

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 1543 - 2006
:
vs. : CRIMINAL DIVISION
:
WILLIAM MICHAEL BLACKWELL, :
Defendant : Motion to Suppress

OPINION AND ORDER

Before the Court is Defendant’s Motion to Suppress, filed December 15, 2006. A hearing on the motion was held February 12, 2007.

Defendant was charged with various drug offenses after a traffic stop on August 13, 2006, led to the discovery of controlled substances. In his Motion to Suppress, Defendant contends the initial traffic stop was made without probable cause, and seeks to suppress all evidence obtained as a result of the stop.¹

According to the stipulated facts presented, the traffic stop was made on the basis that Defendant turned east onto East Third Street from the TGI Friday’s parking lot without first stopping at the properly posted stop sign and without activating the proper turn signal. Also stipulated to, is the fact that there is no stop sign at that location. Defendant argues there was no probable cause to support the traffic stop as there was no requirement for him to either stop or signal before turning onto East Third Street.

Section 3324 of the Vehicle Code requires the driver of a vehicle “about to enter or cross a roadway from any place other than another roadway” to “yield the right-of-way to all vehicles approaching on the roadway”, 75 Pa.C.S. Section 3324, but does not require that vehicle to otherwise stop. Since a parking lot is not a roadway,² there is no requirement to stop before entering a roadway from a parking lot.³

¹ While there are other issues raised in the motion, at the hearing, both defense counsel and counsel for the Commonwealth agreed to have the Court decide the validity of the traffic stop first, reserving the remaining issues for further hearing in the event the Court found the stop lawful.

² In Marisco v. Dibileo, 796 A.2d 997 (Pa. Super. 2002), the Court noted that a parking lot was not a highway. Since a “roadway” is defined as a “portion of a highway”, 75 Pa.C.S. Section 102, it stands to reason that a parking lot is thus also not a roadway.

³ There was no allegation Defendant failed to yield to any on-coming traffic, merely that he failed to stop.

Similarly, Section 3334 of the Vehicle Code prohibits a person from turning a vehicle without giving an appropriate signal “upon a roadway”. 75 Pa.C.S. Section 3334(a). Since a parking lot is not a roadway, there is no requirement to signal upon turning from the parking lot.

As the two alleged violations upon which the troopers based the stop were in fact not violations,⁴ the troopers did not have the requisite probable cause to stop Defendant’s vehicle. Consequently, all evidence obtained as a result of the stop must be suppressed.

ORDER

AND NOW, this 15th day of February 2007, for the foregoing reasons, Defendant’s Motion to Suppress is hereby GRANTED. All evidence obtained as a result of the traffic stop of Defendant’s vehicle on August 13, 2006, is hereby SUPPRESSED and shall not be introduced into evidence at trial.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
Roan Confer, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson

⁴ Although the Commonwealth sought to have the trooper testify at the suppression hearing that he also stopped Defendant based on an alleged failure to signal when changing lanes on Third Street after having turned onto Third Street from the parking lot, the Court finds the Commonwealth may not introduce such evidence as it is limited by the bill of particulars filed in this matter, which indicates that the stop was based only on the alleged failure to stop at a stop sign and failure to signal upon entering Third Street. See Comment to Pa.R.Crim.P. Rule 572 (the traditional function of a bill of particulars is to clarify the pleadings and to limit the evidence which can be offered to support the information).