

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-853-2015
v.	:	
	:	
MITCHELL THOMAS SHETLER,	:	CRIMINAL DIVISION
Defendant	:	

OPINION AND ORDER

On July 9, 2015, the Defendant filed a Motion to Suppress Evidence. A hearing on the motion was held on August 10, 2015.

I. Background

A. Trooper Kyle Schaad's Testimony

At the time of the hearing, Kyle Schaad (Schaad) had been a trooper at the Montoursville barracks of the Pennsylvania State Police for just over three years. At 8:46 p.m. on January 12, 2015, Schaad was notified of a one vehicle crash in Muncy, Pennsylvania. He arrived at the scene in his uniform at 9:00 p.m. Schaad saw a pickup truck on its side, several emergency vehicles, and two other vehicles. Schaad spoke with Mary Eckard (Eckard) at the scene. Eckard told Schaad that she had seen a man near the truck. She also said that she had heard another person offer the man a ride home.

Schaad saw a pregnant woman in an ambulance. An E.M.T. told Schaad that the woman had no injuries "like she was in a crash." The woman in the ambulance told Schaad that she was the driver of the truck. After Schaad asked the woman to be truthful, she said that she was not the driver. She said that her boyfriend was the driver and she had lied because his license was suspended. The woman told Schaad that her boyfriend was in her vehicle, which was nearby.

Schaad went to the woman's vehicle and saw a man, who was the Defendant, in the back seat. He asked the Defendant to exit the vehicle and said, "I want to ask you a few questions." Schaad did not say that the Defendant was free to leave, but he did not say that the Defendant was not free to leave. Schaad asked the Defendant for his name and date of birth. The Defendant said that he was not the driver of the truck. Schaad then said, "There are people saying you drove the vehicle." He asked the Defendant to be truthful. The Defendant then said that he was driving the truck and had lied because his license was suspended. About two minutes had elapsed from the time Schaad asked the Defendant to exit the vehicle to the time that the Defendant said he was the driver of the truck. During those two minutes, Schaad smelled the odor of alcohol emanating from the Defendant and noticed that the Defendant's eyes were bloodshot and glassy. The Defendant said that he was trying to downshift and lost control of the truck. Schaad asked the Defendant if he had consumed alcohol since driving the vehicle. The Defendant admitted that he had consumed a couple of drinks after work. The Defendant performed field sobriety tests and Schaad believed the tests showed there was a "high probability" that the Defendant had a blood alcohol concentration over the legal limit. Schaad believed that the Defendant had consumed enough alcohol to render him incapable of safe driving, and he arrested the Defendant. After the arrest, Schaad asked the Defendant if he had consumed alcohol. At 10:15 p.m. on January 12, 2015, Schaad advised the Defendant of his Miranda rights. The Defendant's blood was drawn to determine his blood alcohol concentration.

B. Arguments

The Defendant argues that he was arrested after he "allegedly admitted that he was the operator of the [truck]." He further argues that "any incriminating statements that he made to Trooper Schaad should be suppressed as said statements were the product of a custodial

interrogation which was not preceded by a knowing, intelligent, and voluntary waiver of his right to counsel and his right to remain silent.” In addition, the Defendant argues that the incriminating statements should be suppressed because “at the time the Defendant made the statement he had been unlawfully arrested by Trooper Schaad who did not have probable cause to arrest the Defendant” Last, the Defendant argues that the blood draw was illegal because his arrest was illegal.

The Commonwealth notes that Trooper Schaad’s initial questioning was about the crash. It argues that the interaction evolved into a DUI investigation when Schaad made certain observations about the Defendant. Finally, it argues that a DUI traffic stop is not a custodial detention.

II. Discussion

A. The Defendant’s Statements Will not be Suppressed Because He was Not in Custodial Detention When He Made Them.

Defense Counsel did not identify the specific incriminating statements that he challenges. He asks for the suppression of “any incriminating statements” made before the Defendant was advised of his Miranda rights. All of the incriminating statements mentioned by Trooper Schaad were made before the field sobriety tests. Cross examination revealed that Schaad asked the Defendant a question after the field sobriety tests, but Defense Counsel did not ask Schaad for the Defendant’s response to the question.

