

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**CHRISTOPHER INGRAM,
Defendant**

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**No. 763-08
CRIMINAL**

OPINION AND ORDER

Defendant filed a Motion for Suppression on February 9, 2009. A hearing on the Motion was held on April 16, 2009.

Background

The following is a summary of the facts presented at the Suppression Hearing. On February 16, 2008 around 1:45 a.m., Officer Devon Thompson (Thompson) of the South Williamsport Police Department observed two men trying to push a silver Mustang that was stuck in the snow in the Shopping Center parking lot near Howard Street in South Williamsport. Thompson intended on making contact with the individuals to see if he could provide services such as a wrecker service to remove the vehicle. As Thompson entered the parking lot, the vehicle suddenly sped through the traffic light at West Bald Eagle Ave and Market Street. The vehicle then squealed its tires and fishtailed as it turned onto West Southern Avenue. As the vehicle continued on West Southern Avenue it accelerated rapidly and was traveling at approximately fifty-five to sixty miles per hour in a posted thirty-five miles per hour zone. Thompson related that he activated his emergency lights and traveled at sixty-five to seventy

miles per hour in an attempt to catch up to the vehicle¹. While following the vehicle, Thompson observed the vehicle turn right onto Kane Street, then stop at the stop sign, before turning left onto Matthews Boulevard where it ultimately pulled over. Thompson testified he followed the vehicle for six or seven blocks and that there were numerous places for the vehicle to pull over before it in fact did so. He also explained that the roads were free from snow and ice that morning.

When Thompson approached the vehicle, he had the driver, later identified as the Defendant, Christopher Ingram (Defendant) turn off the vehicle and hand over the keys. The Defendant was asked to provide his Driver's License, registration, and proof of insurance. At first, the Defendant who appeared to be nervous and was shaking, only provided Thompson with his Driver's License and Insurance. When asked a second time for his registration, the Defendant first fumbled around looking for it before providing it to Thompson. In response to Thompson's questioning, the Defendant told Thompson the vehicle was not having mechanical problems. Thompson then proceeded to ask the Defendant if he knew why he was pulled over to which the Defendant responded he was "driving like an a**hole." Thompson related the Defendant's eyes were glassy, bloodshot and when he spoke a strong odor of alcohol emanated from his breath. When asked if he had been drinking, the Defendant told Thompson twice that he had three rum and cokes over an hour ago. The Defendant was asked to perform field sobriety tests which he failed. The Defendant was then arrested for Driving Under the Influence of Alcohol.

Maxwell Wilt, a friend of the Defendant who was present in the vehicle with the Defendant on the morning of February 16, 2008, testified on the Defendant's behalf. Wilt related

¹ Thompson explained that although the vehicle was at times some distance away, it was a very identifiable vehicle as it was a Mustang GT with modified exhaust, a wing, and ground effects.

that while the vehicle was stuck in the snow for about forty-five to sixty minutes they had observed an officer in the area and were wondering why he had not offered to help. He stated that someone who lived near the Shopping Center was in the driver's seat while the vehicle was stuck in the snow. Wilt explained that once the vehicle was removed from the snow, the Defendant was operating the vehicle. Wilt related the roads were not completely clear as there was snow and ice on the sides and in the center of the roadway. Wilt testified he believed that if the vehicle had fishtailed it was because of the road conditions. He also explained that he did not believe the vehicle was going more than thirty-five or forty miles per hour but he was not paying attention as he was in the back seat of the vehicle. Finally, Wilt testified that both he and the Defendant had been drinking that morning.

Discussion

Defendant alleges that Thompson did not have reasonable suspicion to justify stopping Defendant's vehicle. Specifically the Defendant claims that any fishtailing was caused by snow or ice on the roadway and that he was not traveling above the posted speed limit.

According to the Pennsylvania Supreme Court, "where a motion to suppress has been filed, the burden is on the Commonwealth to establish by a preponderance of the evidence that the challenged evidence is admissible." Commonwealth v. Bryant, 866 A.2d 1143, 1145 (Pa. Super. Ct. 2005) (quoting Commonwealth v. DeWitt, 608 A.2d 1030, 1031 (Pa. 1992)).

Police Officers are authorized to stop a vehicle whenever they have "reasonable suspicion that a violation of the Vehicle Code is occurring or has occurred." Commonwealth v. Hall, 929 A.2d 1202, 1206 (Pa. Super. Ct. 2007) citing 75 P.S. § 6308(b). In Commonwealth v. McElroy, at around 2:45 a.m., the Officer estimated the Defendant's vehicle was traveling at a speed of at

least 80 miles per hour in an urban area with a thirty-five miles per hour speed limit. 630 A.2d 35, 39 (Pa. Super. Ct. 1993). The Officer then pursued the Defendant for at least three-quarters to one mile before he was able to stop the Defendant. Id. The Court held that the Officer's opinion that the Defendant's vehicle was traveling at eighty miles per hour in a thirty mile per hour zone amounted to reasonable suspicion that the Defendant was speeding and therefore, the Officer was entitled to stop the Defendant. Id. at 40.

The Court finds Thompson had reasonable suspicion that a violation of the Vehicle Code was occurring when he pulled the Defendant's vehicle over. Thompson's testimony reveals that he witnessed the Defendant's vehicle speed through the traffic light after being removed from the snow bank. Then, after stopping at the stop sign the vehicle squealed its tires, fishtailed, and accelerated quickly. Thompson explained that he followed the Defendant's vehicle for six or seven blocks whereupon he estimated the Defendant was traveling fifty-five to sixty miles per hour. Additionally, Wilt's testimony that he did not believe the Defendant was traveling faster than thirty-five or forty miles per hour is irrelevant as Wilt explained he was in the back seat and had been drinking. The Court finds based upon Thompson's testimony that he had reasonable suspicion the Defendant was speeding and therefore, was entitled to stop the Defendant's vehicle. As such, the Motion for Suppression shall be denied.

ORDER

AND NOW, this ____day of April 2009, based on the foregoing Opinion, it is ORDERED and DIRECTED that Defendant's Motion for Suppression is hereby DENIED.

By the Court,

Nancy L. Butts, Judge

cc. DA (HM)
George E. Lepley, Jr., Esq.
Trisha D. Hoover, Esq. (Law Clerk)
Gary L. Weber (LLA)