

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

vs.

**DONNELL BOYD,
Defendant**

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: No. CR-1519-2012

:

:

: Motion to Suppress

OPINION AND ORDER

Defendant is charged by Information filed on September 24, 2012 with two counts of Driving Under the Influence of Alcohol and two traffic summaries. The charges arise out of a vehicle stop that was conducted on a vehicle the Defendant was operating on June 16, 2012 in the city of Williamsport.

On October 31, 2012, Defendant filed a Motion to Suppress alleging that there was insufficient probable cause to justify the initial stop of his vehicle for an alleged violation of the Motor Vehicle Code.

A hearing was held before the Court on December 26, 2012. Joshua Bell, a police officer with the Williamsport Bureau of Police testified. He was on duty on June 16, 2012 traveling south on Rose Street approaching the intersection of West Fourth Street. The intersection is controlled by a traffic light. As he was approaching the intersection, in which he had a green light, he noticed Defendant's vehicle approaching from the west traveling in an easterly direction on West Fourth Street toward the intersection.

The Defendant's vehicle did not appear that it was going to stop at the red light. It was traveling between 35 to 40 mph and was within fifty (50) feet of the intersection. Fearing that his vehicle would be hit by Defendant's vehicle, Officer Bell accelerated through the intersection. While he was doing so, Defendant's vehicle, which was then 20 to 25 feet from the "stop line" of the intersection, quickly braked, causing the tires to lock up and squeal.

The vehicle stopped approximately a half to a full car length past the stop line but did not enter the intersection. The light remained red during this time.

Officer Bell eventually turned his vehicle around and stopped the Defendant's vehicle on West Fourth Street. The stop was effectuated because Officer Bell believed he had probable cause to believe that Defendant committed careless driving in violation of the Vehicle Code.

No further testimony was offered. The parties dispute whether, under the facts, Officer Bell had probable cause to believe that the Defendant committed a violation of the Vehicle Code.

Because this is a case where there is no further evidence that could be obtained from a subsequent stop and investigation, the stop for a violation of the Motor Vehicle Code must have been based on probable cause. Commonwealth v. Feczko, 10 A.3d 1285, 1291 (Pa. Super. 2010). A vehicle stop made solely on offenses not "investigatable" cannot be justified by mere reasonable suspicion. Commonwealth v. Chase, 599 Pa. 80, 960 A.2d 108, 116 (2008).

Accordingly, in order to withstand constitutional scrutiny, Officer Bell must articulate specific facts possessed by him which at the time of the stop would have provided probable cause to believe that the Defendant was in violation of some provision of the Vehicle Code. Id.

Probable cause is defined in Pennsylvania law 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 has been committed and that the individual arrested was the probable perpetrator." Commonwealth v. Harper, 485 Pa. 572, 402 A.2d 536, 542 (1979)(citations omitted). Probable

cause is present when 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, 585 A.2d 988, 526 Pa. 268 (1991). It is a “practical, non-technical conception.” Commonwealth v. Glass, 562 Pa. 187, 754 A.2d 655, 663 (2000), citing Illinois v. Gates, 462 U.S. 213, 231-232 (1983).

The Vehicle Code prohibits a person from driving a vehicle in a careless disregard for the safety of persons or property. 75 Pa. C.S.A. § 3714 (a). Defendant was approaching an intersection controlled by a traffic light, still traveling the speed limit if not slightly above it within fifty (50) feet of the intersection. Apparently realizing at the last moment that he had a red light, Defendant suddenly applied the brakes, causing the tires to squeal and the brakes to lock. Defendant did not stop at the stop line but actually traveled a half to a full car length past such, causing another vehicle approaching the intersection to accelerate in order to avoid a vehicle crash. Clearly, these facts established probable cause to believe that Defendant was driving carelessly.

Since Officer Bell was able to articulate facts that established an unequivocal violation of the Motor Vehicle Code, i.e., careless driving, the Court concludes that probable cause existed in this case.

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

ORDER

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

BY THE COURT,

Marc F. Lovecchio, Judge

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