

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**MATTHEW PRENTISS,
Defendant**

:
:
:
:
:
:

**CR-663-2010
CRIMINAL DIVISION**

OPINION AND ORDER

The Defendant filed an Omnibus Pre-Trial Motion on July 21, 2010, which included a Motion to Suppress. A hearing on the Motion to Suppress was held on September 28, 2010.

Background

On March 17, 2010 Corporal Morris Sponhouse (Sponhouse) was investigating a suspicious vehicle incident at Mutchler Park in Hepburn Township when he determined that none of the occupants of the suspicious vehicle had a driver's license. Sponhouse informed the occupants that they needed to find another ride. The occupants then made telephone calls to obtain a ride. In about twenty (20) minutes, a Mustang pulled into the park. Sponhouse asked the driver of the Mustang what he was doing at the park. The driver of the Mustang, identified by his Pennsylvania driver's license as Matthew Shane Prentiss (Defendant), stated that he received a phone call from a friend who requested that he pick him up at the park. Sponhouse smelled an odor of alcohol on the breath of the Defendant. Officer Michael Samar (Samar) of the Old Lycoming Township Police Department and Sergeant Chris Kriner (Kriner) who were working an assigned Lycoming County DUI Task Force Roving Patrol, were called to assist Sponhouse with the suspicious vehicle incident. Sponhouse asked that Samar and Kriner

investigate the Defendant as he smelled an odor of alcohol on the Defendant's breath. When Samar and Kriner arrived at the park less than a minute later, they parked behind the Mustang. Samar and Kriner then made contact with the occupants of the Mustang. Samar smelled the odor of alcohol on the Defendant's breath and observed that the Defendant was slurring his speech. In response to questioning by Samar, the Defendant stated that he was drinking beer at Domar's Bar in Williamsport when his friend called him for a ride. Upon receiving the phone call, the Defendant drove to the park. Based on his observations, Samar believed that the Defendant may have been under the influence of alcohol to a degree that rendered him incapable of safe driving. The Defendant agreed to perform field sobriety tests for Samar. The Defendant displayed several clues of impairment during the tests. The Defendant then submitted to a Portable Breathalyzer Test which registered positive for alcohol with a reading of 0.159%. The Defendant was placed under arrest for DUI and transported to the DUI Processing Center located in the Williamsport Hospital. The Defendant then consented to a blood draw for testing the results of which showed his BAC was 0.149%.

Discussion

The Defendant alleges in his Motion to Suppress that he was detained without probable cause or reasonable suspicion. The Defendant requests the suppression of all the fruits of the detention, including but not limited to, any statements made by the Defendant, the field sobriety test results, the officers' observations, and the results of the blood test. The Defendant argues that once Samar and Kriner parked behind the Mustang, the Defendant was not free to leave as there was another vehicle parked in front of the Defendant. The Defendant feels that this seizure

was unlawful as the only basis for the seizure was that Samar and Kriner knew that the Defendant had an odor of alcohol on his breath.

Contact between the police and citizens can generally be categorized into three levels: mere encounter; investigative detention; custodial detention. See Commonwealth v. Dehart, 745 A.2d 633 (Pa.Super. 2000). “A ‘mere encounter’ can be any formal or informal interaction between an officer and a citizen, but will normally be an inquiry by the officer of a citizen.” Dehart at 636. Sponhouse’s interaction with the Defendant could be categorized as a mere encounter. However, an investigative detention requires “reasonable suspicion of unlawful activity.” Dehart at 636. At the hearing on the Suppression Motion on September 28, 2010, Samar agreed that the Defendant was in fact detained once Samar and Kriner parked behind the Mustang. Contrary to the Defendant’s assertion otherwise, the Court believes that Samar did have reasonable suspicion to believe that the Defendant may have been driving under the influence of alcohol, as Sponhouse informed Samar that he smelled alcohol on the Defendant’s breath. Therefore, the investigative detention of the Defendant was lawful.

ORDER

AND NOW, this ____day of October, 2010, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Motion to Suppress is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA
Stephen F. Becker, Esq.
Shapiro & Becker
114 Market Street
Lewisburg, PA 17837
Amanda Browning, Esq. (Law Clerk)
Gary L. Weber (LLA)