

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	No. CR-1864-2013
	:	
vs.	:	CRIMINAL DIVISION
	:	
	:	
SEAN BRENNAN, Defendant	:	Motion to Suppress
	:	

**OPINION AND ORDER**

By Information filed on November 27, 2013, Defendant is charged with Driving Under the Influence of Alcohol (DUI) offenses and two traffic summaries including careless driving.

On August 3, 2013, on Route I-180 in the city of Williamsport and Loyalsock Township, Defendant is alleged to have driven his green Toyota Tacoma vehicle in an unsafe and erratic manner while under the influence of alcohol.

On February 3, 2014, Defendant filed a motion to suppress asserting that there was “no probable cause” present “to effectuate the traffic stop.” A hearing was held on March 31, 2014. At the hearing, defense counsel clarified his motion, asserting that the arresting Pennsylvania State Trooper did not have reasonable suspicion to stop the Defendant’s vehicle and that all evidence seized as a result of the stop should be suppressed. Defense counsel raised no other suppression issue.

At the aforesaid hearing, Trooper Travis Pena of the Pennsylvania State Police testified. A video recording from the trooper’s “in-car camera” was admitted into evidence as Commonwealth’s Exhibit 1. The parties stipulated that the Court could view the video outside of the actual hearing.

Trooper Pena has been employed by the Pennsylvania State Police for seven

plus years. He has training and experience in DUI arrests and prosecution. During his career he has been involved in approximately 100 to 150 DUI related arrests.

On August 3, 2013, Trooper Pena was traveling eastbound on Route I-180 approaching the Hepburn Street exit when he noticed Defendant's vehicle in front of him. Defendant's vehicle swerved out of its lane near the exit as if it was going to exit and then swerved back into its previous travel lane. Trooper Pena then followed the vehicle for over three miles to the I-180 Walmart exit. While following the vehicle, he observed the vehicle cross the fog line at least twice and ride on the fog line. Based on his observations of erratic driving, he decided to stop Defendant's vehicle to investigate further to determine if the Defendant was under the influence of alcohol or any controlled substance.

A review of the in-car camera videotape confirms the testimony of Trooper Pena. While the Court concedes that there were significant portions of the tape which verify safe driving by Defendant, there were several instances where he drove erratically and unsafely.

Defendant's speed was erratic. At times, he sped up while at other times he slowed down significantly. On more than one occasion, Defendant touched or crossed either the fog line or the center line. When first approaching the Hepburn Street exit, he abruptly crossed the lane change line and then abruptly returned. He weaved a good portion of the roadway, albeit in his lane. When approaching portions of the roadway which curved, Defendant crossed the center line essentially cutting off the curve. Prior to exiting the highway near Walmart, Defendant actually rode on or over the fog line for a substantial period of time. When exiting the highway, Defendant appeared to be traveling past the exit,

but then he abruptly turned right onto the exit ramp.

To establish reasonable suspicion to support a stop, an officer must “articulate specific observations which, in conjunction with reasonable inferences derived from these observations, led him to reasonably conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was the person involved in that activity.”

Commonwealth v. Caban, 60 A.3d 120, 128 (Pa. Super. 2012). In determining whether reasonable suspicion exists, the court must give due consideration to the reasonable inferences the police officer is entitled to draw from the facts in light of his experience.

Commonwealth v. Rogers, 578 Pa. 127, 849 A.2d 1185, 1189 (2004). “[A] combination of circumstances, none of which taken alone would justify a stop, may be sufficient to achieve a reasonable suspicion.” Commonwealth v. Riley, 715 A.2d 1131, 1135 (Pa. Super. 1998) (citations omitted).

The Court finds that Trooper Pena had reasonable suspicion to believe Defendant was driving under the influence of alcohol. Given the Trooper’s training and experience coupled with Defendant’s poor, dangerous and erratic driving, Trooper Pena could reasonably conclude that Defendant was driving under the influence of some type of substance or alcohol.

**ORDER**

**AND NOW**, this \_\_\_\_day of April 2014, following a hearing and argument,

Defendant's motion to suppress is **DENIED**.

By The Court,

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Marc F. Lovecchio, Judge

cc: DA (AB)  
George Lepley, Esquire  
Gary Weber, Lycoming Reporter  
Work file