

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

LARRY D. ODUM,

Appellant,

v.

Case No. 5D07-1148

STATE OF FLORIDA,

Appellee.

Decision filed August 29, 2008

Appeal from the Circuit Court
for Lake County,
G. Richard Singeltary, Judge.

James S. Purdy, Public Defender, and
Meghan Ann Collins, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Jeffrey R. Casey,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED.

PALMER, C.J. and SAWAYA, J., concur.
COHEN, J., concurs specially, with opinion.

COHEN, J., concurs specially, with opinion.

I agree with the panel's decision to affirm Odum's convictions. I write, however, to address the admission of the arresting officer's report because I deem the error preserved. Odum was charged with felony DUI and refusal to submit to chemical or physical testing. The report memorialized the testifying officer's observations made during the time of the stop. In this case, that report was inadmissible hearsay, and the trial court erred in allowing it as evidence. See Burgess v. State, 831 So. 2d 137 (Fla. 2002). Nonetheless, after reviewing the evidence presented at trial, I conclude there is no reasonable possibility that the error affected the verdict. See State v. DiGuilio, 491 So. 2d 1129, 1139 (Fla. 1986). Thus, the error was harmless.