

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

vs.

**SHANNON D. LOUK,
Defendant**

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: No. CR-485-2010

OPINION AND ORDER

Defendant is charged by Information filed on May 7, 2010 with one count of driving under the influence of alcohol (incapable of safe driving/refusal), an ungraded misdemeanor, one count of driving without a license and one count of reckless driving, both traffic summaries.

On May 27, 2010, Defendant filed a Motion to Suppress. Defendant contends that the arresting law enforcement officer, Chad Aldenderfer of the Tiadaghton Valley Regional Police Department lacked reasonable suspicion to stop his vehicle. Defendant contends that as a result of said illegal stop all evidence obtained thereafter should be suppressed.

A hearing was held before the Court on June 30, 2010. Officer Aldenderfer testified that on February 12, 2010 while on patrol, he noticed a vehicle in front of him traveling northbound on Route 220 weaving in its own lane. He began approaching the vehicle and noticed that it crossed over the center line by a full tire width and soon thereafter crossed the right lane fog line and struck the side of a bridge abutment then veering back onto the roadway. At that point, Officer Aldenderfer activated his emergency lights. The vehicle pulled over after which Officer Aldenderfer identified the Defendant.

Officer Aldenderfer further testified that soon after noticing Defendant's vehicle weaving in its own lane, he turned on the video recording equipment in his patrol unit. A copy

of the video recording was marked as Commonwealth's Exhibit 1 and viewed by the Court and parties. The video clearly showed Defendant's vehicle traveling to the left of its lane of traffic over the center lane and then veering to the right striking snow that had impacted on a bridge abutment. Following Defendant's vehicle striking the snow, the vehicle then veered left back onto the roadway.

Defendant testified. He testified that he did not hit the bridge. He further testified that approximately one month after the incident, he took photographs of his vehicle. Those 13 photographs were admitted collectively as Defendant's Exhibit 1. The photographs depict, among other things, the right side and front of the vehicle. The photographs show no visible damage to Defendant's vehicle.

Defendant testified that there was in fact no damage to his vehicle and that between the date of the accident and the date that the pictures were taken, no maintenance or repair work was done on his vehicle.

Defendant's girlfriend, Darcy McClain also testified. She testified that the Defendant utilized her camera to take the pictures. She testified that as far as she was aware, the Defendant did not have any maintenance work or repair work done on his vehicle between the date of the incident involved in this matter and the date that the pictures were taken.

In order to conduct a traffic stop under the Vehicle Code, an officer must have reasonable suspicion that a violation of the Code has occurred. See generally 75 Pa. C.S. §6308 (b); Commonwealth v. Chase, 599 Pa. 80, 960 A.2d 108, 113 (2008). "To meet the standard of reasonable suspicion, the officer must point to specific and articulable facts which, together

with the rational inferences therefrom, reasonably warrant the intrusion.” Commonwealth v. Smith, 904 A.2d 30, 35 (Pa. Super. 2006).

The Court concludes that when Officer Aldenderfer conducted the stop of Defendant’s vehicle, he had reasonable, articulable facts to suspect a violation of the Motor Vehicle Code.

First, Defendant weaved back and forth in his own lane. Second, Defendant’s vehicle, for no apparent reason whatsoever, drove across the center line and then veered back into the lane of traffic. Next, Defendant’s vehicle veered to the right and crossed over the fog line. Finally, Defendant’s vehicle struck a snow embankment that had built up against a bridge abutment. Officer Aldenderfer testified that these occurrences caused him to believe a violation of the Motor Vehicle Code occurred. The Court concludes that based on this testimony as well as what was viewed on the video, these facts are sufficient to justify the traffic stop. See, for example, Commonwealth v. Howard, 762 A.2d 360 (Pa. Super. 2000); Commonwealth v. Masters, 737 A.2d 1229 (Pa. Super. 1999); Commonwealth v. Montini, 712 A.2d 761 (Pa. Super. 1998); and Commonwealth v. Lawrentz, 683 A.2d 303 (Pa. Super. 1996).

At the very minimum, Officer Aldenderfer was justified in making the stop pursuant 75 Pa. C.S.A. § 3309 (1) which requires a vehicle to be driven as nearly as practicable entirely within a single lane and not be moved from the lane until the driver has first ascertained that the movement can be made with safety. On at least two different occasions, Officer Aldenderfer observed that the Defendant was unable to maintain his vehicle within a single lane of traffic. Officer Aldenderfer’s reasonable and articulable suspicion arose from his observations of erratic and improper driving.

Officer Aldenderfer had sufficient reasonable suspicion to warrant the traffic stop of Defendant and accordingly, Defendant's Motion to Suppress is denied.

ORDER

AND NOW, this ____ day of July, 2010, following a hearing and argument, the Court DENIES Defendant's Motion to Suppress.

BY THE COURT,

Marc F. Lovecchio, Judge

cc: William Miele, Esquire (PD)
DA
Gary Weber, Esquire (Lycoming Reporter)
Work File