Department stopped the vehicle the Defendant was driving on Route 202 in Belchertown. Tr:7. The portion of Route 202 where the Defendant's vehicle was stopped is a two-lane highway, with one lane traveling in each direction, separated by a double yellow line that permits passing in that section by vehicles driving in the opposite direction as the Defendant. There is a white fog line on the right side of the road. Officer Jablonski testified that he observed the Defendant swerve over the fog line multiple times, rub the yellow line, and cross over the yellow line into the other lane. Tr:5. Officer Jablonski's testimony was not credited by Judge Estes, as the testimony conflicted with the video from the police cruiser's dashboard camera. Tr:6-7. Judge Estes instead relied upon the video from the cruiser's dashboard camera, which the Commonwealth entered as an exhibit. In his January 25, 2017, opinion, Judge Estes stated: "The video shows the Defendant's vehicle cross over the fog line one time for two to three seconds . . . Otherwise, the Defendant appears to be operating his vehicle in a

normal fashion (including during the stop)." Judge Estes further found "no indication . . . that the defendant's crossing the fog line was unsafe." D.Add.2. Subsequently, Officer Jablonski stopped the Defendant's vehicle. Tr:6. The Commonwealth claims that Officer Jablonski had reasonable suspicion that the Defendant committed a marked lanes violation under Section 4A, because the tires on one side of the Defendant's vehicle crossed the fog line one time for two to three seconds.

ARGUMENT

- I. THIS COURT SHOULD AFFIRM THE ALLOWANCE OF THE DEFENDANT'S MOTION TO SUPPRESS BECAUSE THE MOTION JUDGE CORRECTLY CONCLUDED THAT A MOMENTARY, INCIDENTAL CROSSING OF A FOG LINE, WHICH WAS NOT DONE IN AN UNSAFE MANNER, DID NOT CONSTITUTE A MARKED LANES VIOLATION UNDER G.L. C. 89, §4A

The momentary incidental crossing of a fog line, not done in an unsafe manner, is insufficient justification for an officer to stop a motorist for a marked lanes violation. Massachusetts General Laws Section G. L. c. 89, § 4A, states that "when any way has been divided into lanes, the driver of the vehicle shall so drive that the vehicle shall be entirely within a single lane, and he shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety." The motion judge correctly concluded that the "crossing a fog line one time for a few seconds does not constitute a marked lanes violation". The judge was correct in this conclusion for two reasons.

First, the plain language of the statute prohibits the crossing of marked "lanes". The statute is silent with respect to the "fog line". Based on the statutory language coupled with the purpose of a "fog line" in

comparison to a marked lane, this court should hold that the legislature did not intend to include the fog line in the statute. Therefore, a momentary crossing of the fog line should not give law enforcement reasonable suspicion to stop a motorist.

Secondly, even if the court were to hold that a "fog line" is a marked lane, the language of the statute requires some evidence of unsafe movement to establish a violation. By including the clause that a driver "shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety", the legislature evidenced its intent to prohibit unsafe lane travel. The legislature anticipated that motorists would need to travel across lanes and did not intend to prohibit brief incidental movement absent a showing that the movement was done in an unsafe manner. This proposition that reasonable suspicion to stop a motorist for a marked lanes violation must be combined with a showing of unsafe driving is not a novel prospect. Jurisdictions across the country, with similar statutes, have interpreted their statutes to require evidence of an unsafe crossing of a lane to justify a motor vehicle stop.

For these reasons, this court should affirm the motion judge's holding and find that the brief crossing of a "fog line", without evidence of unsafe driving, is insufficient to establish reasonable suspicion that a motorist has committed a marked "lanes" violation under G.L. C. 89, §4A.

A. The plain language of Section 4A indicates that a "fog line" is not a marked "lane" within the statute's meaning

The "fog line" is separate and distinct from a "marked lane" and the legislature did not intend for it to be considered a "marked lane" for the purposes of Section 4A. This interpretation is supported by the language of the statute and by the functional differences between a marked lane and a "fog line."

Massachusetts General Laws Section G. L. c. 89, § 4A, states that "when any way has been divided into lanes, the driver of the vehicle shall so drive that the vehicle shall be entirely within a single lane, and he shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety." The plain language of the statute

prohibits the crossing of marked "lanes" and is silent with respect to the "fog line".

