

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA :
vs. : **No. CR-425-2010**
:
WAYNE PERRY, SR. :
Defendant :

OPINION AND ORDER

Defendant is charged by Information filed on April 23, 2010 with two counts of driving under the influence of alcohol and several traffic summaries. The charges arise out of an incident which occurred on January 23, 2010 near the intersection of Memorial Avenue and Cemetery Street in Williamsport.

At approximately 2:30 a.m., Pennsylvania State Trooper Travis Doebler was traveling east on Memorial Avenue in a marked unit. As Trooper Doebler was approaching the intersection with Cemetery Street, he heard tires squeal and noticed a vehicle traveling westbound pass his vehicle in the opposite direction and decelerate very rapidly. Trooper Doebler initiated a traffic stop as a result of what he witnessed.

According to Trooper Doebler while there was nothing about the driving of the vehicle that indicated a violation of the Vehicle Code, it was the trooper's opinion that the driver's conduct violated Williamsport City Ordinance 709.02 which reads as follows:

“No person operating any vehicle in the City shall cause the tires of his vehicle to squeal and thereby cause noise and disturbance to the peace of the community, such is hereby declared to be a nuisance.”

As a result of the stop, Trooper Doebler obtained evidence sufficient to charge the Defendant with the driving under the influence and traffic summary offenses.

Defendant filed a Motion to Suppress contending that the stop of his vehicle was not supported by a reasonable suspicion that he was involved in criminal activity or that he had committed a Vehicle Code violation.

In addition to the aforesaid testimony of Trooper Doebler, the Commonwealth also introduced into evidence a copy of Williamsport City Ordinance No. 709.02.

The facts presented by the Commonwealth establish that Trooper Doebler heard tires squeal for approximately two (2) seconds and witnessed the Defendant's vehicle decelerating very rapidly.

In order for a traffic stop to be valid, the officer must articulate specific facts possessed by him at the time of the questioned stop which would provide reasonable suspicion that the vehicle or the driver was in violation of the law. See Commonwealth v. Fulton, 921 A.2d 1239 (Pa. Super. 2007).

While Trooper Doebler's actions stopped a potential hazard by removing a driver from the streets who was arguably under the influence, this Court is bound to strictly adhere to the applicable legal principles governing vehicle stops.

The Court cannot conclude that there was a sufficient legal basis for Trooper Doebler to stop Defendant's vehicle. There was no evidence upon which the Court could conclude that the two-second squealing of the tires caused noise and disturbance to the peace of the community. While the extremely brief duration of the squealing occurred at 2:30 a.m. and in a residential area, there was no testimony whatsoever as to how, if at all, such squealing impacted on the peace and tranquility of the residential area.

In reviewing cases with similar although not exact facts, the Court cannot conclude that the requisite legal basis has been established to support the stop. Commonwealth v. Ward, 573 A.2d 595 (Pa. Super. 1990); Commonwealth v. Dimassimo, Lyc. Cnty. No. 1415-2008 (Brown, J., April 23, 2009); Commonwealth v. Richard Davis, 2007 Pa. Dist. & Cnty. Dec. Lexis 312 (2007), affirmed without opinion, 938 A.2d 1111 (Pa. Super. 2007).

ORDER

AND NOW, this 13th day of August, 2010 following a hearing and argument, the Court **GRANTS** the Defendant's Motion to Suppress. All of the evidence obtained from or about the Defendant following the stop of his vehicle is suppressed.

BY THE COURT,

Marc F. Lovecchio, Judge

cc: DA (MK)
PD (NS)
Gary Weber, Esquire (Lycoming Reporter)
Work File