

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CR-1655-2014**  
v. :  
 :  
**PAUL JAMES HAMILTON,** : **CRIMINAL DIVISION**  
**Defendant** :

**OPINION AND ORDER**

On March 9, 2015, the Defendant filed a Motion to Suppress Evidence. A hearing on the motion was held on April 6, 2015.

**I. Background**

**A. Trooper Adam Kirk’s Testimony**

On May 26, 2014, Trooper Adam Kirk<sup>1</sup> (Kirk) of the Pennsylvania State Police was operating a marked patrol car when he saw a red truck travelling south on Arch Street in Williamsport. The truck turned onto Dewey Avenue, and Kirk followed it. Near a convenience store on Dewey Avenue, the truck made an “abrupt swerve” but remained in its lane. After going through the intersection of Dewey Avenue and Foy Avenue, the truck went “very close to the curb” and almost hit it. As the truck continued to travel, its left tires crossed the center line of Dewey Avenue. Kirk could tell that the left tires were over the center line because he could see the location of the truck’s left brake light. Kirk believed that the truck’s driver was committing DUI and initiated a traffic stop.

**B. Defendant’s Testimony**

The Defendant had driven on Dewey Avenue many times before May 26, 2014. He did not abruptly swerve near a convenience store. He did not almost hit the curb on Dewey Avenue;

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<sup>1</sup> At the time of the hearing, Kirk had been a trooper for more than eight years.

he “followed the contour of the road.” The Defendant’s truck did not cross the center line of Dewey Avenue.

### **C. Arguments**

The Defendant argues that the traffic stop was conducted in violation of his constitutional rights because Kirk did not articulate facts establishing reasonable suspicion that the Defendant was committing DUI. He argues that video from the camera in the patrol car belies the Kirk’s testimony. He asks for the suppression of evidence obtained after the stop.

The Commonwealth argues that the stop was lawful because Kirk’s observations gave him reasonable suspicion that the Defendant was committing DUI. The Commonwealth also contends that the video from the patrol car’s camera supports Kirk’s testimony.

## **II. Discussion**

“Extensive case law supports the conclusion a vehicle stop for DUI may be based on reasonable suspicion, as a post-stop investigation is normally feasible.” Commonwealth v. Chase, 960 A.2d 108, 116 (Pa. 2008). “[I]n order to establish reasonable suspicion, an officer must be able to point to specific and articulable facts which led him to reasonably suspect a violation of the Motor Vehicle Code. . . .” Commonwealth v. Holmes, 14 A.3d 89, 95-96 (Pa. 2011). “The determination of whether an officer had reasonable suspicion . . . is an objective one, which must be considered in light of the totality of the circumstances.” Id. at 96. “[I]n determining whether [an officer] possessed reasonable suspicion, [courts] must accord due weight ‘to the specific reasonable inferences [the officer] is entitled to draw from the facts in light of his experience.’” Commonwealth v. Sands, 887 A.2d 261, 272 (Pa. Super. 2005) (quoting Commonwealth v. Rogers, 849 A.2d 1185, 1189 (Pa. 2004)). In addition, courts must

“acknowledge that innocent facts, when considered collectively, may permit the investigative detention.” Commonwealth v. Brown, 996 A.2d 473, 477 (Pa. 2010). “[A]n investigatory traffic stop may be based upon an officer’s observation of erratic driving.” Commonwealth v. Starr, 739 A.2d 191, 195 (Pa. Super. 1999).

Here, Trooper Kirk articulated specific facts, which were sufficient to lead him to reasonably suspect that the driver of the red truck was committing DUI. Kirk saw the truck make an abrupt swerve on Dewey Avenue. In addition, he saw the truck move “very close to the curb.” Kirk also saw the truck’s tires cross the center line of Dewey Avenue. These observations provided Kirk with reasonable suspicion that the Defendant was committing DUI. Therefore, the traffic stop was lawful.

The video from the camera in the patrol car does not belie Kirk’s testimony. It actually confirms Kirk’s observations of the abrupt swerve and the truck moving very close to the curb. Although the video shows the truck move towards the center of Dewey Avenue, the Court is unable determine from the video whether the truck’s tires crossed the center line. However, the Court’s inability to determine does not mean that the video belies Kirk’s testimony. The Court finds Kirk credible since his other observations were confirmed by the video.

### **III. Conclusion**

The traffic stop was lawful because Trooper Kirk articulated specific facts, which were sufficient to lead him to reasonably suspect that the Defendant was committing DUI.

### **ORDER**

AND NOW, this \_\_\_\_\_ day of June, 2015, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Motion to Suppress Evidence is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge