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**FORT PECK COURT OF APPEALS  
ASSINIBOINE AND SIOUX TRIBES  
FORT PECK INDIAN RESERVATION  
WOLF POINT, MONTANA**

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IN RE THE MATTER OF MARLENE  
GRANBOIS,  
Defendant/Appellant

**Appeal No. 183**

vs.

FORT PECK TRIBES,  
Plaintiff/Appellee.

**THIS APPEAL** is from a court verdict, entered on December 21, 1992, in which Defendant/Appellant was found guilty of driving while under the influence of alcohol.

**ARGUED:** March 5, 1993

**DECIDED:** May 7, 1993

**APPEARING FOR DEFENDANT/APPELLANT:** Melissa Buckles, Lay Law Advocate, P.O. Box 214, Wolf Point, Montana 59201. Argued orally and filed an appeal brief.

**APPEARING FOR PLAINTIFF/APPELLEE:** Clayton Reum, Tribal Prosecutor, P.O. Box 1027, Poplar, Montana 59255. Argued orally.

**HELD: JUDGMENT AFFIRMED; THERE IS SUFFICIENT EVIDENCE TO SUSTAIN APPELLANT'S CONVICTION.**

**FACTS**

Marlene Granbois was operating a vehicle in Poplar, Montana, on or about August 16, 1992. The vehicle was observed by Officer Ripley to swerve several times into the oncoming traffic lane (trial transcript, page 9,10.). Officer Ripley pursued the vehicle, stopped the vehicle and made observations which lead the officer to believe that Ms. Granbois was under the influence of alcohol (trial transcript, page 11, 12). After some field tests Ms. Granbois took a breathalyzer test, with a test result of .214 (trial transcript, page 20).

Appellant raised several issues on appeal, which are summarized as follows:

1. Lack of probable cause for arrest of DUI.
2. Unreasonable seizure absent probable cause and denial of equal protection.
3. Denial of speedy trial.

## DISCUSSION

The jurisdiction of the Court of Appeals is set forth in I CCOJ §202 as follows:

‘The jurisdiction of the Court of Appeals shall extend to all appeals from final orders and judgments of the Tribal Court. The Court of Appeals shall review de novo all determinations of the Tribal Court on matters of law, but shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence.’

### 1. Lack of probable cause.

The factual determinations as made by the Tribal Court are supported by substantial evidence. It is clear that the arresting officer had probable cause to stop the Appellant’s vehicle. The following testimony appears in the trial transcript:

Clayton Reum:	Okay. Now, can you tell the Court what led you to arrest the defendant? Or come in contact with the vehicle that she was driving?
Officer Ripley:	I turned left on, I believe . . B Street . . and began heading north on 6th Avenue East. And the defendant’s car was coming south bound. And she swerved in my lane about three blocks ahead of me. I noticed. And then as she approached closed, she swerved in my lane about half a block in front of me.
Clayton Reum:	Now when you say she swerved .. did she come directly in front of your vehicle?
Officer Ripley:	The second time was just about half .. the first time was about half way over and the second time was all the way into my lane.
Clayton Reum:	The first time was half-way over the center line, then .. and then the second was completely over into your lane.
Officer Ripley:	Yes.
Clayton Reum:	Alright. Now, when that occurred, what did you do next?
Officer Ripley:	I let the vehicle pass me and I pulled up behind it and turned on my top lights, pulled it over on C Street .. 500 Block, I believe.

Clayton Reum: And what did you find when you stopped this vehicle?  
Officer Ripley: I identified the driver as Marlene Granbois. And she was driving. The vehicle is registered to her. 1985 blue Olds, I believe. Her husband was in the passenger seat.

The officer observed and stopped the vehicle for erratic driving. After the officer's field tests and observations of Appellant, he clearly had probable cause for charging the Appellant with DUI. The officer is not obligated to charge every possible violation occurring in the officer's presence, and it was within his discretion and the discretion of the prosecution to charge Appellant with DUI here instead of a lesser offense.

2. **Unreasonable seizure and denial of equal protection.**

Having affirmed the conclusion that the arresting officer had probable cause for stopping Appellant's vehicle, and later for charging Appellant with DUI, the argument of denial of equal protection of the laws, 25 U.S.C. §1302, is rendered moot. We find the argument to be without merit.

3. **Lack of speedy trial.**

Appellant argues that she was denied a speedy trial in that her motion to dismiss was denied in the Tribal Court on October 9, and trial held on December 21 (appeal transcript, page 3). It appears that trial on the underlying charge was previously set, but continued due to motion considerations and the request of Defendant. REF. Denial of Motion to Dismiss, Honorable A.T. Stafne, December 15, 1992. We do not find the trial time table here to be either unreasonable or a violation of speedy trial provisions.

**CONCLUSIONS**

The judgment of the trial court is supported by substantial evidence.

The judgment is affirmed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

**BY THE COURT OF APPEALS:**

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GERARD M. SCHUSTER, CHIEF JUSTICE

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DEBRA A. JOHNSON, ASSOCIATE JUSTICE