

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 02-11,906
	:
	:
vs.	: CRIMINAL DIVISION
	: Motion to Suppress
RONNIE LEE REICHART,	:
Defendant	:

OPINION AND ORDER

Defendant has been charged with driving under the influence of alcohol (two counts) and related summary offenses following a vehicle stop by a roving patrol unit of the DUI Task Force on September 21, 2002. In the instant Motion to Suppress, filed February 5, 2003, Defendant contends the vehicle stop was unlawful, specifically, unsupported by probable cause to believe that Defendant had violated a provision of the Vehicle Code, and that the arrest itself was unlawful, specifically, unsupported by probable cause for arrest. A hearing on the motion was held February 28, 2003.

According to the testimony of William Hagemeyer of the Montoursville Police Department, he and a state trooper were participating in a roving patrol in an unmarked vehicle on September 21, 2002 when at approximately 11:44 p.m. Defendant’s vehicle was observed traveling north on Route 44. Officer Hagemeyer testified that Defendant’s vehicle was weaving across the centerline and crossed the centerline at least five times, once as it was rounding a bend at a narrow point in the road. Officer Hagemeyer also testified that Defendant was following only one-half vehicle length behind the car ahead and that at one point it appeared to accelerate as though to pass that vehicle but then braked abruptly and returned to its own lane. At that point, Officer Hagemeyer and the trooper effectuated a vehicle stop of Defendant’s vehicle. Officer Hagemeyer testified that upon approaching Defendant, he smelled an odor of alcohol about his person and on his breath and that his eyes were

“glossy”. The Officer administered a preliminary breath test which indicated the presence of alcohol and Defendant admitted to drinking two beers. The Officer administered field sobriety tests and was of the opinion that Defendant performed poorly. Officer Hagemeyer expressed his opinion that Defendant was under the influence of alcohol to a degree which rendered him incapable of safe driving.

The Court believes the testimony offered by Officer Hagemeyer supports a stop of the vehicle, as well as Defendant’s arrest for DUI. The Court finds the circumstances of the instant case to be sufficiently similar to those presented in Commonwealth v Slonaker, 795 A.2d 397 (Pa. Super. 2002) and Commonwealth v Howard, 762 A.2d 360 (Pa. Super. 2000), in which cases the Court determined that the circumstances therein justified the stops. Those circumstances included crossing the centerline of the roadway as well as driving onto the berm or weaving within the lane. While Defendant argues that the summary offense of driving on roadways laned for traffic with which he is charged provides that the vehicle shall be driven “as nearly as practicable” entirely within a single lane and does not absolutely prohibit crossing the centerline, the Court believes that crossing the centerline five times in the course of approximately one mile does not fall within the latitude granted by that section.¹

Once the vehicle stop was effectuated, Officer Hagemeyer’s observations of Defendant support his decision to arrest him for DUI. Specifically, the Officer’s observation of the odor of alcohol emanating from Defendant, Defendant’s admission to drinking and Defendant’s failure of field sobriety tests provide the probable cause necessary for the officer’s actions.

Inasmuch as both the stop and the arrest were supported by the requisite probable cause, the Court finds the Motion to Suppress must be denied.

¹ The Court notes Defendant did offer testimony from the passenger of the vehicle as well as from Defendant which contradicted the officer’s testimony of his observations that Defendant crossed the centerline five times. According to the passenger, he did not recall the vehicle crossing the line, he never felt as though Defendant were trying to pass another vehicle, and he felt that the vehicle ahead seemed at a comfortable distance. According to Defendant, he might have touched the centerline but he did not cross it. Defendant also testified he drove five to six car lengths behind the vehicle in front of him. To the extent this contradicting testimony presents the Court with an issue of credibility, the Court resolves that issue in favor of the Commonwealth.

ORDER

AND NOW, this 7th day of March, 2003, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

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