

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

Appellant,

vs.

RONALD ROSADO,

Appellee.

_____ /

Appeal from the County Court
for Orange County, Florida
Adam K. McGinnis, County Court Judge

Jeffrey L. Ashton, State Attorney
and Brandon F. Dark, Assistant State Attorney
for Appellant

Stuart I. Hyman, Esq.
for Appellee

Before MYERS, JR., O’KANE and UNDERWOOD, J.J.

PER CURIAM.

FINAL ORDER REVERSING TRIAL COURT ORDER AND REMANDING

Following a crash investigation, Ronald Rosado (“Appellee”) was detained for a driving under the influence (“DUI”) investigation. The trial court granted Appellee’s Motion to Suppress all evidence derived from Appellee’s detention. The State (“Appellant”) appeals. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1). We reverse and remand.

The trial court used the incorrect legal standard, probable cause, rather than the correct legal standard, reasonable suspicion, in determining whether Appellee was illegally detained pursuant to a DUI investigation. *See State v. Taylor*, 648 So. 2d 701, 703 (Fla. 1995). At the

hearing, Appellant and Appellee interchangeably used probable cause and reasonable suspicion when arguing to the trial court about the legality of Appellant's detention, and the trial court ruled that the trooper did not have probable cause to detain Appellee. Although the trial court made findings, the lack of specificity within the factual findings precludes this Court from conducting a *de novo* application of the law to the facts.

Therefore, this case will be reversed and remanded for the trial court to apply the proper legal standard and determine whether the trooper had reasonable suspicion to conduct a DUI investigation under the totality of the circumstances.¹ *See State v. Bell*, 873 So. 2d 476, 477-78 (Fla. 2d DCA 2004). Additionally, "[t]he trial court, in its discretion, may allow additional testimony or make the factual findings based solely on the existing record." *State v. Deference*, 807 So. 2d 806, 807-08 (Fla. 4th DCA 2002).

It is therefore **ORDERED AND ADJUDGED** that the trial court's order granting Appellee's Motion to Suppress is **REVERSED** and **REMANDED** for further proceedings consistent with this Opinion.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this 1st day of August, 2016.

/S/

DONALD A. MYERS, JR.
Presiding Circuit Court Judge

O'KANE and UNDERWOOD, J.J., concur.

¹"Suppression issues are extraordinarily rich in diversity and run the gamut from (1) pure questions of fact, to (2) mixed questions of law and fact, to (3) pure questions of law. Reviewing courts must exercise care when examining such issues, for while the issues themselves may be posed in broad legal terms (e.g., whether a suspect was 'in custody,' whether conduct by police constituted 'interrogation'), the actual ruling is often discrete and factual (e.g., whether police did in fact tell a suspect he was free to go, whether police did in fact ask a suspect if he committed the crime)." *State v. Glatzmayer*, 789 So. 2d 297, 301 (Fla. 2001).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **The Honorable Adam McGinnis, County Court Judge**, 425 N. Orange Avenue, Suite 465, Orlando, Florida 32801; **Brandon F. Dark, Assistant State Attorney**, 415 N. Orange Avenue, Ste. 200, Orlando, Florida 32802; and to **Stuart I. Hyman, P.A.**, 1520 East Amelia Street, Orlando, Florida 32803
this 2nd day of August, 2016.

/S/ _____
Judicial Assistant