

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: No. 99-10,233
	:
	:
vs.	: CRIMINAL
	:
MATTHEW CAPUTO,	:
Defendant	: Motion to Suppress

OPINION AND ORDER

This matter came before the Court for a summary appeal hearing on August 30, 1999. At the time scheduled for the hearing, defense counsel made an oral Motion to Suppress challenging the constitutionality of the sobriety checkpoint utilized by the police on November 28, 1998.

Based on the testimony presented, the Court finds that the sobriety checkpoint used in this case was in compliance with the United States and Pennsylvania constitutional standards.

The applicable law states the following test in determining the propriety of a traffic checkpoint.

First, the very decision to hold a drunk-driver roadblock, as well as the decision as to its time and place, should be matters reserved for prior administrative approval, thus removing the determination of those matters from the discretion of police officers in the field. In this connection it is essential that the route selected from the roadblock be one which, based on local experience, is likely to be traveled by intoxicated drivers. The time of the roadblock should be governed by the same consideration. Additionally, the question of which vehicles to stop at the roadblock should not be left to the unfettered discretion of police officers at the scene, but instead should be in accordance with objective standards prefixed by administrative decision.

Commonwealth v. Tarbert, 535 A.2d 1035, 1043 (Pa. 1987).

In the instant case, there was prior administrative approval for the checkpoint by Officer William Soloman of the Old Lycoming Township police department. Officer Soloman is the coordinator for the Lycoming County Sobriety Checkpoint and Expanded DUI Enforcement Program. In this capacity, Officer Soloman chose the checkpoint in question. A written plan was also prepared for the checkpoint by Officer Soloman. See Commonwealth Exhibit 2. The plan gave the motorist ample warning of the checkpoint by appropriate signing. No discretion was vested in individual officers regarding what vehicle were pulled over; every vehicle coming through the checkpoint was momentarily stopped.

The Court also finds Officer Soloman chose a location for the checkpoint which was likely to be traveled by intoxicated drivers. The checkpoint covered a three (3) mile segment of a limited access highway which bypasses Old Route 15 in Old Lycoming Township.¹ In choosing this location, Officer Soloman considered the accident statistics report from PennDOT entitled "Drinking Driver Crashes on State Highways, 1993-1997." See Commonwealth Exhibit 1. The statistics show five (5) alcohol related accidents in this specific three (3) mile area during the five (5) years of the study. Officer Soloman also utilized his personal knowledge of Old Lycoming Township police alcohol-related arrest records in his consideration of this location. Officer Soloman further considered the results of a check point at this very location in 1997, which culminated in five (5) arrests.

Officer Solomon also selected an appropriate time for the checkpoint. The

¹The Route number of this road is SR6015. See Commonwealth Exhibit 1.

checkpoint was in operation from Friday, November 27, 1998 at 10:30 p.m. until Saturday, November 28, 1998 at 3:30 a.m. Commonwealth's Exhibit 1 shows that of Old Lycoming Township's 22 reported drinking driver accidents from 1993-1997, 15 occurred on Friday, Saturday and Sunday. Commonwealth Exhibit 1 also shows that the heaviest concentration of accidents occurred between 8:00 p.m. and 4:00 a.m.² Further, Officer Solomon testified that this weekend was significant because it was the weekend after Thanksgiving, a time frame which in the past resulted in an unusual number of driving under the influence arrests of hunters traveling this highway.

Therefore, the Court finds the Officer Solomon's selection of this sobriety checkpoint was well thought out; it utilized a time, day of week and location, which based on Officer Soloman's experience was likely to lead to arrest of individuals who would be driving under the influence of alcohol.

Based on the forgoing discussion, the Court finds the checkpoint to be a reasonable exercise of decision making and to be consistent with the constitutional principle discussed by the Pennsylvania Appellate Courts. See Commonwealth v. Fioretti, 538 A.2d 570 (Pa.Super. 1988); Commonwealth v. Blouse, 611 A.2d 1177 (Pa. 1992).

²Nine (9) accidents occurred between 8:00 p.m. and 11:59 p.m. and seven (7) occurred between midnight and 3:59 a.m.

ORDER

AND NOW, this day of October, 1999, the Court DENIES the defendant's Motion to Suppress on the basis that the sobriety checkpoint utilized by the police in this case was constitutionally defective.

This Order will not comment on other issues raised in the defendant's suppression motion relating to the details of the specific stop of this defendant. Further testimony on these issues will be taken when the Court resumes the summary appeal and suppression hearing on such additional issues on December 21, 1999 at 9:00 a.m.

By The Court,

Kenneth D. Brown, J.

cc: Peter Campana, Esquire
 Robert Ferrell, Esquire (ADA)
 Work file