As such, we must turn to established principles of statutory construction in interpreting this statute. See Commonwealth v. Escobar, 479 Mass. 225 (2018), "When the meaning of a statute is not clear from its plain language, well-established principles of statutory construction guide our interpretation." (quoting Federal Nat'l Mtge. Ass'n v. Rego, 50 N.E.3d 419 (2016)).

In order to assess whether the term "lane" is intended to encompass "fog lines" we look to how these terms are defined in other sources. The term "lane" is defined in the Code of Massachusetts Regulations at 700 CMR 702, "Lane refers to a longitudinal strip of roadway of sufficient width to accommodate the passage of a single line of vehicles, whether or not the bounds of the lane are indicated by pavement markings or longitudinal construction joints." Importantly, 700CMR 7.02 separately defines "shoulder" as "that part of the paved surface of a way lying outside solid traffic lines". The Manual on Uniform Traffic Control Devices further distinguishes a "lane," which as stated above is defined as roadway wide enough to allow the passage of vehicles, from the "edges of a roadway" which

encompasses the "fog line" at issue in this case. See Add. 1. "If used, edge line pavement markings shall delineate the right or left edges of a roadway."

This distinction between a lane and a fog line is also made clear in 700 CMR 7.09: Traffic, Operation, and Safety On Ways Other than the Tunnels, which states "The operator of a motor vehicle on a way other than the Tunnels shall drive in the lane nearest the right shoulder of the roadway, when that lane is available for ordinary travel..." Said code refers to a "lane" and a "shoulder" as distinct entities. This point is even further reiterated in § 3A.05 ("Colors"), which states "When used, white markings for longitudinal lines shall delineate[t]he right-hand edge of the roadway." Add. 3.

As the terms relevant to the interpretation of the statute in this case have clearly defined meanings, it is appropriate for the Court to interpret and implement the statute in accordance with the statutory definitions. See Escobar "We derive the words' usual and accepted meaning from sources presumably known to the statute's enactors, such as their use in other legal contexts and dictionary definitions. (Quoting Commonwealth v. Campbell, 616 N.E. 2d 430 (1993)).

In addition to considering the different definitions of the terms, this court should consider the different purposes of a fog line and a marked lane. The purpose of a "fog line" is to alert drivers to the edge of the travel lane and, possibly, a nearby guardrail. Edge line markings have unique value as visual references to guide road users during adverse weather and visibility conditions. Add. 2. Alternatively, the purpose of a "marked lane" is to divide the lanes of travel. The interpretation of separate purposes of a "lane" as distinct from a "fog line" is consistent with persuasive authority on that matter. In Commonwealth v. Santos, 2007 LEXIS Mass. Super. (2007), the court found that an officer did not have reasonable suspicion to stop a vehicle for a marked lanes violation for twice crossing the fog line because a fog line does not divide lanes of travel.

A "fog line" is not a marked lane for the purposes of Section 4A. The Code of Massachusetts Regulations and the Manual on Uniform Traffic Control Devices have defined a "marked lane" as a lane with markings that separate lanes of traffic. The "fog line" is encompassed by the shoulder of the roadway and is intended to alert motorists to the edge of the road and the guardrail. The

legislature intended to prohibit the crossing of travel lanes where other vehicles may be present. The legislature did not intend to prohibit the brief, possibly incidental crossing of the edgeway. For these reasons, this court should affirm the motion judge's finding that a "fog line" is not a marked lane for the purposes of Section 4A.

B. Even if the term "lane" in Section 4A encompasses a fog line, the motion judge correctly concluded that because the Commonwealth failed to elicit any evidence that the Defendant crossed the fog line in an unsafe manner, the Commonwealth did not establish reasonable suspicion of a marked lanes violation

In order to establish a violation of Section 4A, the plain language of the statute requires some evidence of unsafe movement. By including the clause that a driver "shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety", the legislature evidenced its intent to prohibit unsafe lane travel. The legislature anticipated that motorists would need to travel across lanes and did not intend to prohibit brief incidental movement absent a showing that the movement was done in an unsafe manner. This interpretation is supported by

like statutes throughout jurisdictions across the country.

