

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>COMMONWEALTH</b>	:	<b>No. CR-706-2012</b>
v.	:	
	:	
<b>DERRICK V. DRAFT,</b>	:	<b>Order denying Defendant's</b>
<b>Defendant</b>	:	<b>Motion to Suppress</b>
	:	
* * * * *		* * * * *
<b>COMMONWEALTH</b>	:	<b>No. CR-710-2012</b>
v.	:	
	:	
<b>STEPHEN LOPEZ-TEMPLE,</b>	:	<b>Order denying Defendant's</b>
<b>Defendant</b>	:	<b>Motion to Suppress</b>

**OPINION AND ORDER**

Defendant Lopez is charged by Information filed on May 24<sup>th</sup>, 2012 with one count of Possession with Intent to Deliver, a felony offense, and one count of Possession of a Controlled Substance, a misdemeanor offense. Defendant Draft is charged by Information filed on May 17<sup>th</sup>, 2012 with one count of Possession with Intent to Deliver, a felony offense, and one count of Possession of a Controlled Substance, a misdemeanor offense. The charges arose out of an incident which allegedly occurred on March 30<sup>th</sup>, 2012 near Elmira Street and Center Place in Williamsport.

On March 30<sup>th</sup>, 2012 at approximately 1:19 a.m., Trooper Walker was traveling down 3<sup>rd</sup> Street in Williamsport when he witnessed a white Mercury automobile make a wide turn from Locust Street onto 3<sup>rd</sup> Street traveling east. Once the vehicle turned onto 3<sup>rd</sup> Street, the driver stopped the vehicle in the far left lane. The vehicle was stopped next to a line of parked cars. The vehicle remained stopped for approximately twenty to thirty seconds.

As a result of what he witnessed, Trooper Walker followed the vehicle to Center Avenue in order to issue a traffic stop. After the Trooper activated his emergency lights and

siren, the vehicle eventually came to an abrupt stop. The four passengers then exited the vehicle and began to run from the scene. After a short pursuit, both Defendants were taken into custody. Trooper Walker obtained evidence sufficient to charge both Defendants with one count each of Possession of a Controlled Substance and Possession with Intent to Deliver.

According to Trooper Walker, the Defendants were in the vehicle when the driver violated 75 Pa. C.S.A. § 3309, Driving on Roadways Laned for Traffic, which reads as follows:

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others not inconsistent therewith shall apply (1) a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.

75 Pa. C.S.A. § 3309(1).

Trooper Walker testified that the driver of the vehicle also violated 75 Pa. C.S.A. § 4305,

Vehicular Hazard Signal Lamps. The relevant portion reads as follows: Simultaneous flashing of the two front and two rear signal lamps shall indicate a vehicular traffic hazard. The driver of a motor vehicle equipped with simultaneous flashing signals shall use the signals when the vehicle is stopped or disabled on a highway, except when the vehicle is stopped in compliance with a traffic-control device or when legally parked. Drivers of other vehicles shall exercise extraordinary care in approaching, overtaking and passing a vehicle displaying vehicular hazard warning signals.

75 Pa. C.S.A. § 4305(a).

“Stopped” is defined under this title as “any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.” 75 Pa. C.S.A. § 102. “Highway” is defined in relevant part as “The entire width between the boundary

lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.” Id.

Before trial, the Defendants filed a Motion to Suppress alleging that no probable cause existed for Trooper Walker to issue a traffic stop. The Defendants specifically argued that no probable cause existed to believe that a crime had occurred simply from seeing the vehicle take a wide turn and pause in the street for approximately twenty to thirty seconds. Omnibus Pretrial Motion, 5/21/2012, p. 7. As a result of the lack of probable cause, the Defendants submit that the traffic stop was unconstitutional. Omnibus Pretrial Motion, 5/21/2012, p. 7. Accordingly, a hearing was scheduled and heard by the Court on July 23<sup>rd</sup>, 2012. The Commonwealth offered testimony from Trooper Walker during the hearing.

