

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
TARA A. STOEBE**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD76106

DATE: August 27, 2013

Appeal From:

Randolph County Circuit Court
The Honorable Scott A. Hayes, Judge

Appellate Judges:

Division Three: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

Attorneys:

Jennifer Rodewald, Jefferson City, MO, for appellant.

Ellen H. Flottman, Columbia, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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STATE OF MISSOURI,

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v.

TARA A. STOEBE,

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No. WD76106

Randolph County

Before Division Three: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

This is an interlocutory appeal by the State, pursuant to section 547.200.1(3), from the trial court's order sustaining Tara Stoebe's motion to suppress evidence in a criminal case where Stoebe is charged with possession of a controlled substance. The State contends that the trial court erred because (1) Stoebe was not illegally seized in violation of the Fourth Amendment and gave consent to search her purse during the reasonable investigation of a traffic stop; and (2) regardless of the lawfulness of her seizure, the search of Stoebe's purse did not violate the Fourth Amendment because Stoebe voluntarily consented to the search.

Affirmed.

Division Three holds:

(1) The State did not establish that Stoebe's consent to a search of her purse, if secured at all, was secured during the reasonable investigation of a traffic stop. Despite bearing the burden of going forward with evidence and the risk of nonpersuasion during the suppression hearing, the State adduced very little detail from the investigating officer such that the record contains no evidence from which a conclusion can be drawn as to the timing of Stoebe's purported consent and the completion of the reasonable investigation into the traffic stop.

(2) Alternatively, the State failed to show that the trial court clearly erred in finding that Stoebe's consent, if secured at all, was involuntary under the totality of the circumstances. The evidence indicated that the investigating officer engaged in persistent efforts to secure Stoebe's consent to search her entire vehicle under circumstances where Stoebe could reasonably have believed she had no alternative but to succumb to police authority.

Opinion by Cynthia L. Martin, Judge

August 27, 2013

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