In its decision, the Appeals Court suggests that because the judge found that the defendant drove out of his marked lanes, that ended the inquiry and the marked lane violation was established; this is not the case. The district court judge was still entitled to determine if the crossing of the marked lanes was unsafe. Given the short nature of the two to three second crossing, the Commonwealth would have had the burden to show that there was no reason for the crossing and that it was done unsafely. Case law in a multitude of other states supports this Court finding that a lane roadway violation should require proof of some unsafe vehicle operation.

Courts across the United States have found that incidental traffic violations do not form the basis of reasonable suspicion to stop a motor vehicle. In Dods v. State, 240 P.3d 1208 (Wyoming 2010), the Wyoming Supreme Court found that "when an officer merely observes someone drive a vehicle outside the marked lane, he does not automatically have probable cause to stop that person for a traffic violation. The use of the phrase "as nearly as practicable" in the statute

precludes such absolute standards and requires a fact-specific inquiry to assess whether an officer has probable cause to believe that a violation has occurred." Dods at 1212. The Dods Court found that the facts of the defendant's one-time deviation did constitute a violation of Wyoming law, "[g]iven the length and distance of Dods' drift." Dods at 1212.

Courts in Ohio have specifically found that the state must prove an element of unsafe driving in order to establish a violation of Ohio's traffic law "Rules for driving in marked lanes," which reads as follows:

[w]henver any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle or trackless trolley shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.

R.C. 4511.33(A) (1). In State v. Barner, 2004 WL 2535394, (Ohio. App. 2004), the Court of Appeals of Ohio, Ninth District, determined that, "in order to sustain a conviction pursuant to R.C. 4511.33(A), the State must put forth evidence that the driver of a vehicle moving either between lanes of traffic or completely out of a

lane of traffic failed to ascertain the safety of such movement prior to making the movement." In State v. Ross, 990 N.E.2d 1127, (Ohio. App. 2013), the Court of Appeals of Ohio, Ninth District, extended the holding of the Barner Court to a case involving circumstances like those of the case before this Court. In Ross, "[w]hen questioned, the trooper confirmed that he saw the vehicle travel over the fog line with both the front and rear tires on the passenger side. The trooper offered no testimony evidencing that Mr. Ross failed to ascertain the safety of such movement prior to making the movement." Ross at 1130. The Ross Court found that "[a]s the State failed to present evidence that the defendant failed to ascertain the safety of his movement outside of the marked lane prior to making the movement, it failed to present sufficient evidence to support a finding of guilty based upon a violation of R.C. 4511.33." Ross at 1131. The Ross court declined to extend the holding of State v. Mays, 894 N.E.2d 1204, (Ohio 2008) which found, "a traffic stop is constitutionally valid when a law-enforcement officer witnesses a motorist drift over the lane markings in violation of R.C. 4511.33, even without further evidence of erratic or unsafe driving."

In State v. Ross, 149 P.3d 876 (Kan. App. 2007), the Kansas Appeals Court found that one instance of crossing the fog line only briefly did not establish reasonable suspicion for a traffic stop. The Ross Court found that the police officer lacked reasonable suspicion for a traffic stop as there was no evidence presented that the defendant was engaging in conduct that was at the "heart of the statute: moving a vehicle from its lane of travel without first ascertaining that it could be done safely." Ross at 880.

In State v. Marx, 215 P.3d 601 (2009), the Kansas Supreme Court upheld the allowance of a motion to suppress finding that the State did not show it was practical to maintain travel in a single lane. The Marx Court based this finding on the facts presented by the state, which were that "the defendant's vehicle was not weaving back and forth time and time again, but rather the deputy only observed one instance where the motor home did not maintain a single lane. The court went on to state that there was no testimony was offered as to how far the motor home crossed either the fog line or the centerline...the deputy had shared no information about the traffic conditions." Marx at 675. Additionally, State v. Miles, 387 P.3d 866,

(Kansas. App. 2017), the Kansas Court of Appeals extended the Marx holding and found that a single breach can constitute a a lane violation when the single breach is more than "incidental than minimal." Miles at 7 (quoting Marx). The Miles Court stated that making this determination "necessarily requires a court to consider the magnitude of the alleged breach." Miles at 7.

