

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 03-10,234
	:
	:
vs.	: CRIMINAL DIVISION
	: Motion to Suppress
DUSTIN MICHAEL HOFFMAN, SR.,	:
Defendant	:

OPINION AND ORDER

Defendant was charged with driving under the influence, possession of a controlled substance, possession of drug paraphernalia, resisting arrest, disorderly conduct, accident involving damage to attended vehicle/property, and two summary offenses, in connection with an incident on December 14, 2002. In the instant Motion to Suppress, filed March 27, 2003, Defendant contends the stop of his person violated his Fourth Amendment right to be free from unreasonable searches and seizures, specifically arguing that the stop was made without a reasonable suspicion that criminal activity was afoot, and further, that the statements given by Defendant upon questioning by the police were made without proper Miranda warnings. He therefore seeks to suppress any and all evidence obtained as a result of the stop. The hearing on the motion was held April 28, 2003.

According to the testimony of Pennsylvania State Trooper Russell Ramin, on December 14, 2002 just before 2:00 a.m., he and his partner were on patrol in a marked car when they were dispatched to the scene of an accident in front of Sweitzer’s Auto in Jersey Shore. Upon arriving at that location, Trooper Ramin observed an S-10 Chevy Blazer off the roadway, stuck on a cement post or barrier in the grassy area in front of Sweitzer’s. No one was seen around the vehicle although the door had been left opened. There was minor damage to the vehicle and it would have been drivable if it had not been stuck on the post or barrier. According to Trooper Ramin, the accident

would have happened within 25 minutes prior to this time, based upon their previous patrol in that area. Trooper Ramin then observed an individual who later turned out to be Defendant, looking around at he and his partner from behind a tool shed next to the Gamble Farm Inn that was just next door to Sweitzer's Auto. Trooper Ramin went around the shed although Defendant continued to watch his partner. When Trooper Ramin came up behind Defendant and asked him what he was doing there, Defendant said "ah f—k" and "took off running". Trooper Ramin then chased him, ordered him to stop and indicated that he was a state police officer, and after chasing Defendant a little more, caught him and took him to the ground. Defendant was handcuffed and then based upon his identity, the fact the vehicle was registered in his wife's name, the fact that he had the keys on him, the fact that he smelled like alcohol and his speech was slurred and that he failed a field sobriety test, arrested him for DUI. At that point, a custodial search of Defendant's pockets was made and two bags of marijuana were located in his pockets. Defendant's name was run through the system and it was discovered that a warrant for his arrest was outstanding. He was then placed in the police vehicle in order to be transported to the hospital for a blood test with respect to the DUI charge and as the troopers were leaving the parking lot, Trooper Ramin's partner read Defendant his Miranda rights. After indicating that he understood his rights, he then proceeded to answer questions posed to him by the officers.

As Defendant contends, a citizen may not be stopped and detained unless the officer has reasonable suspicion, based on specific and articulable facts, that criminal activity may be afoot. Commonwealth v Ayala, 791 A.2d 1202 (Pa. Super. 2002). In determining whether police had a reasonable suspicion that criminal activity may be afoot, the Court is to consider the totality of the factual circumstances, which existed at the time of the investigative detention. Id. This Court notes that flight is one of the factors to be considered in establishing reasonable suspicion. Id.; and also in the interest of DM, 781 A.2d 1161 (Pa. 2001). (not sure how you wanted this typed) The Court believes the circumstances, which were encountered by the troopers in the instant matter, did provide them with a reasonable suspicion necessary to justify the stop. The factors considered by the Court in drawing this conclusion are the accident itself, the time and location, Defendant's actions in hiding behind a shed and watching the officers' investigation, and then his statement of "disappointment" and

immediate flight upon being questioned by Trooper Ramin regarding his purpose for hiding behind the shed. The Court therefore finds the stop was justified and does not support Defendant's request for suppression of the evidence obtained as a result of that stop.

With respect to the second issue raised¹ that statements made by Defendant upon questioning by the troopers were made without the proper Miranda warnings, considering the testimony of Trooper Ramin that Defendant was read his Miranda warnings prior to questioning, that he understood them and that he proceeded to answer questions, the Court finds no merit to Defendant's contention.

ORDER

AND NOW, this 13th day of May, 2003, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

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

¹ Although not raised in the written Motion to Suppress, Defendant did request permission to orally amend that Motion, which permission was granted at the time of the hearing, to include this second issue.