

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNA.

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
 :
V. :
 : No. 03-00,433
 :
DUSTIN MICHAEL HOFFMAN, SR. :
Defendant :

OPINION AND ORDER

The Petitioner, Dustin Hoffman, is before the Court Appealing his Suspension of Operating Privileges on the basis that the police officer had no probable cause to believe that he was driving and, therefore, his refusal of the chemical test would not justify the suspension.

In license suspension cases it is not necessary to have probable cause in the criminal sense. The Department of Transportation must only show that the Police Officer had reasonable grounds to believe that the motorist was operating, or actually controlling or operating movement of the motor vehicle while under the influence of alcohol. Dudek v. Commonwealth of Pennsylvania, Department of Transportation, 682 A.2nd 1349 (Pa. Cmwltth 1996). This is not a very demanding standard and requires only that a reasonable person in the Officer's position, viewing facts and circumstances, as they appeared at the time, could have concluded the motorist was operating a vehicle under the influence of intoxicating liquor. Id. at 1351.

The evidence presented by the Trooper, which the Court accepts as credible, revealed that he came to the scene at 2:12 a.m. and found the vehicle owned by Petitioner Hoffman's wife stuck on a light pole base approximately 30 feet from the road, facing in the wrong direction, and generally in the area of an establishment where alcoholic beverages are sold. The officer observed Petitioner Hoffman peeking out of a shack about 75 yards away. Mr. Hoffman started to run and was eventually tackled by the Trooper's partner. Petitioner Hoffman smelled of alcohol, admitted to driving, and subsequently denied driving. He had an odor of alcohol, bloodshot eyes, and could not stand without swaying. He failed the "one legged stand test". In short, the court concludes that a reasonable person in the position of Trooper Roth could have concluded that Mr. Hoffman was operating the vehicle in question and under the influence of alcohol. The incident took place in Jersey Shore, PA, and Petitioner Hoffman in fact resided in Lock Haven, PA.

ORDER

AND NOW, this 12th day of April, 2004, the Appeal of Petitioner Dustin M. Hoffman, is DENIED and the Supersedes is vacated, Mr. Hoffman's license suspension as issued by the Department of Transportation is re-imposed.

BY THE COURT,

Richard A. Gray, Judge

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