The Maryland Court of Appeals in Rowe v. State, 769 A.2d 879 (Maryland 2001), found that "[p]etitioner's momentary crossing of the edge line of the roadway and later touching of that line did not amount to an unsafe lane change or unsafe entry onto the roadway, conduct prohibited by § 21-309, and, thus, cannot support the traffic stop in this case." Additionally, the Texas Court of Appeals in Ehrhart v. State, 9 S.W.3d 929, (Tx.App. 2000), found that a violation of failure to maintain a single lane cannot be found without evidence that the movement was dangerous or unsafe. See State v. Cerny, 28 S.W. 3d 796 (Tex. App. 2000) (interpreting Texas statute for Offense of Failure to Maintain Single Lane of Traffic to require a belief that lane movement is unsafe).

Further, in Jordan v. State, 831 So. 2d 1241 (Fla.5TH DCA 2002), the Florida 5th District Court of

Appeals held that a traffic stop for failure to maintain a single lane was unlawful where there was no evidence that the vehicle's movements created any danger, "[t]he applicable statute in this case recognizes that it is not practicable, perhaps not even possible, for a motorist to maintain a single lane at all times and that the crucial concern is safety rather than precision." See also Crooks v. State, 710 So. 2d 1041 (Fla. 2nd DCA 1998), holding that a reasonable suspicion for a vehicle stop under 316.089. Driving on roadways laned for traffic, requires both a showing that the vehicle was outside the "practicable lane" and that the driver failed to ascertain that his movements could be made with safety.

The 10th circuit in United States v. Gregory, 79 F.3d 973 (10th Cir. 1996), found that in interpreting Utah law, an isolated incident of a vehicle crossing into the emergency lane of a roadway is not a violation of Utah law, and that the statute requires only that the vehicle remain entirely in a single lane "as nearly as practical." The Gregory case involved evidence that the road was winding, and it was a windy day, and the Gregory Court pointed out that the motorist could have decided to pull over and changed his mind and that one isolated

marked lane violation did not provide reasonable suspicion for criminal activity. See also Galindo v. State, 949 So.2d 951 (Alabama 2005), "I find persuasive the rationale used by those courts that have found a single, minor lane deviation to be insufficient to provide the probable cause or reasonable suspicion necessary to justify a stop." See State v Caron, 534 A.2d 978 (Maine 1978), "A vehicle's brief, one time straddling of the center line of an undivided highway is a common occurrence and, in the absence of oncoming or passing traffic, without erratic operation or other unusual circumstances, does not justify an intrusive stop by a police officer." (See State v. Lafferty, 291 Mont. 157 (Mont. 1998) which held that barely crossing the fog line on the far right hand side of the right traffic lane did not amount to "[m]oving from a marked traffic lane to another marked traffic lane."²

² A subsequent Montana case, State v. Flynn, 251 P.3d 143 (Mont 2011), declined to rely on Lafferty, stating "we take this opportunity to clarify that a defendant's after-the-fact explanation for his or her conduct has no bearing on a court's determination of whether an officer possessed particularized suspicion to justify a stop. The extent to which Morris and Lafferty improperly relied on defendant testimony cannot be discerned. State v. Flynn, 359 Mont. 376, 251 P.3d 143, 2011 MT 48 (Mont., 2011)". This can be distinguished from the present case, where the motion judge was able to view video of the defendant momentarily crossing the fog line.

Even states that recognize a marked lane violation as reasonable suspicion for a traffic stop acknowledge the unsafe movement element of the offense. See State v. McBroom, 39 P.3d 226 (2002), “[w] agree with defendant that subsections (a) and (b) should be read together.” See also State v. Wolfer, 780 N.W.2d 650 (North Dakota 2010) “[c]rossing a fog line is not a violation of the law when remaining in the lane is not practicable.” (see also Leming v. State, 493 S.W.3d 552 (Texas 2016), “[F]ailing to stay entirely within a single lane is not an offense if it is prudent to deviate to some degree to avoid colliding with an unexpected fallen branch or a cyclist who has strayed from his bike lane.”

