

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 05-10,575
	:	CRIMINAL DIVISION
JEROME QUARTMAN,	:	
Defendant	:	

OPINION AND ORDER

Before this Honorable Court, is the Defendant’s September 6, 2005 Pretrial Motion to Suppress Evidence. The Defendant is charged with various drug related offenses¹ stemming from a vehicle stop that occurred on March 25, 2005. The Defendant’s Motion contends that, the evidence obtained by law enforcement officials, as a result of the aforementioned vehicle stop, should be suppressed because (1) the officers lacked the necessary reasonable suspicion to stop his vehicle; (2) the officers lacked the necessary reasonable suspicion to conduct an investigatory detention of the Defendant; and (3) the officers did not obtain a valid consent to search the vehicle from the owner of the vehicle. For the following reasons, the Court DISMISSES the Defendant’s Motion.

I. Background

In the early hours of March 25, 2005, Williamsport City Police Officer Eric Houseknecht and Intern Craig Smeltz noted a vehicle driving without the required use of headlights and, as a result, attempted to conduct a vehicle stop. Before Officer Houseknecht could complete radioing his stop in to Lycoming County Communications and activate his flashers, the driver of the vehicle, the Defendant, exited the vehicle and attempted to walk away. Officer Houseknecht

¹ The Defendant is charged with one count each of Possession With Intent to Deliver a Controlled Substance, Possession of a Controlled Substance, and Possession of Drug Paraphernalia.

ordered the Defendant to remain where he was and produce a driver's license. The Defendant replied that he did not have a license, but did offer Officer Houseknecht his name and date of birth.

Officer Houseknecht then asked the Defendant for proof of insurance and registration, to wit, the Defendant informed Officer Houseknecht that the vehicle was not his and asked permission to call the owner in order for her to locate the requested information; Officer Houseknecht refused the Defendant's request and asked the Defendant to re-enter the vehicle and attempt to locate the requested information himself. The Defendant entered the driver's side of the vehicle and searched the center console, without luck, for the requested information. Officer Houseknecht then suggested that the Defendant look inside the glove compartment because "that is where most people keep their vehicle registration and proof of insurance." By this time, Intern Smeltz had approached the vehicle and was shining a flashlight in through the passenger side window. The Defendant obliged Officer Houseknecht's request to search the glove compartment and, only briefly looked inside failing to locate the requested information. Officer Houseknecht testified at the hearing on the instant matter that, when the Defendant opened the glove compartment, he saw the top of a plastic baggie and, based on his seven years experience as a police officer, immediately suspected that the baggie contained drugs. Based on his observation, Officer Houseknecht asked the Defendant about the baggie and the Defendant denied knowledge of the baggie. Officer Houseknecht then asked the Defendant again to look in the glove compartment for the requested information. It was during this search that Officer Houseknecht observed the Defendant attempting to move the baggie to the rear of the glove compartment while searching for the requested information.

After speaking with Intern Smeltz and concluding that they had both observed the baggie, Officer Houseknecht testified that he was confident that there was contraband in the glove compartment and he placed the Defendant under arrest. After arresting the Defendant, Officer Houseknecht obtained contact information for the owner of the vehicle, Eliza Gardner. Officer Houseknecht had Lycoming County Communications contact Ms. Gardner and request that she come to the scene. Once there, Officer Houseknecht obtained a valid consent from Ms. Gardner to search the vehicle. Officer Houseknecht then looked inside the glove compartment and, after confirming there were two plastic baggies containing what appeared to be cocaine, he had the vehicle impounded.

Once at the Williamsport Police Impound, Officer Houseknecht obtained a search warrant, searched the vehicle, seized the plastic baggies, had the contents of the baggies tested, and, after the test results indicated the baggies did in fact contain cocaine, requested an arrest warrant be issued for the Defendant.

II. Discussion

Instantly, the Defendant challenges the admissibility of the evidence offered against him on three grounds: (1) the police lacked the requisite reasonable suspicion to stop the vehicle he was driving and conduct the investigatory detention that led to the seizure of the evidence offered against him; (2) the police lacked the requisite reasonable suspicion to conduct an investigatory detention that led to the seizure of the evidence offered against him; and (3) the police did not obtain a valid consent from the owner of the vehicle that led to the search and seizure of the evidence offered against him. We will address each of the Defendant's challenges individually.

A. *The police had the requisite reasonable suspicion necessary to conduct a vehicle stop of the Defendant.*

A police officer may conduct a lawful investigatory vehicle stop if he has “articulable and reasonable grounds to suspect a violation” of the Motor Vehicle Code. *Commonwealth v. Battaglia*, 2002 Pa.Super. 209, P6, 802 A.2d 652, 655 (2002), citing 75 P.S. § 6308(b).

In the instant matter, Officer Houseknecht witnessed the vehicle the Defendant operated by the Defendant crossing an intersection without having the required headlights activated.² Because this is a violation of the Motor Vehicle Code (75 Pa.C.S.A. § 4302-3 requires headlights to be activated during the hours between sunset and sunrise), the Court finds that Officer Houseknecht had a reasonably articulable suspicion that justified conducting a vehicle stop of the Defendant.

B. *The police had the requisite reasonable suspicion necessary to conduct an investigative detention of the Defendant and, that investigatory detention was lawful in its scope.*

“Where the purpose of an original traffic stop has ended and, a reasonable person would not have believed he was free to leave, the law characterizes subsequent questioning by the police as an investigative detention or an arrest; absent the requisite reasonable suspicion to support an investigative detention or, the requisite probable cause to support an arrest, the detention is unlawful.” *Commonwealth v. By*, 2002 PA Super 376, P13, 812 A.2d 1250, 1256, (2002), citing *Commonwealth v. Freeman*, 563 Pa. 82, 757 A.2d 903 (2000). Under the present facts, Officer Houseknecht briefly stopped and detained the Defendant in order to obtain more

² The vehicle operated by the Defendant was utilizing auxiliary lights instead. These lights, as they relate to the type of vehicle at issue, do not provide sufficient illumination for purposes of complying with the Motor Vehicle Code.

information; this is the definition of an investigative detention. *Commonwealth v. Rosas*, 2005 Pa. Super 183, P14, 875 A.2d 341, 347 (2005).

