

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	No. CR-1967-2013
	:	
vs.	:	CRIMINAL DIVISION
	:	
	:	
RYAN PHILLIPS, Defendant	:	Motion to Suppress
	:	

OPINION AND ORDER

Defendant is charged by Information filed on December 20, 2013 with Driving Under the Influence of Alcohol (DUI) offenses. Defendant was allegedly under the influence of alcohol to the extent he was incapable of safely driving on August 3, 2013, while he traveling in the city of Williamsport and eventually in the Borough of South Williamsport.

On January 9, 2014, Defendant filed a motion to suppress, alleging that there was an insufficient legal basis to stop the Defendant’s vehicle. While Defendant’s motion asserts a lack of probable cause, at the hearing in this matter held on March 31, 2014, Defendant also argued, in the alternative, that there was insufficient reasonable suspicion.

Chief William Solomon of the Old Lycoming Township Police Department testified at the suppression hearing on behalf of the Commonwealth. The Court also viewed Commonwealth’s Exhibit 1, which is a video recording from the dashboard camera of Chief Solomon’s vehicle.

Chief Solomon has been involved in law enforcement for 30 years. He is vastly experienced and has extensive training in investigating impaired driving. During his career, he has stopped hundreds of individuals suspected of drinking and driving.

At approximately 2:00 a.m. on August 3, 2013, he noticed Defendant’s

vehicle exiting a parking area and traveling on Church Street. He began following the Defendant's vehicle because "the bars had just closed" and in that area there were increased incidents of impaired driving.

Both Chief Solomon's testimony and a review of the videotape indicate that as Defendant drove his vehicle out of the parking lot, he accelerated at a fast pace on Church Street. While traveling on Church Street, Defendant veered his vehicle to the left, where it almost touched the double line. Defendant stopped at first stop sign and then proceeded, again at a fast pace, to the next intersection. Defendant abruptly stopped his vehicle well before the "stop bar" when an approaching police cruiser turned onto Church Street in the opposite direction. Defendant then drove over the stop bar and into the intersection, before stopping again before he turned right onto Market Street. Defendant then traveled south on Market Street at an accelerated rate. At the first traffic light, although the traffic light was green, he applied the brakes. He continued traveling south on Market Street over the bridge, weaving slightly. For some unknown reason at a significant distance from the next traffic light, Defendant applied the brakes again. He then rapidly accelerated, traveling past a vehicle in the right lane that was slowing for the red light at the corner of Market Street and Southern Avenue.¹ Defendant then slammed on his brakes and abruptly stopped at the red light. Once the light turned green, Defendant accelerated again, came close to hitting the left curb, and then again braked for no apparent reason. As Market Street turned left at approximately 90 degrees, Defendant drove in a manner such that the vehicle's right tires drifted over the white dotted line and into the right lane for a short period of time and then

¹ There are two southbound lanes of traffic on Market Street. Defendant was in the left lane.

returned to the left lane of traffic.

At that point, Chief Solomon activated his emergency lights and pulled over Defendant's vehicle.

Chief Solomon conceded that he did not charge Defendant with any traffic violations other than the DUI offenses. He indicated that, under all of the circumstances, he suspected that Defendant was under the influence and incapable of safely driving.

The Court must first determine if probable cause or reasonable suspicion is the appropriate standard for determining the lawfulness of the stop in this case. As the Pennsylvania Supreme Court explained in Commonwealth v. Chase:

Extensive case law supports the conclusion that a vehicle stop for DUI may be based on reasonable suspicion, as a post-stop investigation is normally feasible. However, a vehicle stop based solely on offenses not 'investigatable' cannot be justified by a mere reasonable suspicion because of the purposes of a *Terry* stop do not exist – maintaining the *status quo* while investigating is inapplicable where there is nothing further to investigate. An officer must have probable cause to make a constitutional vehicle stop for such offenses.

599 Pa. 80, 960 A.2d 108, 118 (2008).

Chief Solomon stopped Defendant's vehicle because he suspected that Defendant may have been driving under the influence of alcohol. Therefore, the appropriate standard is reasonable suspicion.

“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) (citations omitted). 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)(citations omitted). “Merely because a suspect’s activity may be consistent with innocent behavior does not alone make detention and limited investigation illegal.” Commonwealth v. Riley, 715 A.2d 1131, 1135 (Pa. Super. 1998) (citation omitted). “[A] combination of circumstances, none of which taken alone would justify a stop, may be sufficient to achieve a reasonable suspicion.” Id.

The Court finds that Chief Solomon had reasonable suspicion to believe Defendant was driving under the influence of alcohol. The totality of the circumstances, including the Chief’s experience, the fact that it was closing time for the local bars, the fact that there was a high number of impaired driving incidents in the area, and Defendant’s erratic and unexplainable driving, support reasonable suspicion. Chief Solomon articulated specific observations which, in conjunction with the reasonable inferences to be drawn from those observations, led him to reasonably conclude that the Defendant was driving under the influence.

Accordingly, the following order is entered:

ORDER

AND NOW, this ____day of April 2014, following a hearing and argument, Defendant’s Motion to Suppress is **DENIED**.

By The Court,

Marc F. Lovecchio, Judge

cc: DA (MW)
PD (JL)
Gary Weber, Lycoming Reporter
Work file