It is true that statutes in other jurisdictions include language indicating that travel should be “nearly as is practicable” within the lanes. This exact language is not present in Section 4A, however the phrase is arguably implied for pragmatic reasons. Presumably, the court would not intend a motorist to remain within a marked lane where it would not be reasonable to do so, such as in Leming, where a motorist may need to avoid a stray branch or a cyclist. It is reasonable to conclude that the statute did not intend absolute compliance to the marked lanes. This argument is further bolstered by

the language of the statute acknowledging the travel between lanes and requiring that that travel be done safely. The legislature did not intend to include a requirement that motorists operate within marked lanes even when not practicable. For these reasons, this court should interpret the statute, as other jurisdictions have interpreted their like statutes, to require a showing of unsafe driving to justify a stop under 4A.

The Commonwealth overstates what the Amicus and the motorist urge this Court to hold. A driver who continuously drives on the rumble strip would at that point be a threat to the safety of other motorists, and thus satisfy the "unsafe movement" requirement under the statute. The case at bar is limited by the fact that the crossing of the fog line was only two seconds. A different result may have occurred had the crossing happened over a longer period.

The Commonwealth further suggests that a driver could simply stay in the middle of the lane for a prolonged period and not commit a traffic violation if no other drivers were present on the road at that time. The Commonwealth's argument again strays from the facts of this case. The violation in the case before the Court was momentary and showed no indication of unsafe

operation or that the driver was not paying attention to the road.

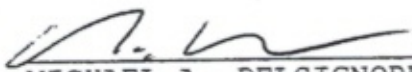
The legislature anticipated that motorists would need to travel across lanes and did not intend to prohibit brief incidental movement absent a showing that the movement was done in an unsafe manner. Numerous jurisdictions have interpreted their like statutes to require unsafe movement to establish reasonable suspicion to stop a motor vehicle. This court should affirm the motion judge's holding that the defendant's brief crossing of the lanes, not done in an unsafe manner, was insufficient justification for the officer to stop the defendant.

CONCLUSION

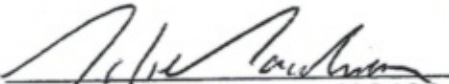
This Court should find that the plain language of G. L. c. 89, § 4A, does not encompass the fog line in its meaning of the term "lane." Finally, this Court should follow the reasoning and conclusions of the courts of numerous states across the country and require more than an incidental or minimal crossing of the lane to justify a traffic stop pursuant to the statute. The facts of this case are ideal to establish this rule in Massachusetts, as the evidence is clear from the video that the crossing of the defendant's vehicle over the fog line was only two (2) to (3) seconds. Additionally, no issues with the vehicle's speed or any other factor showing unsafe operation of the vehicle were alleged.

**AMICUS CURIAE
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Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

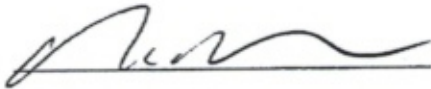
I certify that this brief complies with the rules of court that pertain to the filing of briefs, including but not limited to, Mass. R. App. P. 16(a)(6) (pertinent findings or memorandum of decision); Mass. R. App. P. 16(e) (reference to the record); Mass. R. App. P. 16(f) (reproduction of statutes, rules, regulations); Mass. R. App. P. 16(h) (length of the brief); Mass. R. App. P. 18 (appendix to the brief); and Mass. R. App. P. (forms of briefs appendices and other papers).



MICHAEL A. DELSIGNORE

CERTIFICATE OF SERVICE

I hereby certify that I forwarded two copies of the foregoing brief to counsel for the Commonwealth, Thomas H. Townsend, Assistant District Attorney Chief, Appellate Division, 1 One Gleason Plaza, Northampton, MA 01060, and counsel for defendant, David Rassoul Rangaviz and Paul Rudof, Committee for Public Counsel Services 44 Bromfield Street, Boston, MA 02108, on this the 3rd day of December 2018.

A handwritten signature in black ink, appearing to read "Michael A. DelSignore", written over a horizontal line.

MICHAEL A. DELSIGNORE

ADDENDUM

TABLE OF CONTENTS

Manual on Uniform Traffic Control Devices,
§ 3B.06.....Add.1

Manual on Uniform Traffic Control Devices,
§ 3A.05.....Add.3

drivers on opposing approaches a less obstructed view of opposing through traffic, white pavement markings may be used to form channelizing islands as shown in Figure 2B-17.