In the recent years, the applicable standard for traffic stops has evolved. In order to make a constitutional vehicle stop for a violation of the Motor Vehicle Code, an Officer must have probable cause. Commonwealth v. Feczko, 10 A.3d 1285, 1291 (Pa. Super. Ct. 2010)(citing Commonwealth v. Chase, 960 A.2d 108, 115-16 (Pa. 2008)).

A vehicle stop based solely on offenses not “investigatable” cannot be justified by mere reasonable suspicion, because the purposes of a *Terry* stop do not exist—maintaining the status quo while investigating is inapplicable where there is nothing further to investigate....

Mere reasonable suspicion will not justify a vehicle stop when the driver's detention cannot serve an investigatory purpose relevant to the suspected violation. In such an instance, “it is encumbent [sic] upon the officer to articulate specific facts possessed by him, at the time of the questioned stop, *which would provide probable cause to believe that the vehicle or the driver was in violation of some provision of the Code.*”

Id.(emphasis added)

Neither the violation of 75 Pa. C.S.A. § 3309 nor the violation of 75 Pa. C.S.A. § 4305

is an investigatory traffic stop. Once an officer pulls a driver over for said violations, nothing remains to be investigated. Therefore, in order for the Defendant's traffic stop to be valid, there must be sufficient probable cause.

Probable cause exists where "the facts and circumstances within the officer's knowledge are sufficient to warrant a prudent individual in believing that an offense was committed and that the defendant has committed it." Commonwealth v. Griffin, 2011 Pa. Super. Ct. 138)(citing Commonwealth v. Stewart, 740 A.2d 712, 715 (Pa. Super. Ct. 1999)). In determining whether probable cause exists, the Court must consider the totality of the circumstances as they appeared to the arresting officer. Id.

The Court finds that probable cause existed to effectuate the traffic stop of the vehicle. Trooper Walker testified that he issued a traffic stop because he witnessed the vehicle, in which the Defendants were traveling, make a wide turn onto 3<sup>rd</sup> Street and stop without using hazard signals. He testified that there was "medium" traffic on the road at the time that the Defendant turned and stopped. Trooper Walker's observations gave rise to suspected violations of 75 Pa. C.S.A. § 3309(1) and 75 Pa. C.S.A. § 4305.

Trooper Walker was able to articulate specific facts possessed by him, at the time of the questioned stop, which provided probable cause to believe that the vehicle in which the Defendants were traveling violated the aforementioned provisions. Third Street was divided into two or more lanes, which were clearly marked for traffic. Trooper Walker testified that when the vehicle in question turned onto Third Street, it straddled two lanes before readjusting to a single lane on the far left side of the road.

When the vehicle was stopped for approximately twenty to thirty seconds, the

driver did not utilize his or her flashing signals. Third Street constitutes a “highway” under 75 Pa. C.S.A. § 4305 because the street is publicly maintained and open to the public for vehicular traffic. Defense counsel argued that the vehicle did not meet the definition of “stopped” under 75 Pa. C.S.A. § 4305. The Court finds however, that the language defining “stopped” is very clear. “Stopped” includes *any* halting even *momentarily*. The use of “any” affords for all stops regardless of the duration. The statute provides for exceptions such as stopping to “avoid conflict with other traffic” or to comply “with the directions of a police officer or traffic-control sign or signal.” There was no evidence presented to suggest that the vehicle in which the Defendants were traveling stopped in the roadway to avoid conflict with other traffic. Further, no evidence was provided which would indicate that the driver of the vehicle was merely abiding by traffic signs, signals, or officer directions. Based upon the evidence provided, the driver of the vehicle “stopped” on a “highway” without using his or her flashing signals.

The Court concludes that there was a sufficient legal basis for Trooper Walker to stop the vehicle in which the Defendants were traveling.

**ORDER**

AND NOW, this \_\_\_\_ day of July, 2012, following a hearing and argument, the Court DENIES the Defendants’ Motion to Suppress.

By the Court,

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Judge Marc F. Lovecchio