

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CR-2092-2014</b>
<b>v.</b>	:	
	:	
<b>STEVEN M. ROWE,</b>	:	<b>CRIMINAL DIVISION</b>
<b>Defendant</b>	:	

**OPINION AND ORDER**

On May 6, 2015, the Defendant filed an Omnibus Pretrial Motion. A hearing and argument on the motion was held on June 12, 2015.

**I. Background**

**A. Testimony of Trooper Adam Kirk**

On September 6, 2014, Pennsylvania State Police Trooper Adam Kirk (Kirk) was in a patrol car in Williamsport. Kirk saw a black pickup truck travelling east on Via Bella Street. The truck travelled in the correct lane on Via Bella Street, and the driver activated the turn signal before turning onto Basin Street. On Basin Street, the truck's left tires went over a line separating the left turn lane from the straight / right turn lane. The truck's driver activated the turn signal before turning onto Third Street. On Third Street, the truck's left tires crossed over the double yellow line. The tires returned to the proper lane of travel, and the truck continued on Third Street. The truck abruptly swerved where the road "turns left." After the swerve, the patrol car's lights were activated. In total, the truck's tires crossed the center line twice.

**B. Video of the Truck**

Kirk's testimony is consistent with the video except for one aspect. The video does not show the truck's tires cross over lane lines on Basin Street. However, the video does show the truck's right tires go close to the line separating the right turn lane from the left turn lane on Via

Bella Street. The Court cannot determine whether the tires actually crossed the line on Via Bella.

### **C. Defendant's Argument**

The Defendant argues that Trooper Kirk had neither reasonable suspicion nor probable cause to stop the truck. He asks for the suppression of evidence found after the stop.

## **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. “In making this determination, [a court] must give ‘due weight . . . to the specific reasonable inferences [the police officer] is entitled to draw from the facts in light of his experience.’” Commonwealth v. Fulton, 921 A.2d 1239, 1243 (Pa. Super. 2007) (quoting Commonwealth v. Cook, 735 A.2d 673, 676 (Pa. 1999)). “Even a combination of innocent facts, when taken together, may warrant further investigation by the police officer.” Commonwealth v. Cook, 735 A.2d 673, 676 (Pa. 1999).

Here, Trooper Kirk had sufficient facts to lead him to reasonably suspect that the driver of the truck was committing DUI. The truck's right tires went close to the line separating lanes on Via Bella Street. The truck's left tires crossed the double yellow line on Third Street. The

truck continued on Third Street and then swerved. The swerve occurred where the road “turns,” but a driver can make the turn without an abrupt change of direction. From the video, the Court cannot tell whether the truck’s left tires crossed the double yellow line during the swerve, but the tires at least touched the yellow line that was farther away from the truck’s lane of travel. The totality of the circumstances provided Trooper Kirk with reasonable suspicion that the truck’s driver was committing DUI. Thus, the stop was lawful.

### **III. Conclusion**

The stop was lawful because Trooper Kirk had reasonable suspicion that the driver was committing DUI.

### **ORDER**

AND NOW, this \_\_\_\_\_ day of August, 2015, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant’s Omnibus Pretrial Motion is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

cc: Kyle W. Rude, Esq.  
DA