

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-144-2013  
:   
vs. :   
:   
DAVID COLLINS, : Omnibus Pretrial Motion  
Defendant :   
:

**OPINION AND ORDER**

This matter came before the Court on May 17, 2013 for a hearing and argument on Defendant's Omnibus Pretrial Motion, which was filed on March 15, 2013. At the hearing, the Commonwealth introduced the testimony of Detective Sergeant Chris Kriner, as well as two exhibits: Commonwealth Exhibit 1, a map with the jurisdictional line between the Williamsport Bureau of Police (WBP) and the Old Lycoming Township Police Department (OLTPD) marked in a yellow highlighter; and Commonwealth Exhibit 2, a memorandum of understanding signed by the municipalities of Lycoming County to establish a mutual aid agreement between their police departments. The relevant facts follow.

At approximately 2:11 p.m. on December 3, 2012, County Communications relayed a dispatch over both the WBP and OLTPD frequencies that there was a robbery at the M&T Bank on West Fourth Street, near Arch Street in the city of Williamsport. Although the bank was approximately 2000 feet inside WBP jurisdiction, it was closer to the headquarters of the OLTPD.

The dispatch described the robber as a black male between 5'8" and 6' tall, wearing a ski mask and a dark sweatshirt that was seen running westbound toward Funston Avenue.

Officers from both police departments responded to set up a perimeter around the scene of the robbery.

Detective Sergeant Chris Kriner of the OLTPD was on duty, but he was dressed in plain clothes and was driving an unmarked, brown Ford Crown Victoria. Det. Kriner responded to the dispatch and positioned his vehicle at or near the intersection of West Fourth Street and Funston Avenue in Williamsport.

At approximately 2:24 p.m. a Williamsport police unit stopped a black male who was riding a bicycle on King Street.

At approximately 2:30 p.m. another Williamsport police unit was talking to a witness at 912 Diamond Street, who reported seeing a black male running through yards. Diamond Street is one block west of Funston Avenue.

Around the same time that this unit was speaking to the witness on Diamond Street, Det.Sgt. Kriner saw a white Chrysler 300 traveling eastbound on Fourth Street. The occupants of the vehicle were three black males in their twenties that were wearing dark clothing. As the vehicle passed in front of Det. Sgt. Kriner, the backseat passenger “ducked down” as if he did not want to be seen.

Det. Sgt. Kriner pulled onto Fourth Street and began following the vehicle. He noticed that the registration plate on the vehicle was from Tennessee. He ran the registration and it came back as a Hertz rental car. Det. Sgt. Kriner believed the occupants of the vehicle could have been involved in the bank robbery. He radioed a location where he intended to stop the vehicle and asked about the location of officers who could provide back

up. As Det. Sgt. Kriner followed the vehicle down Fourth Street, it got on the highway via the Rte. 15 South on ramp.

At 2:40 p.m. a Williamsport police officer relayed more information regarding the description of the bank robber. The perpetrator was a 5'7" to 5'10" black male in his twenties that had a thin build and was wearing jeans, a dark hoodie, a ski mask, white gloves and was carrying a gray bag.

At 2:43 p.m. Det. Sgt. Kriner activated his lights and siren and pulled the white Chrysler over at the Maynard Street exit. When he approached the vehicle and made contact with the occupants, he noticed an odor of marijuana. At the time of the stop there was another dispatch that the bank robber was wearing a Hollister sweatshirt. All the occupants of the vehicle were wearing black jackets. Det. Sgt. Kriner had the occupants unzip their jackets so he could see if any of them were wearing a Hollister sweatshirt underneath. He then detained the occupants to investigate the odor of marijuana.

Det. Sgt. Kriner ultimately took Defendant into custody on an outstanding warrant for his arrest from Philadelphia. Controlled substances were found on Defendant's person and inside the vehicle. A handgun was found inside the passenger compartment of the vehicle, and another handgun was found in the trunk.

Defendant was arrested and charged with three counts of Possession with Intent to Deliver Controlled Substances, one count of Conspiracy to Commit Possession with Intent to Deliver Controlled Substances, one count of Possession of Controlled Substance (contraband by inmate prohibited), one count of Receiving Stolen Property, one count of

Firearms not to be carried without a License, two counts of Possession of a Controlled Substance, one count of a Possession of a Small Amount of Marijuana for Personal Use and one count of Possession of Drug Paraphernalia.

Defendant filed an omnibus pretrial motion which included a motion to suppress claiming the police lacked reasonable suspicion to stop the vehicle, a motion to suppress alleging a violation of the Municipal Police Jurisdiction Act, a motion for discovery and a motion for leave to file a supplemental omnibus motion upon receipt of that discovery.

At the hearing and argument on the motion, the parties discussed the outstanding discovery issues, as well as an issue relating to whether the information provided by Defendant with respect to his booking sheet should be suppressed. The Court entered an order regarding these issues. Therefore, the only outstanding issues are whether the police had reasonable suspicion to stop the vehicle in which Defendant was a passenger and whether there was a violation of the Municipal Police Jurisdiction Act.

