

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA  
COMMONWEALTH OF PENNSYLVANIA : No. 00-11, 280

VS. :

ROBERT L. HOOKER :

OPINION AND ORDER

Before the Court is Defendants Motion to Suppress. The Defendant is charged with driving under the influence as a result of an incident that occurred on May 26, 2000. On that date, the Defendant was involved in a vehicle accident at the intersection of Frederick Avenue and Dewey Avenue. Patrolman McCormick responded to the scene. Upon making contact with the Defendant, McCormick observed that his movements were slow and deliberate, and his speech was slurred. McCormick returned to his vehicle to complete a report. When he returned to the Defendant's vehicle, he found the Defendant leaning against the trunk of his vehicle. As the Defendant spoke, McCormick detected an odor of an alcoholic beverage on his breath.

McCormick requested that the Defendant perform three field sobriety tests. The Defendant failed all three tests. McCormick also administered a preliminary breath test, which resulted in a .15% positive reading for the presence of alcohol. The Defendant was then placed under arrest, and transported to the DUI Processing Center. At the processing center, the Defendant was turned over to Officer Lindauer. Officer Lindauer, a police officer with the Williamsport Bureau of Police, and Special County Detective, informed the Defendant of the Implied Consent Law, and requested that the Defendant submit a blood sample. The Defendant consented. The blood test revealed a blood alcohol content of .18%.

The Defendant now moves to suppress the results of the blood analysis. The Defendant argues that the police officers did not comply with the requirements of 75 Pa.C.S.A. §1547(b). That section provides:

(1) If any person placed under arrest for a violation of 3731 (relating to driving under influence of alcohol or controlled substance) is required to submit to chemical testing and refuses to do so, the testing shall not be conducted but upon notice by the police officer, the department shall suspend the operating privilege of the person for a period of 12 months .

(2) It shall be the duty of *the police officer* to inform the person that the person's operating privilege will be suspended upon refusal to submit to chemical testing.  
(*Emphasis added*)

The Defendant specifically argues that although he was informed of his rights, he was informed by the police officer at the DUI Processing Officer and not by his arresting officer. The question before the Court, therefore, is whether the legislature intended that only the arresting officer could inform a defendant of his rights. The General Assembly, in clarifying the proper approach to be used in the determination of legislative intent, stipulated that:

(a) The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions.

(b) When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of the statute are not explicit, the intention of the General Assembly may be ascertained by considering, among other matters:

- (1) The occasion and necessity for the statute.
- (2) The circumstances under which it was enacted.
- (3) The mischief to be remedied.
- (4) The object to be attained.
- (5) The former law, if any, including other statutes

upon the same or similar subjects.

(6) The consequences of a particular interpretation.

(7) The contemporaneous legislative history.

(8) Legislative and administrative interpretations of such statute.

[1 Pa.C.S.A. § 1921.](#)

Commonwealth v. Campbell, 2000 WL 1201553 (Pa.Super 2000).

We are to give the words of a statute their plain and ordinary meaning. Campbell, supra,

*citing* [Commonwealth v. Neckerauer](#), 421 Pa.Super. 255, 617 A.2d 1281

(Pa.Super.1992). Furthermore, we may not add provisions that the General Assembly

has omitted unless the phrase is necessary to the construction of the statute. Campbell,

*supra*, *citing* [Commonwealth v. Reeb](#), 406 Pa.Super. 28, 593 A.2d 853, 856). See

[Commonwealth v. Rieck Investment Corp.](#), 419 Pa. 52, 213 A.2d 277, 282

(Pa.Super.1965)("it is not for the courts to add, by interpretation, to a statute, a

requirement which the legislature did not see fit to include")

Applying these principles to the instant case, the Court finds that the statute in this case is clear and free of ambiguity. The statute provides that it is the duty of the police officer to inform a driver of his rights. The statute does not add the additional requirement that the "police officer" be the "arresting officer." It is not for the courts to add the requirement that the police officer who informs the driver of his rights may only be the arresting officer. The Court therefore rejects Defendant's argument that he was not properly informed of his rights by the police officer at the DUI Processing Center.

ORDER

AND NOW, this \_\_\_\_\_ day of December 2000, based upon the foregoing opinion,  
it is ORDERED and DIRECTED that the Defendant's Motion to Suppress is DENIED.

BY THE COURT,

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Nancy L. Butts, Judge

xc: Michael Dinges, Esquire  
Anthony Miele, Esquire  
CA  
Honorable Nancy L. Butts  
Judges  
Law Clerk  
Gary Weber, Esquire