

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 : **CR-1890-2015**
 v. :
 :
 :
 GARY STANLEY HELMINIAK, : **CRIMINAL DIVISION**
 Defendant :

OPINION AND ORDER

On January 19, 2016, the Defendant filed a Motion to Suppress Evidence. A hearing on the motion was held on February 19, 2016.

I. Background

A. Trooper Mark McDermott's Testimony

Mark McDermott (McDermott) has been a member of the Pennsylvania State Police for seven years. At 9:12 p.m. on August 12, 2015, McDermott was dispatched to a reported crash in the parking lot of the Valley Inn restaurant. McDermott arrived at the restaurant at 9:33 p.m. He talked with Schwanbeck, who said the following:

She was in her vehicle when a white pickup truck backed into the front of her vehicle. The truck's driver said that his name was Gary Helminiak. The driver said that he did not have his insurance information. He also said that there was no damage to Schwanbeck's vehicle.

McDermott examined Schwanbeck's vehicle and saw damage on the left portion of the front bumper.

McDermott went to the restaurant's kitchen door and asked the bartender to send out Gary Helminiak, who is the Defendant. McDermott waited four or five minutes, but the Defendant did not exit. McDermott then entered the restaurant and asked the bartender to point to Gary Helminiak. McDermott told the Defendant that he would like to speak with him. The Defendant said that he would speak with McDermott, and they both walked out of the bar and

into the parking lot. McDermott held the door for the Defendant. He neither handcuffed the Defendant nor threatened him. As they were walking, McDermott noticed that the Defendant was unsure of his footing. McDermott smelled an odor of alcohol and noticed that the Defendant had glassy eyes and dilated pupils.

McDermott talked with the Defendant about the crash, and the Defendant admitted that he backed his truck into another vehicle. During the conversation, the Defendant was slurring words. McDermott wanted to find out how much the Defendant drank after the crash, and the Defendant said that he had consumed only a little bit of alcohol after the crash. After administering field sobriety tests, McDermott handcuffed the Defendant and read the DL 26 form. As McDermott was reading the form, the Defendant was nodding his head. Both the Defendant and McDermott signed the bottom of the form.

B. Defendant's Testimony

At 9:30 p.m. on August 12, 2015, the Defendant was in the Valley Inn. He was at the bar and speaking with friends when a police officer entered the restaurant. The officer wanted him to go outside, and the Defendant did not think that he had a choice. The Defendant walked outside with the officer, who never said that the Defendant did not have to go outside. The Defendant believes that he would have been able to have a conversation with the officer inside of the bar.

C. Arguments

The Defendant argues that he was arrested when he was escorted outside of the restaurant. He argues that the arrest was illegal because it was without probable cause and because it was for only a summary violation. In addition, he argues that he should have been

advised of the Miranda rights because he was subject to a custodial interrogation. The Defendant also argues that, if the Court finds that the interaction was an investigative detention, the Court should find that the detention was illegal because Trooper McDermott did not have reasonable suspicion that the Defendant committed a misdemeanor or a felony.

The Commonwealth argues that Trooper McDermott did not arrest the Defendant when they walked out of the restaurant and into the parking lot. It argues that Miranda advisement was not needed because the interaction was an investigative detention, not a custodial one. In addition, the Commonwealth argues that, based on Schawnbeck's statements and McDermott's observations, McDermott had the reasonable belief that the Defendant had violated 75 Pa.C.S. § 3744(a). Finally, the Commonwealth argues that police can detain an individual for a summary offense.

II. Discussion

A. The Defendant was not under Arrest When he Walked out of the Restaurant.

Not every police interaction with a citizen is an arrest. See Commonwealth v. Ngyuen, 116 A.3d 657, 664 (Pa. Super. 2015) (stating the three levels of interactions between police and citizens). “A police encounter becomes an arrest when, under the totality of the circumstances, the detention becomes so coercive that it is the functional equivalent of an arrest. The numerous factors used to determine whether a detention has evolved into an arrest include the cause for the detention, the detention's length, the detention's location, whether the suspect was transported against his or her will, whether physical restraints were used, whether the police used or threatened force, and the character of the investigative methods used to confirm or dispel the suspicions of the police.” Commonwealth v. Clinton, 905 A.2d 1026 (Pa. Super. 2006). “The standard for determining whether police have initiated a custodial interrogation or

an arrest is an objective one, with due consideration given to the reasonable impression conveyed to the person interrogated rather than the strictly subjective view of the troopers or the person being seized.” Commonwealth v. Turner, 772 A.2d 970, 973 (Pa. Super. 2001).

