

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 1644 - 2006
	:	
vs.	:	CRIMINAL DIVISION
	:	
SABRINA LYNN HUFNAGLE,	:	
Defendant	:	Motion to Suppress Evidence

OPINION AND ORDER

Before the Court is Defendant’s Motion to Suppress Evidence, filed January 5, 2007. A hearing on the motion was held March 6, 2007.

Defendant was charged with Driving Under the Influence based on evidence obtained after a stop of her vehicle on June 25, 2006. In the instant Motion to Suppress Evidence, Defendant contends that evidence should be suppressed for two reasons: first, that the arresting officer was acting in violation of the Municipal Police Jurisdiction Act, 42 Pa.C.S. Sections 8951-8954, and second, that the arresting officer did not have the requisite probable cause to believe Defendant was driving under the influence of alcohol at the time he stopped her vehicle. The Court finds both arguments to be without merit.

Defendant’s vehicle was stopped in Loyalsock Township by Officer William MacInnis, an officer employed full-time by Penn College and part-time by Montoursville Borough, while he was acting as part of a Lycoming County DUI Task Force Sobriety Checkpoint Operation set up in Hepburn Township. Defendant argues that the officer had no authority to effectuate a stop of her vehicle as he was outside his primary jurisdiction, and, in any event, he certainly could not stop her vehicle in Loyalsock Township since the checkpoint was set up in Hepburn Township.

The Municipal Police Jurisdiction Act (MPJA) gives law enforcement authority to any duly employed municipal police officer who is within this Commonwealth but beyond the territorial limits of his primary jurisdiction, in certain instances. 42 Pa.C.S. Section 8953. The Commonwealth argues that even though Officer MacInnis was outside his primary jurisdiction, he nevertheless had the authority to stop Defendant’s vehicle pursuant to Subsection (a)(3),

which provides extraterritorial authority “[w]here the officer has been requested to aid or assist any local, State or Federal law enforcement officer...” 42 Pa.C.S. Section 8953(a)(3). In support of this argument, the Commonwealth presented the testimony of Corporal William Solomon, the project coordinator of sobriety checkpoints in Lycoming County, who indicated he had requested of all police administrators in Lycoming County that they provide manpower for the checkpoint in question and that Officer MacInnis had been assigned by his chief to work the checkpoint in Hepburn Township that particular evening. Further, Corporal Solomon testified that prior to the actual operation of the checkpoint, he had created an operational plan which assigned certain duties to each officer, he had gone over those duties with the officers, he had assigned Officer MacInnis to “rove” and that Officer MacInnis completed and turned in an Officer Productivity Log at the end of the shift, in compliance with the requirements of the assignment. The Court finds that Officer MacInnis had indeed “been requested to aid or assist [a] local ... law enforcement officer” when he stopped Defendant’s vehicle while working the sobriety checkpoint in Hepburn Township.¹

Defendant argues that even if the Court finds Officer MacInnis to have been acting at the request of another officer, the stop was still invalid as it was made in Loyalsock Township, rather than Hepburn Township. According to the testimony of Officer MacInnis, Defendant was traveling northbound, toward the checkpoint, as he was traveling southbound, away from the checkpoint, as part of his “roving” duties. After he turned around to head back toward the checkpoint he noticed Defendant driving southbound. He inquired by radio whether Defendant had passed through the checkpoint and was informed she had not. He then turned back around, heading southbound again, and followed Defendant for about three miles. He observed Defendant’s vehicle cross over the fog line twice and the center line once, and described the actions of the vehicle as “jerky”. He then stopped Defendant’s vehicle, but by the time of the

¹ The Court is aware that the Honorable Richard Gray upheld Defendant’s license suspension appeal on the grounds that Officer MacInnis acted outside the MPJA in effecting the stop of Defendant’s vehicle. See Hufnagle v. PennDOT, Lycoming County No. 06-01,467. That decision was based on a rejection of the argument that Subsection (a)(5) allowed the stop, however. Subsection (a)(5) provides law enforcement authority where the officer is on official business in another jurisdiction and observes an offense or has probable cause to believe an offense has been committed. Judge Gray determined that the subsection applies only to cases where an officer is on duty in his primary jurisdiction and then leaves that jurisdiction for some official business reason connected

stop, indeed by the time of the above-noted observations, they had crossed into Loyalsock Township.

Accepting Defendant's argument would, in effect, set up jurisdictional boundaries around a sobriety checkpoint. This, the Court is unwilling to do. The appellate courts in this Commonwealth have already indicated that the route selected for the checkpoint must be one which, based on local experience, is likely to be traveled by intoxicated drivers.

