

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

vs.

KEVIN L. GRIFFITH,  
Defendant

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No. CR-875-2019

Motion to Suppress

**OPINION AND ORDER**

Traffic stops are unavoidable. Law enforcement officers are tasked with patrolling the roadways in order to protect the traveling public and others from potentially dangerous activities such as driving under the influence. This court presides over hundreds of cases every year involving motorists who are rendered incapable of safely driving because of their consumption of alcohol or controlled substances.

Nonetheless, the needs of law enforcement to properly regulate traffic for the protection of the public cannot result in unfettered invasion of a motorist’s rights. If a police officer is making a traffic stop for an offense where he has a reasonable expectation of learning additional evidence related to the suspected activity, the stop needs to be supported by reasonable suspicion. *Commonwealth v. Feczko*, 10 A.3d 1285, 1290-1291 (Pa. Super 2010).

“Extensive case law supports the conclusion that a vehicle stop for DUI may be based on reasonable suspicion, as a post-stop investigation in normally feasible.” *Commonwealth v. Chase*, 960 A.2d 108, 116 (Pa. 2008). Reasonable suspicion is required in order that the individual’s privacy rights may not be violated but also to permit the officer to shed light on the relevant matters that the stop would be expected to produce. *See id.* at 115, 120-21.

In order to establish reasonable suspicion, the officer must be able to point to specific and articulable facts and reasonable inferences drawn from those facts that lead the officer to believe that a violation of the Vehicle Code or criminal activity is afoot.

*Commonwealth v. Cook*, 558 Pa. 50, 735 A.2d 673, 677 (1999). “In order to determine whether the police had a reasonable suspicion, the totality of the circumstances or the whole picture must be considered. Based upon that whole picture, the detaining officer must have a particularized and objective basis for suspecting the person stopped of criminal activity.” *In the Interest of D.M.*, 566 Pa. 445, 781 A.2d 1161, 1163 (2001) (citation omitted).

An officer need not establish an actual violation of the Vehicle Code before stopping the vehicle. *Commonwealth v. Muhammed*, 992 A.2d 897, 901 (Pa. Super. 2010). The police officer must only have reasonable suspicion to believe that a violation of the Motor Vehicle Code is occurring or has occurred. *Commonwealth v. Holmes*, 14 A.3d 89, 95 (Pa. 2011). In determining whether reasonable suspicion exists, the court must give due consideration to the reasonable inferences the police officer is entitled to draw from the facts in the light of that police officer’s experience. *Commonwealth v. Rogers*, 578 Pa. 127, 849 A.2d 1185, 1189 (2004).

In this case, Defendant argues that Officer Cody Smith of the Tiadaghton Valley Regional Police Department did not have reasonable suspicion to stop Defendant’s vehicle on March 19, 2019. Defendant argues that because Officer Smith did not have reasonable suspicion, all evidence obtained after the stop must be suppressed.

The hearing on Defendant’s motion was held before this Court on March 12,

2020. Officer Smith testified that he was on duty patrolling Route 287 Highway in Piatt Township on March 19, 2019 at approximately 12:30 a.m. when he observed a pickup truck being driven on the roadway in front of him. While following the vehicle for approximately 6/10 of a mile, he observed the vehicle weaving within its lane, riding on the fog line, crossing the fog line on at least one occasion, crossing the center line with its driver's side tires, delaying movement into and out of curves, reacting late to the turns in the roadway and "jerking" the vehicle. Based upon these observations, Officer Smith suspected that Defendant was under the influence of alcohol and accordingly stopped the vehicle.

To supplement Officer Smith's testimony, the Commonwealth introduced into evidence the dash-cam video of Officer Smith's patrol unit. The court viewed the video which depicted Defendant's driving behaviors during the 6/10 of a mile. The court viewed the video not only in court but afterwards.

The entire "incident" lasted slightly more than a minute. The video confirms many, if not all, of Officer Smith's observations. Defendant did react slowly to curves in the road by drifting in the opposite directions, he rode on the fog line on more than one occasion, he weaved in his own lane, he actually drove on the fog line on one occasion for approximately four seconds and he crossed the center lines with both of the driver's side and passenger side wheels.

These were not slight deviations nor momentary or minor violations. While there were no other cars traveling in the opposite direction, there was another vehicle in front of Defendant. Defendant's driving, at the very least, constituted a potential safety hazard and

given the officer's training and experience, he had reasonable suspicion to believe that the defendant was driving under the influence of some type of intoxicant. Accordingly, the stop of Defendant's vehicle was appropriate and legal and Defendant's motion to suppress shall be denied.

**ORDER**

**AND NOW**, this \_\_\_ day of March 2020, following a hearing and argument, Defendant's Motion to Suppress is **DENIED**.

By The Court,

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Marc F. Lovecchio, Judge

cc: Lee Fry, Esquire (ADA)  
George Lepley, Esquire (APD)  
Gary Weber, Esquire (Lycoming Reporter)  
Work File