28 Solid white lane line markings may be used to separate through traffic lanes from auxiliary lanes, such as an added uphill truck lane or a preferential lane (see Section 3D.02).

29 Wide solid lane line markings may be used for greater emphasis.

Standard:

30 **Where crossing the lane line markings is prohibited, the lane line markings shall consist of a solid double white line (see Figure 3B-12).**

Section 3B.05 Other White Longitudinal Pavement Markings

Standard:

01 **A channelizing line shall be a wide or double solid white line.**

Option:

02 Channelizing lines may be used to form channelizing islands where traffic traveling in the same direction is permitted on both sides of the island.

Standard:

03 **Other pavement markings in the channelizing island area shall be white.**

Support:

04 Examples of channelizing line applications are shown in Figures 3B-8, 3B-9, and 3B-10, and in Drawing C of Figure 3B-15.

05 Channelizing lines at exit ramps as shown in Figures 3B-8 and 3B-10 define the neutral area, direct exiting traffic at the proper angle for smooth divergence from the main lanes into the ramp, and reduce the probability of colliding with objects adjacent to the roadway.

06 Channelizing lines at entrance ramps as shown in Figures 3B-9 and 3B-10 promote orderly and efficient merging with the through traffic.

Standard:

07 **For all exit ramps and for entrance ramps with parallel acceleration lanes, channelizing lines shall be placed on both sides of the neutral area (see Figures 3B-8 and 3B-10 and Drawing A of Figure 3B-9).**

08 **For entrance ramps with tapered acceleration lanes, channelizing lines shall be placed along both sides of the neutral area to a point at least one-half of the distance to the theoretical gore (see Drawing C of Figure 3B-9).**

Option:

09 For entrance ramps with tapered acceleration lanes, the channelizing lines may extend to the theoretical gore as shown in Drawing B of Figure 3B-9.

10 White chevron crosshatch markings (see Section 3B.24) may be placed in the neutral area of exit ramp and entrance ramp gores for special emphasis as shown in Figures 3B-8 and 3B-10 and Drawing A of Figure 3B-9. The channelizing lines and the optional chevron crosshatch markings at exit ramp and entrance ramp gores may be supplemented with white retroreflective or internally illuminated raised pavement markers (see Sections 3B.11 and 3B.13) for enhanced nighttime visibility.

Section 3B.06 Edge Line Pavement Markings

Standard:

01 **If used, edge line pavement markings shall delineate the right or left edges of a roadway.**

02 **Except for dotted edge line extensions (see Section 3B.08), edge line markings shall not be continued through intersections or major driveways.**

03 **If used on the roadways of divided highways or one-way streets, or on any ramp in the direction of travel, left edge line pavement markings shall consist of a normal solid yellow line to delineate the left-hand edge of a roadway or to indicate driving or passing restrictions left of these markings.**

04 **If used, right edge line pavement markings shall consist of a normal solid white line to delineate the right-hand edge of the roadway.**

Guidance:

05 *Edge line markings should not be broken for minor driveways.*

Support:

06 *Edge line markings have unique value as visual references to guide road users during adverse weather and visibility conditions.*

Option:

07 *Wide solid edge line markings may be used for greater emphasis.*

Section 3B.07 Warrants for Use of Edge Lines

Standard:

01 **Edge line markings shall be placed on paved streets or highways with the following characteristics:**

A. Freeways,

B. Expressways, and

C. Rural arterials with a traveled way of 20 feet or more in width and an ADT of 6,000 vehicles per day or greater.

Guidance:

02 *Edge line markings should be placed on paved streets or highways with the following characteristics:*

A. Rural arterials and collectors with a traveled way of 20 feet or more in width and an ADT of 3,000 vehicles per day or greater.

