

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA :
vs. : **No. CR-1895-2009**
:
DARREL L. SPRING, :
Defendant :

OPINION AND ORDER

By Information filed on January 8, 2010, the Defendant is charged with one count of driving under the influence of alcohol (incapable of safe driving); one count of driving under the influence with a high rate of alcohol and several traffic summaries. On February 9, 2010, Defendant filed a Motion to Suppress requesting the Court to suppress any oral statements the Defendant made in the hospital prior to being Mirandized, to suppress the Defendant's blood test results because he was arguably placed under arrest without probable cause or in the alternative to suppress Defendant's blood test results because his consent to the test was arguably not knowing, voluntary or intelligent.

A hearing on the Motion to Suppress was held on April 30, 2010. Trooper Russel Ramin testified on behalf of the Commonwealth and the Defendant testified on his own behalf.

Defendant first submits that while he was being questioned by Trooper Ramin at the Muncy Valley Hospital he was undergoing custodial interrogation. Because he was not Mirandized prior to such alleged custodial interrogation, Defendant argues that his statements must be suppressed.

Statements made during custodial interrogation are presumptively involuntary, unless the accused is first advised of his Miranda rights. Commonwealth v. Distefano, 782 A.2d 574, 579 (Pa. Super. 2001), appeal denied, 569 Pa. 716, 806 A.2d 858 (2002). "The test

for determining whether a suspect is in custody is whether the suspect is physically deprived of his freedom in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted.” Commonwealth v. Eichinger, 591 Pa. 1, 22-23, 915 A.2d 1122, 1134 (Pa. 2007). A person is considered to be in custody for the purposes of Miranda when the officer’s show of authority leads the person to believe that he is not free to decline the officer’s request, or otherwise terminate the encounter. Commonwealth v. McCarthy, 820 A.2d 757, 760 (Pa. Super. 2003).

Applying these standards, the Court concludes that the interview of the Defendant did not constitute custodial interrogation and he was not entitled to be Mirandized. Under the circumstances, the Defendant did not reasonably believe that his freedom of action or movement was restricted by the trooper’s actions or statements.

Following the accident, Defendant was transported to the hospital. Trooper Ramin went to the hospital to interview the Defendant for the purpose of determining what occurred. Upon entering the emergency room, Trooper Ramin inquired of hospital personnel as to the location of the driver. The Defendant was being treated in a curtained-in section of the emergency room. Doctors and nurses as well as other medical personnel were present. The interview was brief. The interview was conducted in an open area of the hospital where there were numerous draped cubicles and in which other patients may have been being treated in adjoining rooms, and medical staff was present and were able to treat the Defendant without any interference. The Defendant did not ask to leave. The Defendant was not placed in restraints. No orders were given by law enforcement that they not be disturbed during their interview and the Defendant did not testify to any belief, reasonable or not, that his freedom of

action or movement was in any way restricted by anything other than the fact that he had a broken hip and was not able to move. See, for example, Commonwealth v. Johnson, 556 Pa. 216, 727 A.2d 1089 (Pa. 1999); Commonwealth v. Perry, 710 A.2d 1183 (Pa. Super. 1998); Commonwealth v. Smith, 382 Pa. Super. 288, 555 A.2d 185 (Pa. 1989); Commonwealth v. Fento, 363 Pa. Super. 488, 526 A.2d 784 (Pa. Super. 1987).

Miranda warnings are required only when a Defendant is subject to custodial interrogation. Commonwealth v. Smith, 575 Pa. 203, 224, 836 A.2d 5, 18 (Pa. 2003). Because Defendant was not in custody, Miranda warnings were not required and accordingly, Defendant's Motion to Suppress his statements to Trooper Ramin is denied.

Defendant next submits that he was placed under arrest at the hospital and then subsequently requested to submit to a chemical testing of his blood alcohol level. Defendant submits that the initial arrest was without probable cause and accordingly his consent to the blood alcohol test and the results must be suppressed. Defendant's argument, however, belies the facts as testified to by both Trooper Ramin and the Defendant.

Following the initial interview with the Defendant, the Defendant was read his implied consent warnings and agreed to have his blood taken. Subsequent to his blood being drawn, the Defendant was read his Miranda rights and placed under arrest.

With respect to his consent to the blood test, the Defendant testified that based upon a prior DUI arrest, he understood his implied consent rights and knew what he was doing when he agreed to take the blood test. In fact, Defendant testified that he "knew exactly" what the implications were with respect to his implied consent rights, his waiving of those rights and his consent to the blood test.

At the time the Defendant agreed to take the blood test, he was not under arrest. Moreover, even if the Defendant were under arrest, there was sufficient probable cause to support such.

Where the facts and circumstances within the arresting officer's knowledge, and of which he had reasonably trustworthy information, are sufficient to warrant a prudent man in believing the Defendant has committed an offense, probable cause exists. Commonwealth v. Rodriguez, 526 Pa. 268, 272, 585 A.2d 988, 990 (1991). Given the unexplained accident, the Defendant's slurred speech, and the strong odor of an alcoholic beverage emanating from the Defendant, Trooper Ramin clearly had sufficient probable cause to believe that the Defendant was driving under the influence of alcohol to the extent he was incapable of safe driving. Commonwealth v. Simon, 440 Pa. Super. 428, 434-435, 655 A.2d 1024, 1027-1028 (1995).

Defendant by way of a final argument, submits that as a result of his motor vehicle accident, he was not capable of a knowing, voluntary and intelligent consent to the blood alcohol test. This argument is without any basis whatsoever. As indicated above, the Defendant testified that he knew exactly what he was doing when he agreed to the blood test. While his recollection was vague on other matters, he understood his implied consent rights and agreed to take the test. According to Trooper Ramin, the Defendant conversed with him "quite plainly" and did not appear in any way whatsoever to not understand what was being discussed with respect to implied consent.

ORDER

AND NOW, this ____ day of May, 2010, the Court denies Defendant's Motion for Suppression of Evidence.

BY THE COURT,

Marc F. Lovecchio, Judge

cc: George Lepley, Esquire
DA
Gary Weber, Esquire (Lycoming Reporter)
Work File