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

CASE NO: 2010-AP-34 Lower Court Case No: 2010-CT-847

KATHY RENEE BLAKEY,

Appellant,

vs.

STATE OF FLORIDA,

Appellee.

Appeal from the County Court, for Orange County, Florida, Faye Allen, County Court Judge

Robert Wesley, Public Defender and Daniel Blundy, Assistant Public Defender, for Appellant

No Appearance for Appellee

Before POWELL, WHITEHEAD, and BRONSON, J.J.

PER CURIAM.

FINAL ORDER REVERSING TRIAL COURT

Appellant Kathy Blakey appeals her conviction for DUI, contending that the trial court erred in denying her pretrial motion to suppress on the grounds that the stop of her vehicle was unlawful. We have carefully reviewed the record on appeal, the Initial Brief of Appellant, the transcript of the motion hearing, and the applicable legal authorities. We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320, and reverse.

The undisputed evidence presented at the hearing can be summarized as follows. The arresting officer saw Appellant make a U-Turn at a traffic light intersection and proceed back in

the opposite direction. The intersection had only one posted sign saying "No Left Turn." It did not have a sign saying "No U-turn." There was no objective evidence in the record that this movement was made unsafely, or interfered with other traffic, or was prohibited by a posted traffic sign in violation of section 316.1515, Florida Statutes, or that the U-Turn was made upon a curve or approach to a dangerous grade in violation of section 316.152, Florida Statutes. *Compare Bender v. State*, 737 So. 2d 1181 (Fla. 1st DCA 1999) (improper U-Turn; stop valid), *and State v. Y.Q.R.*, 50 So. 3d 751 (Fla. 2d DCA 2010) (improper left turn; stop valid), *with Beahan v. State*, 41 So. 3d 1000 (Fla. 1st DCA 2010) (stop for U-Turn questionable). Nor was there record evidence that Appellant violated any other traffic law or operated her vehicle in an unusual manner so as to invoke the officer's public safety concerns.

We agree with Appellant that the stop was not justified. Since her motion was dispositive, and it was reversible error to deny it, we need not address her other argument.

REVERSED and **REMANDED** with directions to enter a new order granting Appellant's motion suppressing all evidence obtained as the result of the stop.

DONE AND ORDERED at Orlando, Florida this <u>2nd</u> day of <u>April</u>, 2012.

<u>_/S/</u> ROM W. POWELL Senior Judge

/S/ REGINALD WHITEHEAD Circuit Judge

THEOTIS BRONSON Circuit Judge

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to Daniel Blundy, Assistant Public Defender, 435 N. Orange Avenue, Ste. 400, Orlando, Florida 32801; Dugald McMillan, Assistant State Attorney, 415 N. Orange Avenue, Ste. 200, Orlando, Florida 32802-1673; and Honorable Faye Allen, 425 N. Orange Avenue, Orlando, Florida 32801, this <u>3rd</u> day of <u>April</u>, 2012.

_<u>/S/</u>_____

Judicial Assistant