

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-541-2005
 : (05-10,541)
 vs. :
 : CRIMINAL
 EDWARD JOYNER, :
 Defendant : Motion to Suppress

OPINION AND ORDER

This matter came before the Court on Defendant's Motion to Suppress. The facts of this case are as follows:

1. Officer Dennis Gill of the Jersey Shore Police was on routine duty in the Jersey Shore Borough in the early morning hours of February 5, 2005 at or about 3:05 a.m. when he turned onto Hepburn Alley.

2. He had observed a vehicle that seemed to be speeding toward the alley, which was why he turned onto Hepburn Alley.

3. The officer traveled down to the end of the alley and turned onto Hazel Alley.

4. The officer then saw a vehicle parked in a parking lot off Hazel Alley. The officer was not sure if that was the same vehicle that he believed had been speeding.

5. The officer then continued on and parked in a nearby lot.

6. The officer then saw the same vehicle, which had stopped and parked in the lot on Hazel Alley coming back towards him. This vehicle turned on to Allegheny Street.

7. The officer then observed the vehicle turn onto

Mt. Pleasant Avenue and go into a second parking lot where it parked. The lights of this vehicle were off and the engine appeared to be off because it was in a full parked position.

8. The officer drove into the parking lot and decided to make a contact with the driver because he had gone into two (2) parking lots and stopped his vehicle for a short period of time.

9. The officer walked over to Defendant's vehicle. Defendant was in the driver's position in the vehicle.

10. The officer asked the driver if everything was okay.

11. The driver opened his door and responded that things were fine, he was just giving a kid a ride home.

12. The officer immediately smelled an odor of alcohol and noticed that the Defendant's eyes were watery and bloodshot.

13. The officer also noted that Defendant's speech was slurred as to several different words.

14. In light of these observations, the officer asked Defendant to step out of the vehicle.

15. Upon stepping out of the vehicle, the officer noticed Defendant's stability was poor. Thus, the officer requested Defendant to submit to field tests.

16. Although Defendant agreed to perform the field tests, he had difficulty following directions and failed them.

17. The officer concluded Defendant was under the influence of alcohol and arrested him for driving under the

influence.

18. Defendant was taken to a hospital for a blood test. His blood alcohol content was .21%.

The Court finds that the officer's approach to Defendant in the parking lot was a mere encounter. Defendant's vehicle was parked, it was not stopped by the officer. During the mere encounter, the officer made observations that Defendant was under the influence of alcohol, such as an odor of alcohol, slurred speech and watery, bloodshot eyes, which gave the officer a basis to further investigate and detain Defendant. After Defendant was asked to exit the vehicle, the officer noted further observations of intoxication and the officer developed probable cause to arrest Defendant.

The Court finds there has been no violation of Defendant's rights since the mere encounter developed a sufficient basis for an investigative detention and then developed into probable cause to arrest Defendant for driving under the influence.

O R D E R

AND NOW, this _____ day of June 2005, in light of the above findings, Defendant's Motion to Suppress is DENIED.

By The Court,

Kenneth D. Brown, P.J.

cc: James Cleland, Esq. (APD)
Kenneth Osokow, Esq. (ADA)
Work File
Gary Weber, Esquire (Lycoming County)