

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

COMMONWEALTH	:	
	:	
v.	:	No.: 160-2005
	:	
JACOB CONFER, III	:	
Defendant	:	

OPINION AND ORDER

Before the Court is Defendant’s motion to suppress, filed April 28, 2005. Defendant has been charged with Driving Under the Influence of Alcohol (DUI) as a result of a vehicle stop that occurred on October 6, 2004. The motion alleges that the vehicle stop was not supported by a reasonable belief that Defendant committed a Vehicle Code violation and was therefore unlawful.

The facts are as follows. On October 6 2004, Corporal Kontz and Officer Bolt of the Williamsport Bureau of Police noticed that Defendant’s vehicle had one non-functioning headlight and that the other headlight had been turned on to the high-beam setting. The officers activated their emergency lights and pulled their patrol car alongside Defendant’s vehicle. The officers alerted Defendant to his lighting infractions. The Defendant acknowledged the officers’ comments and began to drive away, and according to the officers’ testimony, nearly collided with the side of the patrol car. The officers turned the patrol car around and made a vehicle stop of Defendant. The officers noticed signs of intoxication, administered

field sobriety tests and determined Defendant to be driving under the influence of alcohol.

Defendant's motion disputes the allegation that one of his vehicle's head lights was non-functioning. However, during testimony Defendant admits that his headlights were set to high beam. The vehicle code explicitly states that when approaching an oncoming vehicle within 500 feet, the driver shall use the low beam of light. 75 Pa.C.S. § 4306. Therefore, whether or not Defendant was operating a vehicle with one or two functioning headlights, the Court finds based on the evidence that the officers had reasonable grounds to suspect a violation of the Vehicle Code pursuant to § 4306. That violation justified the police/citizen interaction that followed.

The Court notes that although counsel focused primarily on the initial encounter with police as a result of the lighting violations, the officers also established probable cause to effect what amounted to a second police/citizen encounter. Upon informing Defendant that he was operating a vehicle with lighting violations, the purpose of that encounter had ended. Both the officers and Defendant were prepared to depart. It was at that point that the Defendant's vehicle swerved and nearly collided with the side of the patrol car. The officers established through credible testimony that Defendant exhibited erratic and potentially dangerous vehicle operation. Therefore, the Court would find that by a preponderance of the evidence, Defendant's erratic driving

following the initial encounter gave the officers sufficient probable cause to believe Defendant was incapable of safe driving and to perform a vehicle stop.

ORDER

AND NOW, this _____ day of July 2005, based upon the foregoing Opinion, Defendants motion to suppress is hereby DENIED.

By the Court,

Nancy L. Butts, Judge

xc: PD (JP)
DA (RF)
Judges
Honorable Nancy L. Butts
Law Clerk
Gary Weber, Esq.