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IN THE MUNICIPAL COURT OF SIDNEY, OHIO

STATE OF OHIO, * CASE NO. 04TRC02222

PLAINTIFF, *

FILE

-vs- FILED

ENTRY

DANNIE E. WILSON, NOV 22 2004

SIDNEY MUNICIPAL COURT
SIDNEY, OHIO

DEFENDANT. *

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A trial was held in this matter on the 21st day of October, 2004. The parties stipulated to the testimony of Officer Burmeister in its entirety as it was adduced at the hearing on Defendant's Motion to Suppress held on July 9, 2004, as well as the video taken at the time of arrest. Thereafter, the defense presented the testimony of the Defendant which was followed by cross-examination by the Prosecution.

The relevant facts are as follows:

1. The Defendant is not from Sidney and is not familiar with the streets;

2. The Defendant entered North Main Avenue at Jefferson Street and turned southbound;

3. North Main Avenue at Jefferson is one way northbound;

4. The Defendant refused to take the intoxilyzer test;

5. The Defendant consumed some alcohol prior to the stop.

CONCLUSIONS OF LAW

In order to prove the Defendant "under the influence" the State must prove that the alcohol so ingested by the Defendant so affected the nervous system, brain, or

muscles of the Defendant so as to impair, to a noticeable degree, his ability to operate the vehicle. Under the facts in this particular case the Court concludes that there was not sufficient evidence of such impairment to any noticeable degree. This is not to say that the officer did not have a reasonable and articulable suspicion to stop the Defendant as he was in fact going the wrong way on a one way street. But this act, without additional driving that could be considered erratic is not sufficient to determine that the Defendant was under the influence of alcohol.

The Court finds the Defendant not guilty.

Donald G. Luce, Judge

cc: Tonya Thieman, Prosecutor

Konrad Kuczak, Attorney for Defendant