

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1259-2012  
:   
vs. : CRIMINAL DIVISION  
:   
:   
SHAWN GRAHAM, :   
Defendant :

**OPINION AND ORDER**

This matter came before the court on January 29, 2013 for a hearing on Defendant's motion to suppress. Defendant contends the police lacked reasonable suspicion to conduct a canine sniff on the vehicle in which he was a passenger. The relevant facts follow.

On December 28, 2011, Officers Jeremy Brown and Robert Williamson of the Williamsport Bureau of Police were working the 4 p.m. to 12 a.m. shift when they stopped a vehicle in the 700 block of Fourth Street for an equipment violation. Officer Williamson approached the driver's side of the vehicle and Officer Brown approached the passenger side. While Officer Williamson spoke to the driver and obtained his information, Officer Brown got the occupants to roll down the passenger side window, so he could observe and talk to the passengers. Officer Brown smelled an odor of burned marijuana coming from inside the vehicle. Officer Brown was familiar with the odor of burned marijuana because he had smelled it hundreds of times before this incident.

When the officers went back to their patrol car, Officer Brown asked Officer Williamson if he smelled the odor of marijuana, but he had not. Officer Brown contacted Officer Snyder, the canine handler who also happened to be working the 4 to 12 shift, and

asked him to bring his canine to the scene.

While waiting for Officer Snyder to arrive on the scene with the canine, Officer Brown and Officer Williamson approached the vehicle and its occupants again. This time Officer Brown went to the driver's side and Officer Williamson approached the passenger side of the vehicle. Again, Officer Brown smelled an odor of marijuana, which seemed stronger from this vantage point. All the occupants were removed from the vehicle and patted down to make sure they were not armed. Nothing was found during the pat down.

The canine unit arrived within about five minutes. The windows of the vehicle were rolled up before the canine sniff was conducted.<sup>1</sup>

Defendant contends the police lacked reasonable suspicion to conduct the canine sniff because Officer Williamson did not smell an odor of marijuana. The court cannot agree.

The police only need reasonable suspicion to conduct a canine search of a place such as a vehicle. Commonwealth v. Johnston, 515 Pa. 454, 530 A.2d 74, 79 (1987). "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, 2012 PA Super 278 (December 18, 2012)(citations 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

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<sup>1</sup> The canine alerted on the vehicle, and then the police conducted a search. As a result of the search, Defendant as charged with possession of

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).

The Court credits Officer Brown's testimony that he smelled the odor of marijuana both times he approached the vehicle. Officer Williamson was a new, young police officer who was still undergoing field training at the time of the stop. In comparison, Officer Brown was an experienced police officer who had smelled the odor of burned marijuana hundreds of times.

The odor of marijuana is sufficient to establish reasonable suspicion, if not probable cause. See Commonwealth v. Stoner, 236 Pa. Super. 161, 344 A.2d 633 (1975). Although an odor of marijuana does not guarantee that a canine sniff or a search will reveal the presence of that substance, it certainly gives a police officer a reasonable basis for believing that a vehicle may contain such a substance. Since there was reasonable suspicion to conduct a canine sniff of the vehicle in this case, Defendant's motion to suppress must be denied.

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a controlled substance (cocaine) and possession of drug paraphernalia.

**ORDER**

AND NOW, this \_\_\_\_ day of February 2013, the Court DENIES Defendant's motion to suppress.

By The Court,

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Marc F. Lovecchio, Judge

cc: A. Melissa Kalas, Esquire (ADA)  
Nicole Spring, Esquire (APD)  
Work file  
Gary Weber, Esquire (Lycoming Reporter)