“It is well-settled that the police are only required to advise a person of his *Miranda* rights if that person is subjected to custodial interrogation.” Commonwealth v. Busch, 713 A.2d 97, 100 (Pa. Super. 1998). “[T]he ultimate inquiry for determining whether an individual is in custody for *Miranda* purposes is ‘whether there [was] a ‘formal arrest or restraint on freedom of

movement' of the degree associated with a formal arrest.'" Commonwealth v. Williams, 941 A.2d 14, 31 (Pa. Super. 2008) (citing Commonwealth v. Pakacki, 901 A.2d 983, 988 (Pa. 2006)). "Among the factors the court utilizes in determining, under the totality of the circumstances, whether the detention became so coercive as to constitute the functional equivalent of a formal arrest are: the basis for the detention; the duration; the location; whether the suspect was transferred against his will, how far, and why; whether restraints were used; the show, threat or use of force; and the methods of investigation used to confirm or dispel suspicions." Busch, 713 A.2d at 101.

The totality of the circumstances shows that the Defendant was not in custodial detention until after the field sobriety tests. Trooper Schaad's initial basis for detaining the Defendant was to obtain general information concerning the crash. The purpose of the detention changed when Schaad asked the Defendant if he had consumed alcohol, but this change did not turn the detention custodial because a police officer can lawfully detain someone without it being custodial. See Commonwealth v. Cauley, 10 A.3d 321, 325 (Pa. Super. 2010) (stating that an investigative detention is different than a custodial detention). The Defendant was detained for only a few minutes. The questioning took place in public view at the crash scene. Schaad did not use restraints, and he did not transfer the Defendant anywhere. In addition, Schaad did not draw his weapon or threaten the Defendant. The field sobriety tests did not elevate the detention to a custodial one because the tests have an investigative purpose. Police need reasonable suspicion to ask a motorist to perform field sobriety tests. See Cauley, 10 A.3d at 327 (holding that officer possessed the requisite reasonable suspicion to ask a motorist to submit to field sobriety tests). But they need probable cause, a more stringent standard, to effectuate a custodial detention. See id. at 325 (stating that a custodial detention must be supported by probable

cause); Commonwealth v. Wright, 672 A.2d 826, 830 (Pa. Super. 1996) (stating that reasonable suspicion is less stringent than probable cause). Since the Defendant was not in custodial detention when he made the incriminating statements, Miranda was not necessary, and the statements will not be suppressed.

B. Trooper Schaad had Probable Cause to Arrest the Defendant for DUI.

As discussed in the previous section, the Defendant was not under arrest when he made the statements, so probable cause was not necessary at the time of the statements. However, during argument, Defense Counsel described the issue as whether Trooper Schaad had probable cause to arrest, so the Court will determine whether Schaad had probable cause.

“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.” Williams, 941 A.2d at 27 (internal quotes and citations omitted).

Here, the totality of the circumstances shows that Trooper Schaad had probable cause to arrest the Defendant for DUI. The Defendant told Schaad that he was the driver of the truck. The Defendant said that he had lost control of the truck. Schaad smelled an odor of alcohol emanating from the Defendant and noticed that he had bloodshot, glassy eyes. The Defendant told Schaad he had consumed a couple of drinks after work. Schaad believed that the field sobriety tests showed there was a “high probability” that the Defendant had a blood alcohol

concentration over the legal limit. These facts and circumstances are sufficient to warrant a person of reasonable caution in the belief that the Defendant had driven the truck after consuming enough alcohol to render him incapable of safe driving. Therefore, the arrest and the ensuing blood draw were lawful.

III. Conclusion

The Defendant's statements will not be suppressed because he was not in custodial detention when he made them. The arrest and the blood draw were lawful because Trooper Schaad possessed facts sufficient to warrant a person of reasonable caution in the belief that the Defendant had committed DUI.

ORDER

AND NOW, this _____ day of September, 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