

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-979-2020**  
v. :  
 :  
**RONALD YOUNG, JR.,** : **OMNIBUS MOTION**  
**Defendant** :

**OPINION AND ORDER**

Ronald Young (Defendant) was charged on August 21, 2020 with three (3) counts of Possession with Intent to Deliver,<sup>1</sup> three (3) counts of Possession of a Controlled Substance,<sup>2</sup> Possession of Drug Paraphernalia,<sup>3</sup> and Periods for Required Headlamps<sup>4</sup>. The charges arise from police pulling Defendant's vehicle over following a suspected drug deal in the parking lot of the Burger King restaurant on Washington Boulevard, City of Williamsport. Defendant filed this timely Omnibus Pre-trial Motion on September 25, 2020. This Court held a hearing on the motion on December 29, 2020. Briefs were requested by Counsel and the last brief was due from counsel in February 2021.

Defendant raises several issues in his Motion. The primary issue is that the police did not have any legal justification for conducting the traffic stop of Defendant's vehicle and, as a result, the fruits of the unconstitutional vehicle stop should be suppressed. Defendant also argues that the search incident to arrest of his person conducted after the illegal traffic stop violated his rights under the Fourth Amendment to the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution. Defendant avers all evidence found as a result of this search both at the scene and City Hall should also be suppressed. Additionally, Defendant

---

<sup>1</sup> 35 Pa. C.S. § 780-113(a)(30).

<sup>2</sup> 35 Pa. C.S. § 780-113(a)(16).

<sup>3</sup> 35 Pa. C.S. § 780-113(a)(32).

<sup>4</sup> 75 Pa. C.S. § 4302(a)(1).

argues that the statements he made to police were in violation of his *Miranda* rights and should be suppressed. Lastly, Defendant asserts that the search of his vehicle was unconstitutional, and the evidence found as a result of that search should also be suppressed.

### **Background and Testimony**

Sergeant Brian McGee (McGee) and Officer David Cole (Cole) of the Williamsport Bureau of Police testified on behalf of the Commonwealth. The Commonwealth also submitted security footage from the Burger King as well as the MVR tape from McGee's police vehicle. On April 27, 2020, at approximately 8:28p.m., McGee was on patrol in an unmarked, black Ford Explorer in the area of the Burger King on Washington Boulevard in Lycoming County. An employee at this Burger King had complained in the past to McGee that drug deals were occurring in the restaurant's parking lot. In the Burger King parking lot near the drive-through entrance was a dark truck parked next to a light sedan. A person in gray clothing was near the passenger side of the truck in apparent conversation with the truck's occupants. On the evening in question, this same employee hailed McGee and pointed repeatedly to the truck and sedan. McGee then clarified, "the car and the truck..." and the employee responded, "yes." Shortly after this exchange, the sedan backed out of its parking space and exited the Burger King lot.

After McGee circled the building in order to make contact with the vehicles, he noticed that the sedan left the parking lot. McGee proceeded to Brandon Place where he spotted what he believed to be the same sedan a few blocks away. He followed this car to Wilson Street and noticed that the vehicle did not have functioning rear taillights and was traveling at a high rate of speed. McGee continued to follow the car's path through Ward Street, back behind the Burger King, and eventually conducted a traffic stop on Wilson Street. While McGee waited for additional police officers to arrive on scene, the driver, later identified as Defendant, was

instructed by McGee to keep both hands out the window. McGee then told Defendant to turn his vehicle off and throw the keys out the window. Defendant informed McGee that his car used a key fob instead and McGee asked where the fob was located. Defendant brought his hands back inside the car to search for the fob. However, McGee stated that he could see Defendant making multiple movements reaching either direction, opening the center console and dipping his shoulders. McGee told Defendant to stop looking for the fob and place his hands out of the window again. Defendant was then instructed to exit the vehicle, place his hands on his head and get on his knees. Defendant was patted down by Cole who found a scale on the Defendant. McGee explained why he pulled Defendant over and asked him why he fled. Defendant said he had marijuana and his driver's license in his wallet in the car. Following this statement, Defendant's car was searched, and police discovered marijuana in the center console. Defendant and his car were taken to City Hall where Defendant was strip-searched. This search resulted in the discovery of crack cocaine and heroin hidden on the Defendant.

## **Analysis**

### ***Vehicle Stop of Defendant's Car***

Defendant challenges the constitutionality of the vehicle stop based on the alleged violation of the Vehicle Code of failing to have illuminated taillights between sunset and sunrise. Defendant alleges that his headlights and taillights were illuminated as required. Therefore, Defendant argues there was no legal basis to justify the traffic stop and that McGee intended to stop Defendant before any observations could be made about Defendant's car or driving habits. Defendant also suggests that nothing McGee noticed in the Burger King parking lot established probable cause to initiate a valid traffic stop. The Commonwealth argues that Defendant operated his car without required lighting on at least two (2) occasions that

evening—McGee indicates he saw Defendant approach a stop sign on Wilson Street without proper lights, and McGee saw Defendant driving without proper taillights while he traveled eastbound on Brandon Place. The Commonwealth argues that these incidents alone without the additional observations from the Burger King were enough to provide reasonable suspicion to investigate Defendant further and that the motor code violations gave McGee the ability to conduct a traffic stop of Defendant.

