

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1502-2010
vs. :
LEJER WEBB, : Opinion and Order re:
 : Defendant's Omnibus Pre-trial Motion
Defendant :

OPINION AND ORDER

This matter came before the Court on October 20, 2011 for a hearing and argument on Defendant's Omnibus Pre-trial Motion. In his motion, Defendant asserts the alleged traffic violation that formed the basis of the traffic stop in this case did not occur; therefore, the police did not have probable cause to perform a traffic stop and all evidence seized must be suppressed.

The Commonwealth presented the testimony of Kurt Hockman, an officer with the Montoursville police. Officer Hockman testified that on April 4, 2010, he was working an overlap or evening shift. While he was traveling East on Broad Street in a marked police cruiser, he observed a white sedan driving North on South Washington Street proceed directly across Broad Street to North Washington Street, despite a sign and road markings indicating that all traffic must turn right at that intersection. Officer Hockman was within a half a block of Washington Street and there was no traffic in front of him when he made these observations. Officer Hockman stopped the vehicle for this traffic violation and approached the driver, who was identified as Defendant.

The Commonwealth also presented photographs that depicted the signs on South Washington Street stating that "ALL TRAFFIC MUST TURN RIGHT," as well as a

right arrow above the word “only” painted on the roadway. See Commonwealth’s Exhibits 1 and 2.

Defendant’s girlfriend, Andrea Sartori, testified that she was working at the Birdhouse Restaurant, which is located in the middle of the 300 block of Broad Street. She finished working at around 5:00 or 6:00 p.m., and locked the front door. Defendant was waiting in the vehicle, which was parked about three stalls in front of the Birdhouse, to give her a ride home. They pulled out of the parking spot, drove about a half-block on Broad Street, and then turned left onto North Washington Street to go home to their residence in the 200 block of North Washington Street. When the officer approached the vehicle after pulling them over, he said something to the effect of “didn’t I pull you over before” or “isn’t your license suspended.” She did not recall the officer saying anything about failing to turn right from Washington Street onto Broad Street as the basis for the stop.

On cross-examination, Ms. Santori admitted that she was pregnant with Defendant’s baby, and she and Defendant were financially dependent on each other. When asked if the stop occurred between 8:00 and 9:00 p.m., Ms. Santori indicated she did not recall the time; she was the last to leave the restaurant and it was just getting dark out.

Defendant also testified. He stated he picked his girlfriend up from the Birdhouse Restaurant around 8:00 p.m. He pulled out and went straight on Broad Street and then turned left onto North Washington Street. He never was on South Washington Street. He also indicated that the officer stopped him because the officer thought his license was suspended. The officer did not mention any other traffic violation and he wasn’t given a

citation for any traffic violation.

On cross-examination, Defendant stated he was driving a Chevy Cobalt and he left to pick his girlfriend up around 8:15 p.m. He also indicated the officer had previously stopped him for a DUI, so the officer thought he was still under suspension.

After considering all the evidence in this case, the Court finds the testimony of Officer Hockman to be credible. Since Officer Hockman reasonably believed Defendant committed a traffic violation by driving straight across Broad Street at an intersection where all traffic on South Washington Street was required to turn right onto Broad Street, the traffic stop was valid.

Accordingly, the following order is entered:

ORDER

AND NOW, this ____ day of October 2011, the Court DENIES Defendant's Omnibus Pre-trial Motion.

By The Court,

Marc F. Lovecchio, Judge

cc: A. Melissa Kalas, Esquire (ADA)
Robin Buzas/Jeffrey Rowe, Esquire (APD)
Gary Weber, Esquire (Lycoming Reporter)
Work file