

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

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CR-341-2013

v.

TIMOTHY D. EILAND,
Defendant

CRIMINAL DIVISION

OPINION AND ORDER

On August 28, 2015, the Defendant filed a “Supplemental Motion to Suppress Evidence.” Argument on the motion was held on October 2, 2015.

I. Background

On May 7, 2013, the Defendant filed an initial suppression motion, in which he argued that police lacked reasonable grounds to conduct a traffic stop. The motion was granted by the trial court, but the Superior Court of Pennsylvania reversed the trial court. The Supreme Court of Pennsylvania denied the Defendant’s petition for allowance to appeal.

In the supplemental suppression motion, the Defendant argued that evidence should be suppressed because the traffic stop was based on a mistake of fact, and “there is no ‘good faith exception’ under the Pennsylvania Constitution with regard to unlawful seizures and/or arrests.” The Commonwealth argued that the supplemental suppression motion is untimely. In addition, the Commonwealth argued that since there is “no such thing as mistaken suspicion,” the Defendant framed the issue incorrectly. The Defendant responded with the argument that Terry v. Ohio¹ is not compatible with Article 1, Section 8 of the Pennsylvania Constitution.

¹ 392 U.S. 1 (1968).

II. Discussion

“Unless otherwise required in the interests of justice, all pretrial requests for relief shall be included in one omnibus motion.” Pa. R. Crim. P. 578. “Unless the opportunity did not previously exist, or the interests of justice otherwise require, [a suppression motion] shall be made only after a case has been returned to court and shall be contained in the omnibus pretrial motion set forth in Rule 578. If timely motion is not made hereunder, the issue of suppression of such evidence shall be deemed to be waived.” Pa. R. Crim. P. 581. “[T]he omnibus pretrial motion for relief shall be filed and served within 30 days after arraignment, unless opportunity therefor did not exist, or the defendant or defense attorney, or the attorney for the Commonwealth, was not aware of the grounds for the motion, or unless the time for filing has been extended by the court for cause shown.” Pa. R. Crim. P. 579. The Defendant’s supplemental motion is denied as untimely because the motion does not contain any arguments that could not have been included in the Defendant’s initial suppression motion.

In addition, the Defendant’s supplemental motion lacks merit. “The determination of whether an officer had reasonable suspicion that criminality was afoot so as to justify an investigatory detention is an objective one” Commonwealth v. Clemens, 66 A.3d 373, 379 (Pa. Super. 2013) (quoting Commonwealth v. Holmes, 14 A.3d 89, 96 (Pa. 2011)).

“Pennsylvania courts have always followed *Terry* [*v. Ohio*] regardless of whether the [defendant’s] claim was predicated on the Fourth Amendment or Article I, Section 8 of the Pennsylvania Constitution.” Commonwealth v. Grahame, 7 A.3d 810, 816 (Pa. 2010).

III. Conclusion

The Defendant's supplemental suppression motion is untimely and lacks merit.

ORDER

AND NOW, this _____ day of November, 2015, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Supplemental Motion to Suppress Evidence is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge