

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 448 - 2006
	:	
vs.	:	CRIMINAL DIVISION
	:	
THOMAS JOHN LEONARD,	:	
Defendant	:	Motion to Suppress Evidence

OPINION AND ORDER

Before the Court is Defendant's Motion to Suppress Evidence, filed June 1, 2006. A hearing on the motion was held September 8, 2006.

Defendant was charged with two counts of DUI and two summary offenses after he was stopped by police on November 12, 2005. Defendant contends the police lacked the necessary reasonable suspicion that Defendant was engaged in criminal activity to justify the stop.

The Commonwealth presented the testimony of Officer Cowden of the Duboistown Police, who indicated that on the date of Defendant's arrest, at approximately 2:00 a.m., he responded to a 911 dispatch requesting assistance due to a large group of people fighting behind the J.P. Sports Bar. As he pulled his police vehicle along the east side of the bar, Officer Cowden saw another police vehicle pulled to a stop behind the bar, and Officer Brown exiting that vehicle. At that moment, Officer Cowden observed the crowd begin to disperse, and saw two men running from the direction of the crowd, across the railroad tracks which are behind the bar, and into a parking lot on the west side of the bar. Officer Cowden then backed up out of the east lot, and pulled up on the street in front of the bar. He got out of his vehicle and heard two cars doors slam, and then as he was standing in front of his vehicle, he saw a vehicle pulling out of the west parking lot. Since Officer Cowden believed the driver was one of the two he had seen running across the lot behind the bar, he called for the driver (who turned out to be Defendant) to stop. When Defendant did not stop, Officer Cowden returned to his vehicle, followed Defendant a short distance and then activated his lights and stopped Defendant as he was sitting at a red light just up the street from the bar. This stop led to Defendant's arrest for DUI.

In order to justify an investigative detention, an officer must be able to articulate a reasonable suspicion that the person detained is engaged in criminal activity. Commonwealth v. Stevenson, 894 A.2d 759 (Pa. Super. 2006). In the instant case, Officer Cowden testified that because he saw Defendant running across the parking lot away from the crowd just as Officer Brown was approaching the crowd, he believed Defendant may have been involved in the fight to which he had been dispatched, and since he did not know if someone had been hurt, he felt it necessary to stop Defendant to investigate. The Court believes Officer Cowden's observations provided him with a reasonable suspicion that Defendant was engaged in criminal activity. While Defendant makes much of the fact that Officer Cowden's view was temporarily blocked when he pulled in front of the bar, and thus he only heard but did not actually see Defendant get into the vehicle, Officer Cowden testified that based on his observations of the two men running across the tracks, he was "sure" the same two men were in the vehicle which he attempted to stop as it pulled out of the parking lot. Thus, the Court finds no basis on which to suppress the evidence of Defendant's DUI.¹

ORDER

AND NOW, this 12th day of September 2006, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
Philip Masorti, Esq., 341 N. Science Park Rd., Ste. 202, State College, PA 16803
Gary Weber, Esq.
Hon. Dudley Anderson

¹ It is noted that the case of Commonwealth v. Powell, No. CP – 14 – CR – 451 – 2006 (Centre County, June 2006), offered by Defendant in support of his argument, is clearly distinguishable. There, in responding to a dispatch regarding an assault, the vehicle stopped did not match the description of the vehicle involved in the assault, and the stop was made because the officer suspected the driver "might have some information regarding the assault." Further, the officer's suspicions were based on the fact that the passenger kept looking back at him as he was following the vehicle, and that the vehicle traveled at a "high rate of speed". There was nothing to suggest that the defendant therein may have been involved in the assault.