

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

**COMMONWEALTH OF PA**

**vs.**

**DONALD SCOUTEN,  
Defendant**

**:**

**: No. CR-1756-2012**

**:**

**:**

**: Motion to Suppress**

**OPINION AND ORDER**

Defendant is charged by Information filed on November 8, 2012 with two counts of driving under the influence of alcohol. The charges arise out of a traffic stop that occurred on August 10, 2012. Based upon observations made by the arresting officer following the stop, Defendant was arrested for suspicion of DUI. He subsequently consented to a blood alcohol test.

Defendant filed a motion to suppress on December 13, 2012, in which he alleged that the stop of his vehicle was not based upon reasonable suspicion or probable cause and, accordingly, all evidence obtained following the stop should be suppressed.

A hearing was held on Defendant's motion on March 4, 2013. Officer Joshua Bell of the Williamsport Bureau of Police testified that he was traveling west on Edwin Street on August 10, 2012 when he observed Defendant's vehicle drive by him traveling eastbound on Edwin Street. Officer Bell turned his vehicle around and began following Defendant's vehicle. When Defendant stopped at the stop sign at the intersection of Edwin and Walnut Street, Officer Bell noticed that Defendant's center brake light was not functioning. Officer Bell continued to follow Defendant's vehicle south on Walnut, then west on West Third Street and then north on Campbell. While following the vehicle along this route, Officer Bell had several opportunities to confirm that the center brake light was not functioning. Officer Bell described the light as being factory installed, which required it to be functioning.

Officer Bell activated his lights when Defendant's vehicle was on Campbell Street just north of the intersection with Edwin Street, and Defendant immediately pulled over. Officer Bell testified that he advised Defendant of the reason why he was pulled over.

Officer Bell indicated that his vehicle was equipped with an in-car camera, but he could not verify that the incident was videotaped. A search of the records was conducted but no video for this incident was located.

Defendant also testified. He confirmed that he traveled along the route as testified by Officer Bell, but he indicated that Officer Bell never advised him of the reason for the stop. He did not become aware that the reason for the stop was the center brake light until he met with his attorney to review the police reports provided in discovery. He checked the brake light on November 26, 2012 and it was functioning properly. Thereafter, he periodically checked the center brake light and it continued to work. Furthermore, the vehicle was inspected in December of 2012, and no work needed to be done on the center brake light. He no longer owns the car because it was involved in a subsequent accident.

At a suppression hearing, the Commonwealth has the primary burden of both production and persuasion to convince the Court that the evidence was legally obtained. Pa.R.Crim.P. 581, Comment; Commonwealth v. Enimpah, 2013 PA Super. 20 (February 6, 2013). The Commonwealth must show that the stop of Defendant's vehicle for the non-functioning center brake light was based on probable cause, because this is a case where there is no further evidence that could have been obtained from a subsequent stop and investigation. Commonwealth v. Chase, 599 Pa. 80, 960 A.2d 108, 116 (2008); Commonwealth v. Feczko,

10 A.3d 1285, 1291 (Pa. Super. 2010). The Court finds that the Commonwealth has met its burden.

Probable cause is defined as “those facts and circumstances available at the time of the arrest which would justify a reasonable prudent man in the belief that a crime had been committed and that the individual arrested was the probable perpetrator.” Commonwealth v. Harper, 485 Pa. 572, 403 A.2d 536, 542 (1979) (citations omitted). Probable cause is present where there is reasonably trustworthy information which warrants a reasonable person in the belief that the suspect has committed or is committing a crime. Commonwealth v. Thompson, 604 Pa. 198, 985 A.2d 928, 931 (2009), quoting Commonwealth v. Rodriguez, 526 Pa. 268, 585 A.2d 988, 990 (1991). Defendant does not contest the fact that a non-functioning center brake light may constitute a violation of the Motor Vehicle Code.<sup>1</sup> Instead, Defendant argues that the center brake light was, in fact, functioning; therefore, there was no reason for Officer Bell to stop his vehicle.

Officer Bell credibly testified that, when he was behind Defendant’s vehicle at an intersection, he noticed that the center brake light was not operating as required under the Motor Vehicle Code. In order to verify such, he continued to follow the vehicle around an approximate two-block area. He verified several more times that the center brake light was not operating and, as a result, effectuated a stop of Defendant’s vehicle. These facts certainly would justify a reasonable man in the belief that the Defendant committed a violation of the Motor Vehicle Code.

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<sup>1</sup> See Commonwealth v. Muhammed, 992 A.2d 897(Pa.Super. 2010).

While Defendant's testimony regarding the center brake light operating is relevant, it is not persuasive. Although the center brake light may have been functioning in November and December, this does not necessarily mean that it was operating properly on August 10, 2012. There could have been a short or some other malfunction that caused the failure.

Accordingly, Defendant's Motion to Suppress will be denied.

**ORDER**

**AND NOW**, this \_\_\_\_ day of March 2013, following a hearing and argument on Defendant's Motion to Suppress, said Motion is **DENIED**.

BY THE COURT,

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Marc F. Lovecchio, Judge

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