

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 975 – 2007
:
vs. : CRIMINAL DIVISION
:
MALIK DWIGHT SUMMERS, :
Defendant : Petition for Habeas Corpus

OPINION AND ORDER

Before the Court is Defendant’s Petition for Habeas Corpus, filed July 25, 2007. A hearing on the petition was held September 5, 2007.¹

Defendant was charged with False Identification to Law Enforcement Authorities² following a traffic stop of the vehicle in which he was a passenger on April 1, 2007. In the instant petition, Defendant contends the facts fail to establish prima facie evidence of the crime of false identification. According to the affidavit of probable cause, the vehicle in which Defendant was riding was stopped by the Pennsylvania State Police because of an expired inspection sticker and a parking violation. While another trooper spoke with the driver, Defendant was asked if he had identification and related that he did have a Pennsylvania Identification card but that he did not have it on his person, and gave his name as Markim Summers, rather than Malik Summers, and a different date of birth not his own. The trooper ran the information through NCIC/CLEAN and found no record. He informed Defendant of this fact but Defendant again gave the same information. Again, the information was run through NCIC/CLEAN and returned no record. The trooper then informed Defendant that he “was now a subject of an official investigation” and asked him for “his correct name and date of birth”. When Defendant provided the same information, he was arrested and informed that he would be taken to State Police headquarters for fingerprinting; at that time he gave his correct name and date of birth and an explanation that Markim Summers was his cousin and that he himself was on federal probation and not permitted to be in Williamsport.

¹ At the hearing, counsel stipulated to the introduction into evidence of the affidavit of probable cause. No further testimony was introduced.

² 18 Pa.C.S. Section 4914.

Section 4914 of the Crimes Code provides, in pertinent part, as follows:

§ 4914. False identification to law enforcement authorities

(a) OFFENSE DEFINED.-- A person commits an offense if he furnishes law enforcement authorities with false information about his identity after being informed by a law enforcement officer who is in uniform or who has identified himself as a law enforcement officer that the person is the subject of an official investigation of a violation of law.

18 Pa.C.S. Section 4914. Defendant contends that he was not the subject of an official investigation of a violation of law, and thus cannot be found guilty of false identification. The Commonwealth argues that the trooper was investigating the vehicle's expired inspection sticker and parking violation, but since Defendant was merely a passenger in the vehicle, he would not be the subject of such an investigation. It appears that the only investigation involving Defendant was that of his identity and such would not constitute "a violation of law". The Commonwealth would have the Court find that the false information provided by Defendant regarding his identity constituted the "violation of law", but this would, in the Court's opinion, be putting the cart before the horse. It appears from the wording of the statute that there must already be a crime or violation of the vehicle code to be investigated before the statute comes into play; the police cannot create a crime by doing an investigation. To find otherwise would render much of the language of the statute meaningless.

Accordingly, Defendant's petition for habeas corpus will be granted and the charge will be dismissed.

ORDER

AND NOW, this 6th day of September 2007, for the foregoing reasons, Defendant's Petition for Habeas Corpus is hereby GRANTED and the charge in this matter is hereby DISMISSED. Costs shall be placed on Lycoming County.

BY THE COURT,

cc: DA
PD
E. Dgien, DCA
Cost Clerk

Dudley N. Anderson, Judge

Gary Weber, Esq.