Defendant first argues that at the time the vehicle was stopped Sergeant Kriner did not possess the necessary reasonable suspicion. As Defendant correctly notes in his memorandum, whether reasonable suspicion existed at the time of an investigatory detention must be answered by examining the totality of the circumstances to determine whether there was a particularized and objective basis for suspecting the individual stopped, of criminal activity. Commonwealth v. Ayala, 791 A.2d 1202, 1209 (Pa. Super. 2002).

“To establish reasonable suspicion, the officer must ‘articulate specific observations which, in conjunction with reasonable inferences derived from those

observations, led him to reasonably conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity.” Commonwealth v. Caban, 60 A.3d 120, 128 (Pa. Super. 2012) (citation omitted). The reasonable suspicion standard is less stringent than probable cause. Commonwealth v. Rogers, 578 Pa. 127, 849 A.2d 1185, 1189 (2004). In determining whether reasonable suspicion exists, the court must give due consideration to the reasonable inferences a police officer is entitled to draw from the facts in light of his experience. Id. The court is not limited to considering only those facts that clearly indicate criminal conduct, because even innocent facts when taken together may warrant a police officer investigating further. Id., citing Commonwealth v. Cook, 558 Pa. 50, 735 A.2d 673, 676 (1999).

In considering all of the circumstances in light of Sergeant Kriner’s experience, the Court concludes that sufficient reasonable suspicion existed to justify the stop. This is not a situation, as Defendant alleges, that Sergeant Kriner had nothing more than a hunch. Not only was the vehicle traveling from the area that the robber had fled toward, it also was heading to the easiest access to a highway out of town. Defendant generally matched the description of the robber, and he attempted to evade being seen by ducking down. Moreover, Sergeant Kriner observed the vehicle within 15 minutes of the dispatch. As well, the conduct was during the middle of the day in which there was no other criminal conduct alleged to have occurred in the area.

While the Court concedes it is a close call, the totality of the circumstances must include not only the observations of the arresting officer but also the reasonable

inferences to be drawn therefrom in light of the officer's training and experience.

Accordingly, Defendant's motion to suppress based on a lack of reasonable suspicion to stop the vehicle will be denied.

Defendant next claims that the Municipal Police Jurisdiction Act, 42 Pa. C.S.A. § 8951, et seq. was violated when Sergeant Kriner left his primary jurisdiction and engaged in a stop of the Defendant's vehicle. As Defendant notes in his Memorandum, "an Old Lycoming Township police officer conducted a vehicle stop, in Williamsport Bureau of Police jurisdiction, believing he had reasonable suspicion that individuals were involved in a robbery also having occurred in Williamsport Bureau of Police jurisdiction."

Defendant argues that Sergeant Kriner's presence in the Williamsport jurisdiction does not come within the six separate enumerated circumstances under the Act which allow an officer to act outside his own jurisdiction. More specifically, Defendant argues that Sergeant Kriner had not been requested to aid another officer in that the mutual aid agreement was not a specific request for aid; rather, it was a generalized agreement that jurisdictions would aid each other, if necessary. Defendant ignores, however, the fourth exception as set forth in the Act which permits an officer to provide services and to enter another jurisdiction if that officer has obtained the prior consent of the Chief Law Enforcement Officer which provides primary police services to the municipality which is beyond that officer's primary jurisdiction.

The memorandum of understanding clearly provides prior consent for Sergeant Kriner to respond in this case. It provides authorization to the signatories to supply

police services to the other departments “during all shifts, as needed.” It also provides that in the event of an emergency, the next closest available agency shall be requested to respond as needed. Moreover, Article II paragraph 3 of the mutual aid agreement specifically states: “Each Police Department is authorized to handle calls, or automatically respond, to high-risk situations such as domestic violence calls, bank alarms, hold up alarms, burglar alarms, or “Officer needs assistance” calls.” The dispatch that a bank robbery had occurred was a call to a high-risk or emergency situation to which the mutual aid agreement specifically authorized other departments to automatically respond.

Clearly, police services were needed from not only the Williamsport police but from all adjoining police agencies who could respond. The Old Lycoming Township Police Department was the next closest available agency. As Sergeant Kriner testified, one Williamsport unit had responded to the bank and two other units were stopping another suspect in the area. The dispatch was sent out on not only the Williamsport Bureau Police frequency but also the Old Lycoming Township frequency. Under these circumstances, the Court cannot conclude that the Act was violated.

**ORDER**

**AND NOW**, this \_\_\_\_ day of July 2013, following a hearing and the submission of Legal Memoranda, the Court **DENIES** Defendant's motion to suppress for lack of reasonable suspicion to stop and his motion to suppress for alleged violation of the Municipal Police Jurisdiction Act.

By The Court,

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Marc F. Lovecchio, Judge

cc: Martin Wade, Esquire (ADA)  
Nicole Spring, Esquire (APD)  
Gary Weber, Lycoming Reporter  
Work File