“Miranda is not implicated unless the individual is in custody and subjected to interrogation.” Commonwealth v. Snyder, 60 A.3d 165, 170 (Pa. Super. 2013)

Here, the totality of the circumstances shows that the Defendant was not under arrest when he walked out of the restaurant. Trooper McDermott told the Defendant that he would like to speak with him. The Defendant agreed to speak with McDermott, and they both walked out of the restaurant. McDermott held the door for the Defendant. He did not handcuff or threaten the Defendant. McDermott talked with the Defendant in the parking lot right outside of the restaurant. These circumstances show that the Defendant was not under arrest when he walked out of the restaurant and into the parking lot. Therefore, Miranda was not implicated.

B. The Defendant was not Illegally Detained.

“[A] police officer may, short of an arrest, conduct an investigative detention if he has a reasonable suspicion, based upon specific and articulable facts, that criminality is afoot.”

Commonwealth v. Zhahir, 751 A.2d 1153, 1156 (Pa. 2000). “Reasonable suspicion exists only where the officer is able to articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity. Therefore, [a court] must make an objective inquiry, namely, whether the facts available to the officer at the moment of the [intrusion] warrant a man of reasonable caution in the belief that the action taken was appropriate.” Ngyuen, 116 A.3d at 664. “In order to determine whether the police officer had reasonable suspicion, the totality of the circumstances

must be considered.” Commonwealth v. Rogers, 849 A.2d 1185, 1189 (Pa. 2004). “[I]dentified citizens who report their observations of criminal activity to police are assumed to be trustworthy” Commonwealth v. Washington, 63 A.3d 797, 803 (Pa. Super. 2013).

“The driver of any vehicle involved in an accident resulting only in damage to a vehicle or other property which is driven or attended by any person . . . in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 3744 (relating to duty to give information and render aid).” 75 Pa.C.S. § 3743(a). “The driver of any vehicle involved in an accident resulting in . . . damage to any vehicle or other property which is driven or attended by any person shall give his name, address and the registration number of the vehicle he is driving, and shall upon request exhibit his driver’s license and information relating to financial responsibility to the driver . . . of . . . any vehicle or other property damaged in the accident.” 75 Pa.C.S. § 3744(a).

Here, McDermott articulated observations which would lead a reasonable person to conclude that the Defendant was committing a crime by not providing his insurance information. Schwanbeck told McDermott that a white truck had backed into her vehicle while she was in it. The statement was corroborated by McDermott’s observation of damage on the bumper of Schwanbeck’s vehicle. Schwanbeck also told McDermott that the truck’s driver said that his name was Gary Helminiak, said that he did not have his insurance information, and said that there was no damage to Schwanbeck’s vehicle. A person named Gary Helminiak was in the restaurant. These circumstances gave Trooper McDermott reasonable suspicion that the Defendant was committing a crime by not providing his insurance information. Therefore, the Defendant was not illegally detained.

The Defendant offers no support for his argument that a police officer cannot lawfully investigate a summary offense. “[T]he commission of a summary offense constitutes a crime.” In Interest of Golden, 365 A.2d 157, 158 (Pa. Super. 1976). In any event, 75 Pa.C.S. § 3743(a) is a misdemeanor. 75 Pa.C.S. § 3743(b).

III. Conclusion

The totality of the circumstances shows that the Defendant was not under arrest when he walked out of the restaurant and talked with Trooper McDermott in the parking lot. The Defendant was not illegally detained because McDermott had reasonable suspicion that the Defendant was committing a crime by not providing Schawnbeck with his insurance information.

ORDER

AND NOW, this _____ day of March, 2016, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Motion to Suppress Evidence, which was filed on January 19, 2016, is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge