

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-326-2014
:
vs. : CRIMINAL DIVISION
:
DARRELL HARRIS, : Motion to Suppress
Defendant

OPINION AND ORDER

Defendant was charged on or about November 25, 2013 with Driving Under the Influence of Alcohol (DUI) and two motor vehicle offenses including careless driving (§ 3714(a)) and driving on roads laned for traffic (§ 3309 (1)).

On April 14, 2014, Defendant filed a Motion to Suppress evidence obtained as a result of the traffic stop on October 26, 2013, alleging that there was an insufficient legal basis to stop Defendant's vehicle. Specifically, Defendant alleges that the stop was conducted without probable cause to believe that Defendant had violated § 3309(1) and § 3714(a) of the Motor Vehicle Code (MVC). Further, Defendant argues in the alternative that the stop was without reasonable suspicion to effectuate an investigatory DUI stop. Defendant alleges that traffic stop violated Article 1, § 8 of the PA Constitution and the Fourth Amendment of the United States Constitution.

At the suppression hearing, Trooper David Walker testified. Trooper Walker has been employed by Pennsylvania State Police (PSP) for eight (8) years. He is a member of the Patrol Unit and is a Certified Motor Carrier Inspector. Trooper Walker has training and experience in observing impaired drivers. During his tenure with the PSP, he has been involved in hundreds of DUI and traffic offense related arrests

At approximately 1:30 a.m. on October 26, 2013, Trooper Walker observed Defendant's vehicle weave within its lane traveling east on I-180 near the Market Street exit. Trooper Walker followed Defendant's vehicle as it proceeded east on I-180 and exited onto Northway Road.

As Defendant exited I-180, Trooper Walker witnessed the Defendant's vehicle make an abrupt right turn onto the exit ramp, as though he had almost missed the exit, and fail to use his turn signal. Additionally, while traveling down the exit ramp, Trooper Walker observed Defendant's entire vehicle cross completely over the fog line and onto the right-hand shoulder of the road.

At this point, Trooper Walker activated his emergency lights and siren to initiate a traffic stop of Defendant's vehicle for violating the MVC. The stop took place in the parking lot of Denny's Restaurant. After Trooper Walker approached Defendant's vehicle and interacted with Defendant, Trooper Walker arrested Defendant for suspicion of DUI.

The Court will first address Defendant's primary contention that Trooper Walker lacked probable cause to believe that Defendant had violated the MVC, therefore rendering the vehicle stop unlawful.

As the Pennsylvania Supreme Court explained in Commonwealth v. Chase,

a vehicle stop based solely on offenses not 'investigatable' cannot be justified by a mere reasonable suspicion because 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). “[I]t is incumbent [sic] upon the officer to articulate specific facts possessed by him, at the time of the questioned stop, *which would provide probable cause to believe that the vehicle or the driver was in violation of some provision of*

the [Motor Vehicle] Code.” Commonwealth v. Feczko, 10 A.3d 1285, 1291 (Pa. Super. 2010)(emphasis original), quoting Commonwealth v. Gleason, 567 Pa. 111, 785 A.2d 983, 989 (2001)(citation omitted). “Probable cause does not require certainty, but rather exists when criminality is one reasonable inference, not necessarily even the most likely inference.” Commonwealth v. Lindbloom, 854 A.2d 604, 607 (Pa. Super. 2004), quoting Commonwealth v. Stroud, 699 A.2d 1305, 1308 (Pa. Super. 1997).

As set forth in § 3309(1) of the Motor Vehicle Code, motorists are required to maintain a single lane “as nearly as practicable”. 75 Pa. C.S.A. § 3309(1). The language of § 3309(1) allows for some deviation.

For instance, “momentary and minor” violations do not give a law enforcement official probable cause to effectuate a traffic stop. Commonwealth v. Garcia, 859 A.2d 820 (Pa. Super. 2004). Similarly, slight deviations that do not create a safety hazard do not provide the probable cause required to effectuate a traffic stop. Commonwealth v. Gleason, 567 Pa. 111, 785 A.2d 983 (2001). However, half of a vehicle crossing over the double yellow line for 2-3 seconds when the vehicle is not turning or avoiding an obstruction in the road does create probable cause to believe that the driver has violated § 3309 of the MVC. Commonwealth v. Enick, 70 A.3d 843 (Pa. Super. 2013).

The court finds that Trooper Walker had probable cause to believe that Defendant violated § 3309(1) and § 3314(1) of the MVC. Although Trooper Walker ultimately arrested Defendant for suspicion of DUI, Trooper Walker noted in both his police report and his testimony that the impetus for pulling over Defendant’s vehicle was for multiple traffic violations. Trooper Walker testified to personally observing Defendant’s vehicle make an abrupt right turn off of the highway and onto the exit ramp without

signaling, and to seeing Defendant's entire vehicle crossing completely over the exit ramp fog line. While Defense counsel sought to discredit Trooper Walker's testimony during the suppression hearing, the court finds his testimony credible.

Defendant's entire vehicle crossed completely over the fog line. There was no obstruction in the road nor was Defendant making a turn. Rather, this was a significant deviation that created a safety hazard both for Defendant and other drivers. Defendant's driving behavior exceeded the degree of deviation permitted by § 3309 of MVC. Therefore, Trooper Walker had probable cause to believe that Defendant had violated the MVC.

Because the court finds that Trooper Walker had the requisite probable cause to effectuate the traffic stop of Defendant's vehicle based on MVC violations, the Court need not address Defendant's alternative argument that Trooper Walker lacked reasonable suspicion to effectuate a traffic stop based on suspicion of DUI.

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

Order

And now, this 2nd day of June 2014, following a hearing and argument, Defendant's Motion to Suppress is denied.

By the Court:

Marc F. Lovecchio, Judge

CC: Ronald C. Travis, Esquire
DA (MW)
Gary Weber, Lycoming Reporter
Work File
Elizabeth Gula, Legal Intern