

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO: 01-10,003

VS :

BRIAN GREGORY QUINN :

OPINION AND ORDER

Before the Court is Defendant's Petition for Habeas Corpus. The Defendant was charged with fleeing or attempting to elude a police officer, reckless driving, and failing to stop at a stop sign as a result of an incident that occurred on March 3, 2001. A Preliminary Hearing was held March 16, 2001 before District Magistrate Allen P. Page, after which, all charges were bound over. Defendant now argues that the Commonwealth failed to establish a prima facie case of the charge of fleeing or attempting to elude a police officer. The parties agreed to submit the motion on the transcript of the preliminary hearing. After a review of the transcript preliminary hearing, the Court finds the following facts relevant to the motion.

Officer Roy Snyder (Snyder), of the Williamsport Bureau of Police, testified that while on routine patrol on March 3, 2001, at 4:50p.m., he witnessed the Defendant's vehicle, a gray Plymouth Acclaim, parked on Second Street Extension, an area known for drug activity. The same afternoon, Snyder saw the Defendant's vehicle leaving Bridge Street, an area also known for drug activity. Snyder testified that his attention was drawn to the vehicle after having seen it in two known drug activity areas. (N.T. 3/16/01, p. 3) Snyder followed the Defendant's vehicle for a block. When the

Defendant failed to properly stop¹ at the intersection of Louisa and Elmira Streets, Snyder activated his emergency lights and siren. (Id., p. 4)

Snyder testified that as he turned onto Elmira Street, the Defendant was already approaching the turn onto Mountain Avenue. Snyder testified that he was not sure whether the Defendant accelerated after turning onto Mountain Avenue. (Id., p.19)

Snyder testified that the Defendant's vehicle stopped in a gravel parking area at the end of Mountain Avenue. (Id., p. 4)² Snyder testified that when he approached the Defendant's vehicle, the Defendant appeared to be attempting to open the car door to exit the vehicle. (Ibid.) Snyder testified that the Defendant's head and chest were partially out of the car. Snyder pulled his patrol vehicle closely alongside the Defendant's vehicle to prevent him from opening his car door and further exiting the vehicle. The Defendant was then taken into custody.

The issue before the Court is whether the Commonwealth established a prima facie case of fleeing or attempting to elude a police officer. To successfully establish a prima facie case, the Commonwealth must present sufficient evidence that a crime was committed and the probability the Defendant could be connected with the crime.

Commonwealth v. Wodjak, 502 Pa 359, 466 A.2d 991 (1983). Under 75 Pa.C.S.A. § 3733(a), any driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police officer, when given

¹ Snyder testified that he also did not believe that the Defendant used his signal to indicate his turn. Snyder testified that he briefly saw break lights, but that the Defendant slowed only slightly to negotiate the turn. (Id., p. 14)

² The Court notes that Mountain Avenue runs approximately one half block before coming to an abrupt sharp left. It was apparently where the street turns abruptly that the Defendant brought his vehicle to a rest.

visual or audible signal to bring the vehicle to a stop, commits a misdemeanor of the second degree.

In the instant case, the Court finds that the Commonwealth has not provided sufficient evidence to establish a prima facie case that the Defendant willfully failed or refused to bring his vehicle to a stop after being signaled to stop. The testimony established that at the time Snyder activated his lights and siren at the intersection of Louisa and Elmira Streets, the Defendant was already negotiating a turn from Elmira onto Mountain Avenue. At this point—with the vehicles approximately a block apart, -- there is no evidence indicating that the Defendant was even aware that Snyder had activated his lights. There is also no evidence that the Defendant accelerated after turning onto Mountain Avenue, in an attempt to get away from Snyder. Additionally, the Defendant only traveled approximately one-half block on Mountain Avenue before bringing his vehicle to a stop in a parking lot. The Court finds this evidence, without more, is insufficient to establish a prima facie case of the charge of fleeing and eluding.

ORDER

AND NOW, this ____ day of June 2001, based on the foregoing Opinion, it is ORDERED AND DIRECTED that the Defendant's Petition for Writ of Habeas Corpus is GRANTED.

By The Court,

Nancy L. Butts, Judge

cc: CA

Donald Martino, Esquire
Roan Confer, Esquire
Honorable Nancy L. Butts
Judges
Law Clerk
Gary Weber, Esquire