

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR - 1043 - 2007
:
vs. :
:
STEPHEN ANDREW DINCHER, :
Defendant :

SUPPLEMENTAL OPINION IN SUPPORT OF ORDER OF DECEMBER 4, 2007,
IN COMPLIANCE WITH THE ORDER OF THE SUPERIOR COURT OF
PENNSYLVANIA DATED MAY 21, 2009

In response to the Order of the Superior Court dated May 21, 2009, in which this Court is directed to address whether Trooper Havens had reasonable suspicion to believe that a Motor Vehicle Code violation had occurred, and specifically whether this Court believed or disbelieved Trooper Havens' testimony concerning the obstruction of Dincher's registration plate, the Court notes as follows:

At the time of the suppression hearing, and after Trooper Havens testified to having been unable to discern one of the numbers on the registration plate as he was following Dincher, the Court, counsel, Trooper Havens and Dincher all proceeded outside the Courthouse to view Dincher's pick-up truck. All agreed that the wire and plate were in the same relative positions and condition they had been in on the night of the arrest.¹ Although the Court viewed the plate from various angles and distances, the Court was able to read all digits clearly. Trooper Havens was then given the opportunity to place the wire to conform with his view that night, and still the Court was able to discern the correct digit.² Thus, while the Court believes that Trooper Havens may have observed the wire dangling in front of the registration plate that night, it does not credit his testimony that he was unable to adequately read the plate, and thus believes that Trooper Havens did not have a reasonable suspicion to believe that Dincher was violating Section 1332(b)(3) of the Motor Vehicle Code when he made the vehicle stop.

1 No mention was made of the trailer hitch and, indeed, it did not appear to obstruct the view of the plate from any angle.

2 The digit was a "1".

Dated: June 2, 2009

Respectfully submitted,

Dudley N. Anderson, Judge

cc: District Attorney
Richard Callahan, Esquire
Gary Weber, Esquire
Hon. Dudley N. Anderson