Police officers are granted the authority to effectuate stops pursuant to violations of the motor vehicle code. 75 Pa. C.S. § 6308(b). “Whenever a police officer . . . has reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle.” *Id.* To determine if police had the proper reasonable suspicion, “the totality of the circumstances must be considered.” Commonwealth v. Rogers, 849 A.2d 1185, 1189 (Pa. 2004). Upon reviewing the tapes from the Burger King cameras, the Court cannot see the taillights of the Defendant’s vehicle illuminated. For that reason alone, the police had probable cause to stop the vehicle. Therefore, the stop of the vehicle was permissible.

### ***Arrest and Search of Defendant***

Defendant asserts that the conduct of police on the night in question amounted to an arrest and that his arrest was not supported by probable cause. In this case, McGee conducted a “high risk” stop that involves an officer holding his firearm at his waist and pointed towards the ground at the ready position. McGee was giving Defendant instructions to follow throughout this interaction. Once Defendant was instructed to exit his vehicle, McGee told him to back up with his hands in the air, then get on his knees with his hands on his head. Once Defendant complied, he was handcuffed and searched by Cole. The Fourth Amendment to the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution protect citizens

against unreasonable searches and seizures. U.S. Const. amend. IV; P.A. Const. art. 1, § 8.

Three categories of interactions between citizens and police have been identified under Fourth Amendment jurisprudence:

The first is a “mere encounter” (or request for information) which need not be supported by any level of suspicions, but carries no official compulsion to stop or respond. The second, an “investigative detention,” must be supported by a reasonable suspicion; it subjects a suspect to a stop and a period of detention but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. Finally, an arrest or “custodial detention” must be supported by probable cause.

Commonwealth v. Gutierrez, 36 A.3d 1104, 1107 (Pa. Super. 2012). An individual is considered to be seized when, “in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.” United States v. Mendenhall, 446 U.S. 544, 554 (1980); *see also* Pennsylvania v. Hicks, 208 A.3d 916, 927 (Pa. 2019). “Whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person.” Terry v. Ohio, 392 U.S. 1, 16 (1968). When applying the facts of the case *sub judice* to the law, it is clear that Defendant was under arrest during the night in question. Multiple police officers were on the scene, Defendant had weapons pointed in his direction, the police were in marked vehicles with their lights activated, police were giving Defendant instructions to follow, and, lastly, Defendant was placed in handcuffs. The question to be answered here is whether there was probable cause to justify the arrest that occurred.

To determine if probable cause existed, a totality of the circumstances test is applied. Commonwealth v. Thompson, 985 A.2d 928, 931 (Pa. 2009). Probable cause exists when “the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime.” Id.

Defendant asserts that he was arrested for an alleged traffic violation. However, he believes that no traffic violation occurred and argues that his taillights were on as required. Additionally, Defendant does not believe that the alleged traffic violation nor the information from the Burger King employee amount to probable cause justifying an arrest. Defendant relies on the notion in Commonwealth v. Banks that stated “an officer’s observation of a single transaction is insufficient to establish probable cause, even when it occurs in a ‘high-crime’ area” to support his argument. Commonwealth v. Banks, 658 A.2d 752 (Pa. 1995). However, the Commonwealth argues that this case is distinguishable from Banks for a few reasons: McGee was given information from a Burger King employee that drug deals were happening in the parking lot and on this night pointed out that one was occurring, McGee observed Defendant operating his vehicle in an evasive manner, and Defendant was wearing clothing consistent with the person seen in the Burger King parking lot. The Court finds that this case is more closely aligned with Commonwealth v. Dennis, 612 A2d 1014 (Pa. Super. 1992). In Dennis, , the Superior Court found that the totality of the circumstances available to the police at the time established probable cause to arrest. Id. Here, the information from the Burger King employee on that night, the employee’s prior complaints of drug activity, and McGee’s personal observations of the restaurant parking lot taken together with the matching physical characteristics of the Defendant’s car to the one seen in the parking lot as well as Defendant’s clothes provided McGee with probable cause to arrest the Defendant. Since McGee had probable cause to arrest Defendant, his search was lawful as it was incident to the Defendant’s arrest. *See* Commonwealth v. Williams, 568 A.2d 1281, 1283 (Pa. Super. 1990). Therefore, anything found on the Defendant was lawfully discovered as incident to his arrest.

