

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA : NO. 02-11,132  
:   
:   
vs. : CRIMINAL DIVISION  
: Motion to Suppress  
DANIEL R. SHEASLEY, :   
Defendant :

OPINION AND ORDER

Following a vehicle stop on April 15, 2002 by Trooper Rankey of the Pennsylvania State Police, Defendant was charged with two (2) counts of driving under the influence, driving on roadways laned for traffic, and careless driving. Defendant now seeks to suppress all evidence obtained as a result of the vehicle stop, contending the Trooper did not have probable cause to stop his vehicle.

An officer may stop a vehicle for further investigation if he has “articulable and reasonable grounds to suspect a violation” of the Vehicle Code. 75 Pa. C.S. Section 6308 (b). In the instant matter, according to the Affidavit of Probable Cause, the contents of which were offered into evidence by stipulation, as well as the testimony of Trooper Rankey, the Trooper stopped Defendant’s vehicle after the Trooper followed Defendant for approximately two miles, observing Defendant’s vehicle weave within its lane several times and cross the right fog line two times. It also appears from the Trooper’s testimony there were no adverse weather conditions and traffic was light at the time. After comparing these circumstances to those presented in other cases, the Court believes the Trooper’s observations were not sufficient to justify the stop.

In Commonwealth v Gleason, 785 A.2d 983 (Pa. Super. 2001), the vehicle crossed the fog line two to three times over the distance of ¼ mile on a four-lane divided highway on which there were no other vehicles at the time. The Court found such circumstances to be insufficient to support the stop. In Commonwealth v Battaglia, 802 A.2d 652 (Pa. Super. 2002), the vehicle was observed over the course of 2 ½ miles, was weaving from side to side within its lane, traveled from 5 to 10 mph

under the 35 mph speed limit, made a wide left turn and crossed the broken white line from the right lane into the left lane. Again the Court held such circumstances to be insufficient to support the stop. In Commonwealth v Slonaker, 795 A.2d 397 (Pa. Super. 2002), the vehicle was observed to travel over the white fog line completely onto the berm of the roadway three times during the course of being observed for five miles. The vehicle also drove over the centerline and over the fog line without going completely out of the lane and the vehicle's speed varied, from 40 mph to 60 mph in a 55 mph zone. Further, the vehicle was observed to continuously weave within its lane over the course of the five miles. These circumstances were found sufficient to justify a vehicle stop. Finally, in Commonwealth v Howard, 762 A.2d 360 (Pa. Super. 2000), the vehicle drove onto the berm two times, veered into the center of the roadway and crossed the yellow centerline. Again, these circumstances were determined sufficient to justify the stop.

The Court believes the instant circumstances of weaving several times and crossing the right fog line two times are more similar to those presented in Gleason and Battaglia than to those presented in Slonaker or Howard. The Court thus finds the vehicle stop was not justified and any evidence obtained as a result thereof must be suppressed.

#### ORDER

AND NOW, this 17<sup>th</sup> day of October, 2002, for the foregoing reasons, Defendant's Motion to Suppress is hereby granted and any evidence obtained as a result of the vehicle stop on April 15, 2002 is hereby suppressed.

By the Court,

Dudley N. Anderson, Judge

cc: DA  
PD  
Gary Weber, Esq.  
Hon. Dudley N. Anderson