Commonwealth v. Rastogi, 816 A.2d 1191 (Pa. Super. 2003). The Court believes that to require the checkpoint to remain within the jurisdictional boundaries of a certain police department would infringe on this decision-making process, to the detriment of the purpose to be served. Further, the checkpoint is set up as an operation of the Lycoming County DUI Task Force by the project coordinator, whose authority in that respect covers the entire county. The Court thus finds that under the circumstances presented herein, a stop three miles from the checkpoint, which began as the result of a U-turn near the checkpoint area and remained in Lycoming County,² does not exceed the authority granted to the officer under the MPJA.³

With respect to the issue of the basis for the stop, Defendant seeks to have the Court use a "probable cause" standard, rather than a "reasonable suspicion" standard, contending the applicable statute here is the MPJA rather than Section 6308 of the Vehicle Code. Section 6308 allows a police officer to stop a vehicle whenever he has "reasonable suspicion" that a violation of the Vehicle Code is occurring. 75 Pa.C.S. Section 6308(b). That an officer may make a stop upon "reasonable suspicion" of DUI has been upheld by the Superior Court as sufficiently protective of a citizen's rights while also protecting the safety of the public. Commonwealth v. Sands, 887 A.2d 261 (Pa. Super. 2005).

with that primary jurisdiction, and that such was not the situation here. Whether Subsection (a)(3) applied was not an issue.

² The Court need not, nor does it, decide whether a stop made outside the County would have been lawful under the MPJA.

³ The Court rejects as a "red herring" Defendant's further argument that the failure to include Officer MacInnis' name on the most recent Court Order approving certain individuals as "Special County Detectives" somehow negates the authority granted him by the MPJA. The Court is unaware of any requirement that officers acting at the request of other officers in conducting sobriety checkpoints must, in addition to being "duly employed municipal police officers", 42 Pa.C.S. Section 8953(a), also be "special county detectives", the District Attorney's apparent belief to the contrary notwithstanding.

The MPJA does require that an officer have “probable cause” to believe that an offense was committed under certain of the subsections allowing for extraterritorial arrests. For example, Subsection (a)(2) allows an officer to continue in hot pursuit of any person for any offense which was committed, or which he has probable cause to believe was committed, within his primary jurisdiction. Subsection (a)(5) allows an officer to stop and/or arrest when he is on official business and views an offense or has probable cause to believe that an offense has been committed. Subsection (a)(6) allows an officer to stop and/or arrest where he views an offense which is a felony or has probable cause to believe that an offense which is a felony has been committed. Other subsections do not speak to the level of suspicion required, however. Subsection (a)(3) provides authority where the officer has been asked to aid or assist, and Subsection (a)(4) provides authority where the officer has obtained the prior consent of the chief law enforcement officer of the jurisdiction. Neither of these subsections contains language which would limit the general grant of authority contained in the general rule, which allows an officer acting outside his primary jurisdiction to “enforce the laws of this Commonwealth or otherwise perform the functions of that office as if enforcing those laws or performing those functions within the territorial limits of his primary jurisdiction....” 42 Pa.C.S. Section 8953(a). The Court thus interprets Subsection (a)(3) to allow an officer who is working outside of his jurisdiction at the request of another officer to make a stop for a possible DUI as if he were in his own jurisdiction, that is, pursuant to Section 6308 of the Vehicle Code, upon reasonable suspicion. Such seems to the Court to be in keeping with the intent of the MPJA, to enable municipal police officers to protect all of the public while maintaining their accountability to local authority, *See Commonwealth v. Lehman*, 870 A. 818 (Pa. 2005), as well as in accordance with the letter of that law.

As noted above, Officer MacInnis testified to having observed Defendant’s vehicle cross over the fog line twice and the center line once, as well as moving in a “jerky” fashion. He also considered that Defendant had turned around so as to avoid going through the sobriety

checkpoint.⁴ The Court believes that all of these circumstances gave Officer MacInnis reasonable suspicion to believe Defendant was driving under the influence of alcohol.

Accordingly, the stop having been authorized by the MPJA and supported by reasonable suspicion, Defendant's request to suppress the evidence obtained as a result of the stop will be denied.

ORDER

AND NOW, this day of March 2007, for the foregoing reasons, Defendant's Motion to Suppress Evidence is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
 Peter Campana, Esq.
 Gary Weber, Esq.
 Hon. Dudley Anderson

⁴ While a stop may not be based on avoidance of a checkpoint only, such avoidance may be considered along with other factors in determining whether there was the requisite reasonable suspicion to support a stop. Commonwealth v. Scavello, 734 A.2d 386 (Pa. 1999).