

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-803-2015
v.	:	
	:	
KEVIN L. CHARLES,	:	CRIMINAL DIVISION
Defendant	:	

OPINION AND ORDER

On July 14, 2015, the Defendant filed a Motion to Suppress Evidence. A hearing on the motion was held on August 27, 2015 and September 24, 2015.

I. Discussion

A. Trooper Ryan Golla’s Testimony During the Preliminary Hearing on May 8, 2015

On December 26, 2014, Pennsylvania State Police Trooper Ryan Golla (Golla) responded to a vehicle accident on Route 118. When Golla arrived at the accident scene, Hughesville Borough Police had already been there for a few minutes. Golla saw a vehicle with its “right front [tire] and . . . right rear [tire] down in [a] ditch.” The vehicle’s “left two tires [were] on the stone gravel berm of the roadway.” Golla spoke to the Hughesville police to get information about what was happening. The Defendant was at the scene and in handcuffs. Golla could not remember whether the Defendant was inside of a police car when Golla arrived at the scene. The Defendant had “bloodshot, glassy eyes and had a strong odor of alcohol emitting from his person.” In addition to swaying and stuttering, the Defendant had a “stagger” and was confused. Golla did not advise the Defendant of the Miranda rights at the scene. He first advised the Defendant of the rights at the hospital, where the Defendant refused to answer questions.

B. Officer Andrew Boyer's Testimony During the Suppression Hearing

Andrew Boyer (Boyer) is an officer in the Hughesville Borough Police Department. At the time of the hearing, Boyer had been a police officer for approximately nine years. On December 26, 2014, Boyer responded to a vehicle accident on Route 118. At the scene, Boyer saw the Defendant leaning against a vehicle. Boyer knew the Defendant from previous contacts and was advised that the Defendant was on state parole. Boyer believed the Defendant was highly intoxicated. He placed the Defendant in the back seat of a police car.

Trooper Golla arrived while the Defendant was in the police car. After Boyer told Golla what he knew, Golla opened the back door of the police car. The Defendant was asleep, and Golla woke him. Golla then advised the Defendant of the Miranda rights. Boyer did not hear whether the Defendant waived the rights. Golla took the Defendant to the hospital for DUI processing. In his police report, Boyer did not write whether the Defendant was advised of the Miranda rights at the scene.

C. Trooper Golla's Testimony During the Suppression Hearing

Trooper Golla has been a police officer since 2009. On December 26, 2014, he responded to a vehicle accident on Route 118. When Golla arrived, the Defendant was in handcuffs in the back of a police car. After speaking with Officer Boyer, Golla went to the Defendant and said, "Since you are in handcuffs in the back of a police car, I'm going to read you your Miranda rights." Golla then advised the Defendant of the Miranda rights. While Golla was at the scene, Jamaica Benner (Benner) told him that she was driving the vehicle involved in the accident. Golla also spoke to Sherry Reynolds (Reynolds) at the scene. Reynolds told Golla that she "came upon" the vehicle and saw the Defendant exit the vehicle

using the driver's door. According to Reynolds, Benner exited from the driver's door after the Defendant did.

In the police report and the affidavit of probable cause, Golla did not write whether the Defendant was advised of the Miranda rights in the back of the police car. Golla misspoke during the preliminary hearing. He did not remember advising the Defendant of the Miranda rights at the scene until he spoke with Boyer some time after the preliminary hearing.

D. Arguments

The Defendant argues that “at the time [he] made the incriminating statements he was in custody and the statements were the product of a custodial interrogation which was not preceded by a waiver of his right to counsel and his right to remain silent.” The Defendant emphasizes that Trooper Golla did not mention the accident scene Miranda advisement in the police report, in the affidavit of probable cause, or during the preliminary hearing. He asks for the suppression of the statements. The Defendant also argues that “his arrest was unlawful since it was made on the basis of the incriminating statements.” According to the Defendant, “since his [arrest] was unlawful, the results of the blood alcohol test should be suppressed.”

The Commonwealth believes that the Defendant is making the “maybe unprecedented” argument that two police officers are lying under oath. It asks the Court to find Officer Boyer and Trooper Golla credible. The Commonwealth argues that even without the Defendant's statements, Golla had probable cause to arrest the Defendant based on the information provided by Sherry Reynolds. It asserts that it is reasonable to conclude that a person was in control of a vehicle if the person exits the vehicle using the driver's door.

