

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

**COMMONWEALTH OF PENNSYLVANIA**

v.

**RASHAUN RULEY,  
Defendant**

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**CR: 1724-2013  
CRIMINAL DIVISION**

**OPINION AND ORDER**

The Defendant filed a Motion to Suppress on December 18, 2013. The hearing on the motion was held on February 7, 2014.

***Background***

On June 30, 2013, Officer Kurt Hockman (Hockman) and Chief Jeffrey Gyurina (Gyurina) of the Montoursville Police Department were taking part in the roving DUI patrols and were located on East Third Street around Mulberry Street in Williamsport. At 3:14 AM, the County Control radioed to the officers that a domestic dispute and assault was in progress in the area where Hockman and Gyurina were located. Further, the dispatch included a description of the people involved and their route of travel.<sup>1</sup> The Commonwealth introduced the in-vehicle video of Hockman's patrol vehicle as it turned onto Mulberry Street. The video showed a black female waiving her arms and pointing towards a silver Dodge Magnum that was travelling in the opposite direction of the police vehicle. The black female also appeared to be yelling something, which Hockman testified was "my babies, my babies."

Hockman turned his vehicle around and turned left onto East Third Street in pursuit of the Dodge Magnum. When Hockman turned onto East Third Street he observed that the Dodge Magnum had already pulled to the side of the road and Rashaun Ruley (Defendant) was standing

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<sup>1</sup> Hockman did not provide more detail regarding the description of the individuals involved or their route of travel.

outside of the vehicle with his hands in the air. The vehicle was cleared for any children and the Defendant was detained while Williamsport Bureau of Police (WBP) officers responded to the scene. While being detained, Hockman and Gyurina became suspicious that the Defendant had been driving under the influence of alcohol. The Defendant had slurred speech, red eyes, and had an odor of alcohol emanating from his person. Once WBP finished their investigation of the reported domestic dispute, Hockman began investigating the Defendant for a suspected DUI offense.

As a result of the traffic stop, the Defendant was charged with one count of Driving Under Influence of alcohol, a misdemeanor of the first degree;<sup>2</sup> Driving While Operating Privilege is Suspended, a summary offense;<sup>3</sup> and Driving Without a License, a summary offense.<sup>4</sup> On December 31, 2013, the Defendant filed a Motion to Suppress, which alleged that Hockman did not have reasonable suspicion to detain the Defendant for driving under the influence of alcohol. Similarly, the Defendant contends that the officers did not have probable cause to stop him for any traffic violations. Following the hearing, the Defendant additionally argued that the officers did not have jurisdiction to be in Williamsport.

### ***Motion to Suppress***

The first issue alleged by the Defendant was whether Hockman had reasonable suspicion to conduct a vehicle stop. Reasonable suspicion is decided by the court after reviewing the totality of the circumstances and a finding that the facts support a reasonable belief that the law is being broken. Commonwealth v. Fulton, 921 A.2d 1239, 1243 (Pa. Super. 2007). “In making this determination, we must give ‘due weight . . . to the specific reasonable inferences [the police

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<sup>2</sup> 75 Pa.C.S. § 3802(a)(1).

<sup>3</sup> 75 Pa.C.S. § 1543(a).

<sup>4</sup> 75 Pa.C.S. § 1501(a).

officer] is entitled to draw from the facts in light of his experience.” Id. (citing Commonwealth v. Cook, 735 A.2d 673, 76 (Pa. 1999)). To establish reasonable suspicion the officer must be able to articulate specific observations that 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. Little, 903 A.2d 1269, 1272 (Pa. Super. 2006).

The Supreme Court of Pennsylvania has found reasonable suspicion to stop a vehicle existed when the vehicle was stopped near the scene of the crime but did not have occupants that matched the description of the suspects. In Ellis, police received a burglary alarm from a business. Commonwealth v. Ellis, 662 A.2d 1043 (Pa. 1995). While an officer was responding to the alarm, he “was advised that two actors, who were described as white or possibly ‘Mexican,’ were leaving the scene of the burglary.” Id. 1045. Within a half mile of the business, the officer saw a vehicle that matched the description of a vehicle leaving the area of the crime and its location “corresponded to the position where a car would be found had it left the burglary site at the time of the broadcast.” Id. The vehicle had two (2) black occupants.

The Supreme Court of Pennsylvania found that the police had reasonable suspicion to stop the vehicle. Id. at 1048. The Supreme Court noted that vehicle was the only vehicle near the burglary, the vehicle was in an area where it would have been if it left the business when the burglary was broadcasted, and that the vehicle matched the description of a vehicle near the burglary. Id. Notwithstanding that the broadcast stated that two white males were the suspects, the Supreme Court found that the above mentioned facts were sufficient to establish reasonable suspicion to conduct a vehicle stop. Id.

Further, the Superior Court of Pennsylvania has found reasonable suspicion by an analysis of the totality of the circumstances even though the description of the suspect was

meager. In Jackson, an officer received a dispatch about a robbery in progress and described the perpetrator as “an armed male wearing a black baseball hat and black jacket.” Commonwealth v. Jackson, 678 A.2d 798, 799 (Pa. Super. 1996). The officer saw an individual wearing a dark colored baseball cap and a black jacket. The officer stopped and searched the individual. Id. at 800. The Superior Court found that the officer did not have specific and articulable facts based solely on the description. Id. at 801. The Court, however, assessed all the circumstances and found that the officer did have reasonable suspicion:

First, [the defendant] exactly fit the given, yet meager, description from the police report. Second, [the defendant] was both spatially and temporally proximate to the scene of the crime when stopped by [the officer]. Third, the nature of the crime was a serious felony. Lastly, the confrontation between [the defendant] and [the officer] was late in the evening in an area even [the defendant] claims was particularly dangerous.