B. At other paved streets and highways where an engineering study indicates a need for edge line markings.

03 *Edge line markings should not be placed where an engineering study or engineering judgment indicates that providing them is likely to decrease safety.*

Option:

04 *Edge line markings may be placed on streets and highways with or without center line markings.*

05 *Edge line markings may be excluded, based on engineering judgment, for reasons such as if the traveled way edges are delineated by curbs, parking, or other markings.*

06 *If a bicycle lane is marked on the outside portion of the traveled way, the edge line that would mark the outside edge of the bicycle lane may be omitted.*

07 *Edge line markings may be used where edge delineation is desirable to minimize unnecessary driving on paved shoulders or on refuge areas that have lesser structural pavement strength than the adjacent roadway.*

Section 3B.08 Extensions Through Intersections or Interchanges

Add. 2

Section 3A.04 Materials

Support:

01 Pavement and curb markings are commonly placed by using paints or thermoplastics; however, other suitable marking materials, including raised pavement markers and colored pavements, are also used. Delineators and channelizing devices are visibly placed in a vertical position similar to signs above the roadway.

02 Some marking systems consist of clumps or droplets of material with visible open spaces of bare pavement between the material droplets. These marking systems can function in a manner that is similar to the marking systems that completely cover the pavement surface and are suitable for use as pavement markings if they meet the other pavement marking requirements of the highway agency.

Guidance:

03 *The materials used for markings should provide the specified color throughout their useful life.*

04 *Consideration should be given to selecting pavement marking materials that will minimize tripping or loss of traction for road users, including pedestrians, bicyclists, and motorcyclists.*

05 *Delineators should not present a vertical or horizontal clearance obstacle for pedestrians.*

Section 3A.05 Colors

Standard:

01 **Markings shall be yellow, white, red, blue, or purple. The colors for markings shall conform to the standard highway colors. Black in conjunction with one of the colors mentioned in the first sentence of this paragraph shall be a usable color.**

02 **When used, white markings for longitudinal lines shall delineate:**

- A. The separation of traffic flows in the same direction, or**
- B. The right-hand edge of the roadway.**

03 **When used, yellow markings for longitudinal lines shall delineate:**

- A. The separation of traffic traveling in opposite directions,**
- B. The left-hand edge of the roadways of divided highways and one-way streets or ramps, or**
- C. The separation of two-way left-turn lanes and reversible lanes from other lanes.**

04 **When used, red raised pavement markers or delineators shall delineate:**

- A. Truck escape ramps, or**
- B. One-way roadways, ramps, or travel lanes that shall not be entered or used in the direction from which the markers are visible.**

05 **When used, blue markings shall supplement white markings for parking spaces for persons with disabilities.**

06 **When used, purple markings shall supplement lane line or edge line markings for toll plaza approach lanes that are restricted to use only by vehicles with registered electronic toll collection accounts.**

Option:

07 Colors used for official route shield signs (see [Section 2D.11](#)) may be used as colors of symbol markings to simulate route shields on the pavement (see [Section 3B.20](#).)

08 Black may be used in combination with the colors mentioned in the first sentence of [Paragraph 1](#)

where a light-colored pavement does not provide sufficient contrast with the markings.

Support:

09 When used in combination with other colors, black is not considered a marking color, but only a contrast-enhancing system for the markings.

Section 3A.06 Functions, Widths, and Patterns of Longitudinal Pavement Markings

Standard:

01 The general functions of longitudinal lines shall be:

- A. A double line indicates maximum or special restrictions,
- B. A solid line discourages or prohibits crossing (depending on the specific application),
- C. A broken line indicates a permissive condition, and
- D. A dotted line provides guidance or warning of a downstream change in lane function.

02 The widths and patterns of longitudinal lines shall be as follows:

- A. Normal line—4 to 6 inches wide.
- B. Wide line—at least twice the width of a normal line.
- C. Double line—two parallel lines separated by a discernible space.
- D. Broken line—normal line segments separated by gaps.
- E. Dotted line—noticeably shorter line segments separated by shorter gaps than used for a broken line. The width of a dotted line extension shall be at least the same as the width of the line it extends.

Support:

03 The width of the line indicates the degree of emphasis.

Guidance:

04 Broken lines should consist of 10-foot line segments and 30-foot gaps, or dimensions in a similar ratio of line segments to gaps as appropriate for traffic speeds and need for delineation.

Support:

05 Patterns for dotted lines depend on the application (see Sections 3B.04 and 3B.08.)

Guidance:

06 A dotted line for line extensions within an intersection or taper area should consist of 2-foot line segments and 2- to 6-foot gaps. A dotted line used as a lane line should consist of 3-foot line segments and 9-foot gaps.

[Back to Top](#)

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