

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :  
 :  
 vs. : No. 1463-2017  
 :  
 MICHAEL LAQUAY SMITH, : Opinion and Order re Defendant's  
 Defendant : Motion to Suppress

**OPINION AND ORDER**

By way of background, Defendant is charged with persons not to possess firearms, firearms not to be carried without a license, possession of a controlled substance and possession of drug paraphernalia as a result of a traffic stop and subsequent search of a vehicle in which he was a passenger. On October 16, 2018, Defendant filed a motion to suppress the evidence seized as a result of that traffic stop. In his motion, Defendant contends that Officer Justin Segura lacked reasonable suspicion or probable cause to conduct a traffic stop of the vehicle in which he was a passenger; therefore, any and all evidence obtained as a result of the traffic stop must be suppressed.

On November 29, 2018, the court held a hearing and argument on Defendant's motion. The sole witness to testify at the hearing was Officer Segura, a patrolman with the Tiadaghton Valley Regional Police Department.

Officer Segura testified that he was on duty on June 22, 2017 at approximately 1:30 a.m. when he observed a red Ford Fusion at the MinitMart in Jersey Shore, Lycoming County, Pennsylvania. As traffic was very light and "for something to do," Officer Segura followed the vehicle when it left the MinitMart parking lot. As he followed the vehicle, he ran the registration plate and noticed that the light for the plate was not lit.

While Officer Segura was waiting for information regarding the registration to “come back,” he turned off his headlights to confirm that the registration plate light was not lit. After confirming such, Officer Segura activated his overhead lights and conducted a traffic stop of the vehicle. Officer Segura was on patrol by himself that night. After he called that he had stopped the vehicle, he was joined by two other officers, Officer Fera and Officer Klinger.

Officer Segura’s vehicle was equipped with an MVR, but it was not working properly on this night and that it happens fairly often. He testified that the MVR was not downloading to the disc properly. He testified that a red bar appears on the screen to indicate that the MVR is not working properly but he did not look at the MVR when he got into his patrol unit. He also indicated that the MVR was a “second-hand” unit that was purchased from another police department and it did not have a warranty. He believed that he orally informed a supervisor that the MVR was not working properly but he never followed up with anything in writing. Therefore, there is no dash-cam video of the traffic stop from Officer Segura’s patrol unit. Officer Segura did not know whether Officer Fera and Officer Klinger’s vehicle was equipped with an MVR. To Officer Segura’s knowledge there is no video of the stop and subsequent search.

Officer Segura took numerous photographs of the items seized from the vehicle as well as a photograph of damage near one of the vehicle’s headlights just in case the vehicle had been involved in a hit-and-run (even though he had no evidence or information of any hit-and-run), however, Officer Segura did not photograph the unlit or inoperable registration plate light. When asked why he did not photograph this light,

Officer Segura testified that he was too focused on the drugs and gun. He did not check the light thereafter because the vehicle was returned to the owner the next day.

Defendant contends that Officer Segura did not have probable cause to conduct a traffic stop of the vehicle. There is no video evidence to show that the plate light was not lit. Officer Segura knew that there were problems with the MVR in his vehicle but he did not take a photograph. The Commonwealth also did not call as witnesses the other officers who responded as back up to corroborate his testimony. Defendant contends the inoperable MVR, lack of a photograph, and absence of testimony from the other officers is “all too convenient.” He argues that Officer Segura stopped the vehicle merely because the vehicle was occupied by black individuals and it was late at night.

The Commonwealth contends that Officer Segura’s credible testimony is sufficient to establish probable cause for the vehicle stop.

The court finds Officer Segura credible. Both human beings and equipment are fallible. No one is perfect. Officer Segura was direct and forthright in his answers. He did not avoid eye contact or exhibit any other body language to indicate that his testimony was not truthful. While it would have been prudent to Officer Segura to photograph the unlit registration plate light given his knowledge of issues with his MVR, Officer Segura credibly testified that he became “too focused on the drugs and guns.” Moreover, the record is lacking any evidence that the light was in fact operable. There was no testimony or evidence whatsoever to contradict Officer Segura. In fact, Defendant’s claim that Officer Segura is not credible is based solely on guesswork, speculation, and unfounded bias.

**ORDER**

**AND NOW**, this \_\_\_\_ day of December 2018, the court DENIES Defendant's  
to Suppress Evidence.

By The Court,

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Marc F. Lovecchio, Judge

cc: Neil Devlin, Esquire (ADA)  
Julian Allatt, Esquire  
Gary Weber, Esquire (Lycoming Reporter)  
Work File