DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,

Appellant,

v.

JOSHUA FREDERICK DUNLOP,

Appellee.

No. 2D2025-1506

October 30, 2026

Appeal from the Circuit Court for Manatee County; Jacqueline B. Steele, Judge.

James Uthmeier, Attorney General, Tallahassee, and Nicole Rochelle Smith, Assistant Attorney General, Tampa, for Appellant.

Courtney M. Benson of CMB Law LLC, Bradenton, for Appellee.

PER CURIAM.

Affirmed. *See Peterson v. State*, 264 So. 3d 1183, 1188 (Fla. 2d DCA 2019) ("This court, along with other Florida appellate courts, has refused to find a violation of [section 316.089(1), Florida Statutes (2015),] where a driver's failure to maintain a single lane did not endanger himself or herself or anyone else." (first citing *Crooks v. State*, 710 So. 2d 1041, 1043 (Fla. 2d DCA 1998); and then citing *Hurd v. State*, 958 So. 2d 600, 603 (Fla. 4th DCA 2007))); *Crooks*, 710 So. 2d at 1043 ("Section

316.089 is similar to section 316.155, Florida Statutes (1995), governing the use of turn signals, in that a violation does not occur in isolation, but requires evidence that the driver's conduct created a reasonable safety concern." (citing *State v. Riley*, 638 So. 2d 507 (Fla. 1994))).

We certify this decision to be in direct conflict with *Ramos Perez v. State*, 51 Fla. L. Weekly D1525 (Fla. 6th DCA July 24, 2026), and *State v. Howard*, 411 So. 3d 558 (Fla. 5th DCA 2025).

Affirmed; conflict certified.

NORTHCUTT and MORRIS, JJ., Concur.
LUCAS, Chief Judge, Concurs in result only.

LUCAS, Chief Judge, Concurring in result only.

A Manatee County sheriff's deputy saw Joshua Dunlop driving his truck around midnight on State Road 64. He observed the truck swerve three to four times within the lines of its lane and then swerve over into the shoulder of the road an additional three to four times. In one instance, the deputy testified Dunlop's truck was "about half-way into the shoulder." The deputy stated he wasn't sure whether the driver was tired or intoxicated, so he initiated a traffic stop.

Following the deputy's investigation, the State charged Dunlop with one count of driving under the influence under section 316.193(2)(b)2, Florida Statutes (2024), and one count of failure to obey driver license restrictions under section 322.16, Florida Statutes (2024). Dunlop filed a motion to suppress, which the county court granted. In its order, the court cited our court's decision in *Crooks v. State*, 710 So. 2d 1041 (Fla. 2d DCA 1998), and found that Dunlop "was not driving in a rapid, slow, erratic, or aggressive manner." The court further found that he did not "interfere with any other traffic or present a danger to the motoring public." Thus, his "movements" within and outside his lane of traffic did

not provide a sufficiently objective basis or reasonable suspicion to justify a traffic stop.

The State has appealed the county court's order, which we are now affirming. I concur in that result because we are still bound to follow *Crooks* and its progeny. Respectfully, though, I think the *Crooks* panel put an improper gloss on section 316.089(1)[1] when it held that a lane change violation under the statute requires "evidence that the driver's conduct created a reasonable safety concern," *id.* at 1043 (citing *State v. Riley*, 638 So. 2d 507 (Fla. 1994)), in order to give rise to a reasonable suspicion to justify a traffic stop.[2] That requirement misconstrues the statute's text.

With an unelaborated citation to *Riley*, 638 So. 2d 507, *Crooks* likened section 316.089(1), which governs lane changes, to section 316.155(1), which applies to turn signals, even though they are different statutes, they address different aspects of driving, and their language is markedly different. *Riley* did indeed hold that a violation of section 316.155(1), Florida Statutes (1991) "requires a signal [only] if another vehicle would be affected by the turn." 638 So. 2d at 508. That holding made sense because section 316.155(1)'s language at the time *Riley* was decided provided that "[n]o person may turn a vehicle from a direct

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[1] On appeal, the State maintains that this was the statute that justified the deputy's investigatory stop.

[2] *See Kansas v. Glover*, 589 U.S. 376, 380 (2020) ("Under this Court's precedents, the Fourth Amendment permits an officer to initiate a brief investigative traffic stop when he has 'a particularized and objective basis for suspecting the particular person stopped of criminal activity.' " (first quoting *United States v. Cortez*, 449 U.S. 411, 417–18 (1981); and then citing *Terry v. Ohio*, 392 U.S. 1, 21–22 (1968))).

course[3] upon a highway unless and until such movement can be made with reasonable safety, *and then only* after giving an appropriate signal in the manner hereinafter provided, *in the event any other vehicle may be affected by the movement*." (Emphasis added.)

Section 316.089(1) is worded differently. Section 316.089(1) contains two separate, distinct requirements when driving on a laned road: "A vehicle shall be driven as nearly as practicable entirely within a single lane *and* shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety." (Emphasis added.) The first requirement—that a vehicle be driven "as nearly as practicable entirely within a single lane"—stands on its own because the second requirement—not to move from a lane "until the driver has first ascertained that such movement can be made with safety"—is separated by "and" and concerns a distinct kind of proscribed activity.[4] In other words, when a driver intends to drive in a single lane, he or she must stay in that lane as nearly as practicable. That's the first part of the statute. If a driver intends to change lanes, he or she must first ascertain the move can be done with safety. That's the second part.

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[3] The current version of section 316.155(1) provides that "[n]o person may turn a vehicle from a direct course *or move right or left* upon a highway unless and until such movement can be made with reasonable safety, and then only after giving an appropriate signal in the manner hereinafter provided, in the event any other vehicle may be affected by the movement." (Emphasis added.) That amendment is immaterial to my analysis.

[4] We can contrast section 316.089(1)'s "and," which, in its context, connotes different activities falling under the subsection's purview with 316.155(1)'s "and then," which indicates a continuity of the preceding parts to describe an overall unlawful action. *Cf. Pulsifer v. United States*, 601 U.S. 124, 151 (2024) ("[C]onjunctions are versatile words, which can work differently depending on context.").

Only the second part of the statute mentions anything about a threat to anyone else's safety. *Crooks*, however, compressed the two parts together, effectively modifying the first part to include qualifying language that only applied to the second part (while simultaneously confusing a supreme court precedent construing a different statute). *See Ham v. Portfolio Recovery Assocs.*, 308 So. 3d 942, 947 (Fla. 2020) ("[T]he goal of interpretation is to arrive at a 'fair reading' of the text by 'determining the application of [the] text to given facts on the basis of how a reasonable reader, fully competent in the language, would have understood the text at the time it was issued.' This requires a methodical and consistent approach involving 'faithful reliance upon the natural or reasonable meanings of language' and 'choosing always a meaning that the text will sensibly bear by the fair use of language.' " (second alteration in original) (citation omitted) (first quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 33 (2012); and then quoting Frederick J. de Sloovère, *Textual Interpretation of Statutes*, 11 N.Y.U. L.Q. Rev. 538, 541 (1934))).

The Fifth District held that a violation of section 316.089(1) can arise "irrespective of whether anyone is endangered." *Yanes v. State*, 877 So. 2d 25, 27 (Fla. 5th DCA 2004). In my view, that is the better construction of section 316.089(1)'s text. If we were writing on a clean slate, I would align our court's interpretation of the statute with the Fifth District's.

Opinion subject to revision prior to official publication.