II. Discussion

A. Trooper Golla Said the Miranda Rights to the Defendant While the Defendant was in the Back of the Police Car.

“Miranda warnings are . . . required when a defendant is subject to a custodial interrogation.” Commonwealth v. Smith, 836 A.2d 5, 18 (Pa. 2003). The Commonwealth seemingly concedes that the Defendant was subject to a custodial interrogation as it has not argued that Miranda warnings were unnecessary. During the suppression hearing, Golla testified that he advised the Defendant of the Miranda rights while the Defendant was in the back of the police car. The Court finds that Trooper Golla was credible during the suppression hearing even though, during the preliminary hearing, he testified that he did not advise the Defendant of the Miranda rights at the accident scene. Golla’s suppression hearing testimony is supported by Officer Boyer’s testimony that Golla advised the Defendant of the Miranda rights at the accident scene. Therefore, the Court finds that Golla said the Miranda rights to the Defendant while the Defendant was in the back of the police car.

B. The Defendant did not Knowingly and Voluntarily Waive his Miranda Rights, So his Statements will be Suppressed.

“[T]he defendant may waive his rights, so long as the waiver is the result of a free and deliberate choice rather than intimidation, coercion, or deception, and the choice is made with a full awareness both of the nature of the right being abandoned and the consequences of the decision to abandon it.” Commonwealth v. Watkins, 843 A.2d 1203, 1213 (Pa. 2003) (citation and quotation marks omitted). “In order to avoid suppression based on a violation of Miranda, it is the Commonwealth’s burden to establish whether [a defendant] knowingly and voluntarily waived his Miranda rights. In order to do so, the Commonwealth must demonstrate that the

proper warnings were given, and that the accused manifested an understanding of these warnings.” Commonwealth v. Kunkle, 79 A.3d 1173, 1180 (Pa. Super. 2013) (citation and quotation marks omitted).

In considering whether a defendant has validly waived his *Miranda* rights, the trial court engages in a two-pronged analysis:

(1) whether the waiver was voluntary, in the sense that [the] defendant’s choice was not the end result of governmental pressure[;] and (2) whether the waiver was knowing and intelligent, in the sense that it was made with full comprehension of both the nature of the right being abandoned and the consequence of that choice.

Commonwealth v. Pruitt, 951 A.2d 307, 318 (Pa. 2008). “The determination whether an accused has knowingly and voluntarily waived his constitutional rights depends on the facts of each particular case. These circumstances include the background, experience, and conduct of the accused.” Kunkle, 79 A.3d at 1182 (citations omitted). “When assessing voluntariness pursuant to the totality of the circumstances, a court should look at the following factors: the duration and means of the interrogation; the physical and psychological state of the accused; the conditions attendant to the detention; the attitude of the interrogator; and any and all other factors that could drain a person’s ability to withstand suggestion and coercion.” Commonwealth v. Nester, 709 A.2d 879, 882 (Pa. 1998).

An explicit statement of waiver is not necessary to a finding of waiver under the Fifth Amendment. Commonwealth v. Bomar, 826 A.2d 831, 843 (Pa. 2003). “The pertinent question is whether the defendant in fact knowingly and voluntarily waived the rights delineated in the *Miranda* case. Waiver can be clearly inferred from the actions and words of the person interrogated.” Id. (citations and quotation marks omitted). “With respect to constitutional rights, courts should indulge every reasonable presumption against waiver.” Kunkle, 79 A.3d at 1182 (citation and quotation marks omitted).

“The fact that an accused has been drinking does not automatically invalidate his subsequent incriminating statements. The test is whether he had sufficient mental capacity at the time of giving his statement to know what he was saying and to have voluntarily intended to say it. Recent imbibing or the existence of a hangover does not make his confession inadmissible, but goes only to the weight to be accorded to it. [W]hen evidence of impairment is present, it is for the suppression court to decide whether the Commonwealth has established by a preponderance of the evidence that the suspect nonetheless had sufficient cognitive awareness to understand the Miranda warnings and to choose to waive his rights.” Commonwealth v. Ventura, 975 A.2d 1128, 1137-38 (Pa. Super. 2009).

In Ventura, there was evidence that the defendant had been consuming alcohol, but he did not “slur his speech, stagger or stumble while walking, or make any kind of swaying or motions which would lead [the police officer] to believe that he was intoxicated.” 975 A.2d at 1138. The Superior Court of Pennsylvania held that the trial court did not err in finding that the defendant knowingly waived his Miranda rights. Id. The court noted that the defendant “was cognizant of time and place, had no difficulty walking, did not slur his speech, and, most tellingly, demonstrated that he was capable of making decisions when he chose not to answer certain questions because he feared incrimination.” Id. at 1138-39.

