

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 02-10,984
	: :
vs.	: CRIMINAL DIVISION
	: :
JAMES R. MULL,	: :
Defendant	: Motion to Suppress

OPINION AND ORDER

Before the Court is Defendant’s Omnibus Pre-Trial Motion, filed July 1, 2002, containing only a motion to suppress. A hearing on the motion was held August 5, 2002.

Defendant has been charged with Driving Under the Influence of Alcohol and two related summary offenses, following his arrest on April 27, 2002, by the Pennsylvania State Police. The State Police had been alerted to Defendant’s erratic driving by an officer of the Montoursville Borough Police who witnessed such while driving home following his work shift that evening, in Upper Fairfield township (which is outside of the Borough), and who then followed Defendant until he stopped and stayed at Defendant’s location until the State Police arrived. In his pre-trial motion, Defendant contends the evidence obtained as a result of the stop must be suppressed as a violation of the Statewide Municipal Police Jurisdiction Act. The Court does not agree.

According to the officer’s testimony, after observing Defendant driving toward him in the wrong lane of travel on State Route 87 and having to drive off the roadway in order to avoid being hit, he turned around and followed Defendant. The officer then called the Montoursville Borough Police and advised them of the incident, asking them to have a car waiting at the Borough line. Defendant then pulled off Route 87 into his own driveway, before

reaching the Borough line, and turned off his lights. The officer then pulled off the roadway and parked on the berm in front of Defendant's residence. He radioed the State Police that he had been nearly hit by a possible DUI, that the vehicle had stopped, and gave the location. The dispatcher indicated that they were "sending a car." The officer then activated his flashing lights, got out of the vehicle and walked into the yard. While the testimony given by the officer and that given by Defendant differ from this point on concerning what transpired after the officer got out of his car, specifically whether Defendant was told to stay in his car or whether he waited there voluntarily, the Court believes there is no need to determine what actually happened, inasmuch as the Court finds the circumstances described fall within subsection (a)(3) of the Act.

The Act provides, in pertinent part:

(a) General rule.-Any duly employed municipal police officer who is within this Commonwealth, but beyond the territorial limits of his primary jurisdiction, shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction in the following cases:

...

(3) Where the officer has been requested to aid or assist any local, State or Federal law enforcement officer or park police officer or otherwise has probable cause to believe that the other officer is in need of aid or assistance.

42 Pa.C.S. Section 8953(a)(3). By indicating that they were "sending a car", the State Police in effect requested the officer's assistance in remaining at Defendant's location until the trooper arrived. In drawing this conclusion, the Court is mindful of the directive that the Act be liberally construed to effectuate its purposes, one of which has been declared to be that of

promoting a cohesive working relationship among police departments. Commonwealth v. McHugh, 605 A.2d 1265 (Pa.Super. 1992), quoting Commonwealth v. Ebersole, 492 A.2d 436, 438 (Pa.Super 1985). As in McHugh, the Borough police officer in the instant case did not act independently, but instead engaged in a cooperative effort with the State Police. Further, it matters not that the request came only in response to the officer's notification of Defendant's erratic driving. See Commonwealth v. McHugh, supra, (communications between officers initiated by officer outside of his jurisdiction, request nevertheless conferred jurisdiction under the Act).

The Court therefore finds the Borough police officer's actions were not violative of the Statewide Municipal Police Jurisdiction Act, and the evidence obtained as a result of the stop and arrest need not be suppressed.

ORDER

AND NOW, this day of August, 2002, for the foregoing reasons, Defendant's Motion to Suppress is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
 Michael Groulx, Esq.
 Gary Weber, Esq.
 Hon. Dudley Anderson