### ***Miranda Violation***

Here, Defendant argues that McGee questioned him on scene without advising Defendant of his *Miranda* rights. “[P]rosecution may not use statements...stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination.” Miranda v. Arizona, 384 U.S. 436, 444 (1966). The United States Supreme Court has defined custodial interrogation as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” Id.; *see also In re C.O.*, 84 A.3d 726, 731-32 (Pa. Super. 2014). “[I]n evaluating whether *Miranda* warnings were necessary, a court must consider the totality of the circumstances.” Commonwealth v. Gaul, 912 A.2d 252, 255 (Pa. 2006). The Court finds that the Defendant was in McGee’s custody. The question then is whether or not the statement of McGee rises to the level of custodial interrogation.

Defendant asserts that, following the officers’ discovery of the scale on his person, McGee questioned Defendant about the activity at Burger King. McGee indicated during this conversation that he believed the scale was used for drugs and asked why Defendant fled from him. In response, Defendant told McGee that marijuana was located in the center console of his car and that his driver’s license was in his wallet located on the seat. McGee entered the car to seize the wallet and to search the center console where he found marijuana. Only then did McGee *Mirandize* Defendant. As a result, Defendant moves to suppress the statements Defendant made to McGee. However, the Commonwealth argues that there was no violation of *Miranda* because Defendant was not subjected to a custodial interrogation. Their reasoning is that McGee’s testimony indicated that Defendant’s statement about the marijuana was in

response to McGee informing Defendant why he conducted a stop of Defendant's vehicle. The Commonwealth believes that the totality of the circumstances shows McGee's conversation with Defendant was not for the purpose of eliciting incriminating responses and therefore Defendant's rights were not violated when he told police about the marijuana.

Not every statement made by an individual during a police encounter amounts to an interrogation. Commonwealth v. Gaul, 590 Pa. 175, 180, 912 A.2d 252, 255 (2006). McGee testified he was merely informing Defendant as to the reason why he was pulled over and mentioned the scale and what he thought it was used for. The Court accepts McGee's statement that he was just informing the Defendant why he was stopping him. The Court finds that the officer did not engage in questioning and the statement shall not be suppressed.

### ***Vehicle Search***

On December 22, 2020, the Pennsylvania Supreme Court decided Commonwealth v. Alexander, 243 A.3d 177 (Pa. 2020). Alexander overruled the Court's prior decision for the requirements for police to perform a warrantless search of a vehicle<sup>5</sup> and held that probable cause as well as exigency are required for a warrantless search of a vehicle. Id. Defense counsel learned of this decision on February 21, 2021 and filed a Supplementary Omnibus Motion on February 25, 2021 challenging law enforcement's stop of Defendant's vehicle under the new standard following the decision in Alexander. Defendant argues that police lacked exigency to conduct the warrantless search of Defendant's car. Defendant asserts that police conduct at the scene on the evening in question demonstrated anything but exigency because McGee had time to question Defendant and conduct a warrantless search of the vehicle while Defendant was in handcuffs and could not flee or destroy any potential evidence.

---

<sup>5</sup> Commonwealth v. Gary, 91 A.3d 102 (Pa. 2014).



Sufficient exigency is discussed in Commonwealth v. White, 669 A.2d 896 (Pa. 1995).

White held that

[P]olice may search a vehicle without a warrant where: (1) there is probable cause to believe that an automobile contains evidence of criminal activity; (2) unless the car is searched or impounded the occupants of the automobile are likely to drive away and the contents of the automobile may never again be located by police; and (3) police have obtained this information in such a way that they could not have secured a warrant for the search, i.e., *there are exigent circumstances*.

Id. at 900 (emphasis in original). Based upon the manner in which Defendant was moving in the vehicle, a reasonable police officer could suspect that there was a threat to officer safety. However, since law enforcement had control of the vehicle with Defendant handcuffed and a sufficient distance away, the exigency that may have initially existed was no longer present at the time of the vehicle search. Defendant was clearly no longer a threat to the officers on scene when he was searched and placed in handcuffs in the back of a police car.

However, this Court sees the issue as one of consent. By volunteering the information to the police officer about both his wallet and marijuana, the Court finds that Defendant was offering McGee his consent to enter the vehicle to obtain the items. McGee entered the vehicle, retrieved only those items from the vehicle and did no further search of any other areas of the vehicle. Therefore, the evidence seized by McGee from the vehicle within the scope of the consent given by Defendant will not be suppressed.

### **Conclusion**

The Court finds that the police had justification to conduct a traffic stop of Defendant's car and had probable cause to arrest Defendant. Therefore, the scale seized from Defendant's person at the scene of the stop along with items found at City Hall shall not be suppressed. This Court also finds that the police did not violate Defendant's *Miranda* rights on the night in

question and the statements Defendant made on scene to police shall not be suppressed. The statement made amounted to a consent of the Defendant for McGee to enter the vehicle to retrieve Defendant's wallet and the marijuana and those items shall not be suppressed.

**ORDER**

**AND NOW**, this 19th day of May 2021, based upon the foregoing Opinion, the Defendant's Motions to Suppress are **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA  
David V. Lampman, II, Esq.  
Law Clerk (JH)