Id. The Superior Court found reasonable suspicion based on the broad description of the suspect and his location.

Here, the officers monitored a dispatch of a domestic dispute/assault in the area of East Third Street and Mulberry Street. The dispatcher also gave a description of the individuals involved and their specific route of travel. As the officers responded to the location of the crime in progress they observed a woman yelling “my babies, my babies” in the street and pointing at a vehicle that was driving away. The officers had reasonable suspicion to believe that the Defendant was at least involved in the reported domestic dispute/assault. Further, almost immediately after pursuing the Dodge Magnum, the Defendant pulled the vehicle over, got out of his vehicle, and put his hands up in the air. The officers had reasonable suspicion to believe that the Defendant had at least been involved in a domestic dispute. See also Commonwealth v. Gease, 450 A.2d 989, 990 (Pa. Super. 1982) (finding probable cause to arrest based on an informant’s statement and the flight of the defendant).

Next, the Defendant contends that police did not lawfully detain him following the traffic stop. “A ‘custodial detention’ must be supported by probable cause; it is deemed to arise when the conditions and/or duration of an investigating detention become so coercive as to be the functional equivalent of arrest.” Commonwealth v. Douglass, 539 A.2d 412, 418 (Pa. Super. 1988) (finding that a three and a half hour detention was not custodial). “An arrest is an act that indicates an intention to take a person into custody or that subjects the person to the will and control of the person making the arrest.” Commonwealth v. Gillespie, 745 A.2d 654, 660 (Pa. Super. 2000). Factors to consider when determining if a detention is investigative or custodial include: 1) the basis for the detention (the crime suspected and the grounds for suspicion); 2) the duration of the detention; 3) the location of the detention (public or private); 4) whether the suspect was transported against his will (how far, why); 5) the method of detention; 6) the show, threat, or use of force; and 7) the investigative methods used to confirm or dispel suspicions. Douglass, 539 A.2d at 421.

In assessing whether a detention is too long in duration to be justified as an investigative stop, we consider it appropriate to examine whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly, during which time it was necessary to detain the [defendants]. A court making this assessment should take care to consider whether the police are acting in a swiftly developing situation, and in such cases the court should not indulge in unrealistic second guessing.

Gillespie, 745 A.2d at 660. The court is to conduct an objective test viewed in “light of the reasonable impression conveyed to the person subjected to the seizure . . .” Id.

In Gillespie, two men were told to step away from a building and were placed in handcuffs. Gillespie, 745 A.2d at 660. Officers explained that a robbery had just occurred and that they matched the suspects’ descriptions. Id. Officers also told the individuals that they had to wait until the victim could come to the scene to make an identification. Id. The Superior Court found that the officers were not unnecessarily intrusive towards the suspects.

[T]he handcuffing of [the suspects] was merely part and parcel of ensuring the safe detaining of the individuals during the lawful *Terry* stop. The police diligently pursued bringing the robbery victim to the scene for identification purposes. While the use of restraints is a factor to be considered with regard to whether a detention is custodial, in the present case other factors mitigate against such a finding – e.g., minimal duration of detention, no transport against will, no show or threat or use of force.

Id. at 660-61. The Superior Court also noted that the Supreme Court had declined to hold that every time an individual is placed in handcuffs that such individual has been arrested. Id.

Here, the detention of the Defendant was clearly investigatory. The Defendant was detained while WBP responded to the scene. The Defendant was detained in a public area, he was not transported or handcuffed, and he was detained for a very short period of time. WBP were actively responding to the dispatch and were already in the area when Hockman observed the black female yelling and pointing at the Defendant's vehicle. Therefore, the Court does not find that the Defendant was improperly detained while WBP responded to the scene, which was when Hockman became reasonably suspicious that the Defendant may have been driving under the influence of alcohol.

Finally, the Defendant alleged at argument, following the Commonwealth's case, that the officers did not have jurisdiction to pull over his vehicle. The Defendant did not allege this issue in his Motion to Suppress and the Commonwealth did not elicit testimony regarding this issue. While this issue is waived, this Court has addressed in the past the issue of whether the roving DUI patrols have jurisdiction under 42 Pa.C.S. § 8953(a)(4):

(4) Where the officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the organized law enforcement agency which provides primary police services to a political subdivision which is beyond that officer's primary jurisdiction to enter the other jurisdiction for the purpose of conducting official duties which arise from the official matters within his primary jurisdiction.

Representatives of all the local police agencies have previously consented to have other police agencies enter their jurisdictions as part of the roving DUI patrols. This Court and others within

the Court of Common Pleas of Lycoming County have found that this prior consent is adequate under 42 Pa.C.S. § 8953(a)(4). Therefore, even if the Defendant had properly raised the issue of jurisdiction, this Court does not believe that it would have had merit.

**ORDER**

AND NOW, this \_\_\_\_\_ day of March, 2014, based upon the foregoing Opinion, the Court finds that officers had reasonable suspicion to conduct a vehicle stop and that they properly detained the Defendant while Williamsport Bureau of Police responded to the scene. Therefore, the Defendant's Motion to Suppress is DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA  
Kirsten Gardner, Esq.  
Eileen Dgien, Dep. CA