Here, there are some circumstances which tend to show that the Defendant knowingly and voluntarily waived his Miranda rights. The Defendant was not in custody for a long time; Golla testified that the Hughesville police arrived a few minutes before he did. The Defendant was still at the scene when the Miranda rights were said. The Defendant had been arrested before as he was on state parole. In addition, there was no testimony that Golla had a coercive attitude during the questioning.

However, there are also some circumstances which tend to show that the Defendant did not knowingly and voluntarily waive his Miranda rights. When the Defendant was questioned, he was in handcuffs in the back of a police car. In addition, there was evidence that the Defendant was highly intoxicated. Boyer believed the Defendant was highly intoxicated. The Defendant fell asleep in the back of the police car, and Golla testified that the Defendant swayed, stuttered, had a stagger, and was confused. Furthermore, when the Defendant was advised of the Miranda rights at a later time, he refused to answer questions. After examining the totality of the circumstances, the Court finds that the Commonwealth has not shown by a preponderance of the evidence that the Defendant knowingly and voluntarily waived his Miranda rights in the back of the police car. Therefore, the Defendant's statements made at the accident scene after Golla said the Miranda rights will be suppressed.

C. The Blood Test will not be Suppressed Because, Even Without the Defendant's Statements, Trooper Golla Would Have Had Probable Cause to Arrest the Defendant for DUI.

The Defendant argues that he was illegally arrested because he was arrested based on his statements to Golla. Therefore, he argues that he was arrested after the statements to Golla. Although both a formal arrest and custodial detention require probable cause, a custodial detention is not necessarily a formal arrest. See Commonwealth v. Pakacki, 901 A.2d 983, 987 (Pa. 2006) (defining a custodial detention as a detention that involves such coercive conditions as to constitute the functional equivalent of an arrest). The Defendant must be arguing that his arrest was different than the custodial detention that the Commonwealth concedes occurred in the back of the police car. If the Defendant equated arrest with custodial detention, he would admit that he was not subject to a custodial detention until after the statements to Golla, and his

Miranda argument would fail. “Miranda warnings are required only when a suspect is in custody.” Pakacki, 901 A.2d at 987. At no point has the Defendant argued that police lacked probable cause for the custodial detention that occurred before the arrest.

“To be constitutionally valid, a warrantless arrest must, of course, be supported by probable cause.” Commonwealth v. Evans, 685 A.2d 535, 537 (Pa. 1996). “Probable cause to arrest exists when the facts and circumstances within the police officer’s knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been committed by the person to be arrested. Probable cause justifying a warrantless arrest is determined by the totality of the circumstances. Furthermore, probable cause does not involve certainties, but rather the factual and practical considerations of everyday life on which reasonable and prudent [persons] act.” Commonwealth v. Williams, 941 A.2d 14, 27 (Pa. Super. 2008) (citations and quotation marks omitted).

Here, even without the Defendant’s statements, the facts and circumstances known to Golla were sufficient to warrant a person of reasonable caution in the belief that the Defendant had been in physical control of a vehicle on a highway or trafficway after consuming enough alcohol to render him incapable of safe driving. The Defendant fell asleep in the back of the police car. He swayed, stuttered, had a stagger, and was confused. His eyes were bloodshot and glassy, and he had a strong odor of alcohol. The vehicle’s left tires were on the berm of Route 118. Sherry Reynolds, a person who just “came upon” the vehicle, told Golla that the Defendant exited from the driver’s door before Benner. The Court agrees with the Commonwealth that it is reasonable to believe that a person was in physical control of a vehicle if that person exits the vehicle using the driver’s door. Therefore, Golla had probable cause to arrest the Defendant for

DUI even without the Defendant's statements. Since Golla had probable cause to arrest the Defendant for DUI, the results of the blood test will not be suppressed.

III. Conclusion

Trooper Golla gave the Miranda rights to the Defendant when the Defendant was in the back of the police car. The Defendant's statements made after Golla advised him of Miranda will be suppressed because the Court is not satisfied that the Defendant knowingly and voluntarily waive his rights. The results from the blood test will not be suppressed because the Court finds that Golla had probable cause to arrest the Defendant for DUI independent of the Defendant's statements.

ORDER

AND NOW, this _____ day of November, 2015, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Motion to Suppress Evidence is hereby GRANTED in part and DENIED in part. The Defendant's statements made after Trooper Golla gave the Defendant his Miranda warnings at the accident scene are hereby SUPPRESSED, but the blood test is not suppressed.

By the Court,

Nancy L. Butts, President Judge