In *Commonwealth v. Zhahir*, the Pennsylvania Supreme Court has established an approach to test the lawfulness of an investigatory detention. *Commonwealth v. Zhahir*, 561 Pa. 545, 751 A.2d 1153 (2000). The approach requires the reviewing court to answer two questions: were the police officer's actions justified at their inception and, were those actions reasonably related in scope to the circumstances which justified the interaction in the first place. *Id.* at 552, 1156-7.

In *Zhahir*, the Supreme Court found that the appellant was subject to a legitimate investigative detention following a permissible vehicle stop because the stop and subsequent detention were based on reasonably articulable suspicion. Specifically, the reasonably articulable suspicion consisted of the following: the appellant could not produce a valid driver's license or identification; he also could not produce proof of insurance or registration; the vehicle was registered to someone other than the occupants; and he could not supply a precise home address. The Supreme Court found that the preceding factors supported the police officer's suspicion that "criminal activity may have been afoot" and, therefore, supported the investigative detention.

In the instant matter, the Court views the interaction between Officer Houseknecht and the Defendant as encompassing two separate, yet related, investigatory detentions. The first involves Officer Houseknecht's initial request that the Defendant re-enter the vehicle and attempt to locate proof of insurance and registration. The second involves Officer Houseknecht's subsequent request that the Defendant open the glove compartment after he observed the Defendant's suspicious behavior and the top of a plastic baggie in the glove compartment when

the Defendant initially opened the glove compartment. We will address the appropriateness of each investigatory detention separately.

Section 6308, of the Motor Vehicle Code, requires a driver, who the police reasonably believes has violated any provision of the Code to, upon request of the police, to produce, *inter alia*, proof of insurance and registration. 75 Pa.C.S.A. §6308. Here, Officer Houseknecht made such a request of the Defendant. Similar to the situation in *Zhahir*, because the vehicle driven by the Defendant was not his own, it was reasonable for Officer Houseknecht to request the Defendant to search not only the center console but also the glove compartment for the requested information; therefore, the Court finds that, in accordance with the *Zhahir* standard, Officer Houseknecht's actions were "appropriate at their inception." *Zhahir*, at 552, 1156-7.

The Court also finds that, in regards to the initial investigative detention, Officer Houseknecht's actions were "reasonably related in scope to the circumstances which justified the interaction in the first place." *Id.* As previously discussed, Officer Houseknecht reasonably believed that the Defendant had violated the Motor Vehicle Code and, as a result, conducted a lawful vehicle stop. As previously stated, the Code permits an Officer witnessing a Code violation to request a driver's proof of insurance and registration and, because many drivers keep this information inside the glove compartment, Officer Houseknecht was within the scope of the detention to ask the Defendant to search the glove compartment for this information when the Defendant was unable to locate the information inside the center console.

Officer Houseknecht's second investigatory detention (i.e. his request that the Defendant re-search the glove compartment after seeing the top of a plastic baggie) of the Defendant was also "appropriate at the inception and reasonably related in scope to the circumstances which justified the interaction in the first place." *Id.* Officer Houseknecht's seven years experience

with the Williamsport Bureau of Police is sufficient to validate his suspicion that plastic baggies coupled with nervous behavior indicates that criminal behavior is likely afoot. Therefore, requesting that the Defendant re-open the glove compartment was reasonably related in scope to the what Officer Houseknecht observed during the initial interaction.

C. The police obtained a valid consent from the owner of the vehicle to search the vehicle.

If the police obtain a valid consent, a search warrant is unnecessary. To be valid, the consent must be given voluntarily. More specifically, “the Commonwealth must prove that a consent is the product of an essentially free and unconstrained choice -- not the result of duress or coercion, express or implied, or a will overborne -- under the totality of the circumstances.” *Commonwealth v. Strickler*, 563 Pa. 47, 757 A.2d 884, 901 (2000).

Here, the owner of the vehicle, Elisa Gardner, arrived at the scene after being contacted by Lycoming County Communications. Once there, Officer Houseknecht apprised her of the situation (i.e. that the Defendant was stopped for driving without the required use of headlights and, that the police suspected that there was illegal contraband in the vehicle) and requested she consent to the search of her vehicle. In response to Ms. Gardner’s questions, Officer Houseknecht informed her that, if she refused to consent to the search of her vehicle, that the car would likely be impounded and that he would probably obtain a search warrant. After going over the consent to search form with Ms. Gardner, she signed the form. Officer Houseknecht then briefly searched the glove compartment and, after finding what was later determined to be cocaine, impounded the vehicle.

The Court finds that the interaction between Officer Houseknecht and Ms. Gardner was not coercive. Nor does the Court find that Ms. Gardner was under duress when she consented to

the search of her vehicle. Accordingly, the Court finds that Ms. Gardner's consent, based on a totality of the circumstances, was voluntary and the ensuing search was therefore lawful.

ORDER

AND NOW, this _____ day of January, 2006, for the reasons stated above, the Defendant's Pre-Trial Motion to Suppress Evidence is **DISMISSED**.

By the Court,

Nancy L. Butts, Judge

cc: DA
Kyle W. Rude, Esq.
Judges
Law Clerk
Gary L. Weber, Esq.